SPECIAL CALL MEETING
AGENDA

(This agenda is subject to changes, additions or deletions at the discretion of the City Council)

<table>
<thead>
<tr>
<th>Mayor Peggy Dunn</th>
<th>Councilmembers</th>
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<tbody>
<tr>
<td></td>
<td>Ward One</td>
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<td></td>
<td>Debra Filla</td>
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<td>Andro Osman</td>
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<td>Ward Two</td>
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<td>Jim Rawlings</td>
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<td>Mary Larson</td>
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<td>Chuck Sipple</td>
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<td>Lisa Harrison</td>
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<td>Ward Four</td>
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<td>Julie Cain</td>
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<td>James Azeltine</td>
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1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. CITY CLERK STATEMENT
   To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Governing Body is being conducted remotely using the Zoom media format and some of the members of the Governing Body are appearing remotely. The meeting is being livestreamed on [YouTube] and the public can access the livestream by going to www.leawood.org/.

   Public comments on non-agenda items will not be accepted during this meeting. Public comment on agenda items not requiring a public hearing may not be accepted. As always, public comment on any agenda item can be submitted in advance. Written public comments received at least 24 hours prior to the meeting have been distributed to members of the Governing Body prior to the meeting. Public comments should be directed to LeawoodPublicCommentGB@leawood.org.

5. SPECIAL BUSINESS
   COMMITTEE RECOMMENDATIONS

   [From the September 22, 2020 Planning Commission meeting]
   A. Ordinance approving Planning Commission’s recommendation of denial of a Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office) and RP-3 (Planned Cluster Attached Residential) to RP-2 (Planned Cluster Detached Residential), Preliminary Plan, and Preliminary Plat for Villa De Fontana, located south of 135th Street and east of Roe Avenue (PC 70-20)
B. Resolution approving the Planning Commission’s recommendation of denial of a final plan and final plat for Villa De Fontana, located south of 135th Street and east of Roe Avenue (PC 81-20)

6. OTHER BUSINESS
Resolution approving and authorizing the Mayor to execute a Development Agreement pertaining to creation of a Community Improvement District for the Villas De Fontana Development

ADJOURN

Leawood operates under a Council/Mayor form of government, with a separately elected mayor and 8 council persons. Council members are elected on a non-partisan basis from 4 wards. The Council develops policies and provides direction for the professional city administration. Regular meetings of the Leawood City Council are held the first and third Mondays of each month. Copies of the agenda are available at the Office of the City Clerk on the Friday prior to the meeting.

Number of Votes Required:
Non-zoning Ordinances: Majority of the members-elect of the City Council [5]
Zoning Ordinances and other Planning Commission Recommendations:
• Passage of Ordinances Subject to Protest Petition: ¾ majority of members of Governing Body [7]
• Approving Planning Commission Recommendation: Majority of the members-elect of the City Council [5]
• Remanding to Planning Commission: Majority of the members-elect of the City Council [5]
• Approving, Overriding, Amending or Revising Recommendation after Remand: Majority of the members-elect of the City Council [5]
• Overriding, Amending or Revising Recommendation: 2/3 majority of membership of Governing Body [6]
Note: Mayor may cast deciding vote when vote is one less than required.
<table>
<thead>
<tr>
<th>DATE</th>
<th>TIME</th>
<th>SUBJECT</th>
<th>LOCATION</th>
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<tbody>
<tr>
<td>Monday, Nov. 2, 2020</td>
<td>6:00 P.M.</td>
<td>Work Session - Review proposed design of the new Fire Station No. 1</td>
<td>Council Chamber</td>
</tr>
<tr>
<td>Monday, Nov. 2, 2020</td>
<td>7:30 P.M.</td>
<td>Governing Body Meeting</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, Nov. 16, 2020</td>
<td>6:00 P.M.</td>
<td>Work Session</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, Nov. 16, 2020</td>
<td>7:30 P.M.</td>
<td>Governing Body Meeting</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, Dec. 7, 2020</td>
<td>6:00 P.M.</td>
<td>Work Session</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, Dec. 7, 2020</td>
<td>7:30 P.M.</td>
<td>Governing Body Meeting</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, Dec. 21, 2020</td>
<td>7:00 P.M.</td>
<td>Governing Body Meeting</td>
<td>Council Chamber</td>
</tr>
<tr>
<td>Tuesday, Jan. 19, 2021</td>
<td>6:00 P.M.</td>
<td>Work Session - Review residential above ground swimming Pools</td>
<td>Council Chamber</td>
</tr>
<tr>
<td>Monday, Jan. 25, 2021</td>
<td>6:00 P.M.</td>
<td>Governing Body Short, Near &amp; Long-Term Goals</td>
<td>Council Chamber</td>
</tr>
<tr>
<td>Monday, Feb. 15, 2021</td>
<td>6:00 P.M.</td>
<td>Work Session – Review Climate Action KC Review</td>
<td>Council Chamber</td>
</tr>
<tr>
<td>Monday, March 1, 2021</td>
<td>6:00 P.M.</td>
<td>Work Session</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, March 1, 2021</td>
<td>7:30 P.M.</td>
<td>Governing Body Meeting</td>
<td>Council Chamber</td>
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<tr>
<td>Monday, April 5, 2021</td>
<td>6:00 P.M.</td>
<td>Work Session – C.I.P Presentation 2022-2026 Budget Model Assumptions</td>
<td>Council Chamber</td>
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The next regular meeting of the Leawood Governing Body will be
Monday, November 2, 2020
City of Leawood Governing Body Staff Report

MEETING DATE: October 12, 2020
REPORT WRITTEN: September 23, 2020

VILLA DE FONTANA – REQUEST FOR APPROVAL FOR REZONING, PRELIMINARY PLAT, AND PRELIMINARY PLAN – LOCATED SOUTH OF 135TH STREET AND EAST OF ROE AVENUE
CASE 70-20 **PUBLIC HEARING**

PLANNING COMMISSION RECOMMENDATIONS:
Planning Commission recommends unanimous denial (7/0) of Case 70-20, Villa de Fontana – approval request for Rezoning from SD-CR, SD-O, and RP-3 to RP-2, Preliminary Plat, and Preliminary Plan. If the Governing Body were to approve the application against the recommendation from the Planning Commission, the following stipulations are provided.

1. The project is limited to 63 lots and 12 tracts on 30.44 acres of construction for the residential subdivision Villa de Fontana, zoned RP-2.
2. The project shall comply with the bulk regulations for SD-O and SD-CR, not allowing existing property to be in non-conformance.
3. The applicant/owner shall be responsible for the following impact fees:
   a. Park Impact Fee prior to the recording of the Final Plat in the amount of $400.00 per dwelling unit. This amount is subject to change by Ordinance.
   b. 135th Street Corridor Impact Fee prior to the recording of the Final Plat in the amount of $389.40 per dwelling unit. This amount is subject to change by Ordinance.
   c. South Leawood Transportation Impact Fee, for the portion of the development that is south of 137th Street, prior to the recording of the Final Plat at a rate of $625 x gross acres platted x miles from 135th Street. This amount is subject to change by Ordinance.
4. All new utility boxes with a height of less than 56 inches, a footprint of equal to or less than 15 square feet in area, or a pad footprint of equal to or less than 15 square feet, may be installed only with the prior approval of the Director of Community Development as being in compliance with this Ordinance. However, all new electric vehicle-charging stations shall only be permitted within the interior of a garage.
5. All new utility boxes with a height of 56 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.
6. This development shall include a deviation of 25.5’ front yard setback for lots 7, 8, 13, 18-30, 36, 44, 45, 51-53, and 57. The development shall meet all other required setbacks without deviations.
7. This development shall include a deviation of 80’ at the build line for lots 10-12, 14-17, 54-56, and 61-63. The development shall meet all other required setbacks without deviations”.
8. Prior to Governing Body consideration, the applicant shall provide revised plans and plat that accurately reflect the setbacks being requested with this application.
9. All streets within the subdivision shall be private with the exception of 137th street, and shall comply with Section 16-8-3.2, of the Leawood Development Ordinance, including that all private streets shall be built to public standards, including being 26’ wide back of curb to back of curb, removing the high back curb and replacing it with lazy back curbs 2 1/2” higher than the existing curb, milling 2” of the old pavement and replacing with 4 1/2” of asphalt. The developer or Homes Association shall 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.

10. All monument signs shall be placed within a common area designated as a separate tract of land to be maintained by the homes association.

11. All monument signs shall be located outside of all sight triangles, and shall be a minimum of 5' from all property lines and sidewalks.

12. The development shall comply with Section 16-8-3.7 of the Leawood Development Ordinance stating; Lots shall not have a depth greater than three times the width and shall have buildable width generally facing and directly relating to the street upon which such lots front.

13. Per the Leawood Development Ordinance, all landscaped areas shall be irrigated
14. Per the Leawood Development Ordinance, all medium and large deciduous trees (including street trees), shall be 2 ½” caliper as measured 6” above the ground, all small deciduous and ornamental trees shall be a minimum of 1 ½” caliper as measured 6” above the ground, conifers and evergreen trees shall be a minimum of 6’ in height, and shrubs shall be a 24” in height at the time of planting.

15. Per the Leawood Development Ordinance, at the time of planting, plant material screening the ground mounted utilities shall be a minimum of 6” taller than the utility it is to screen, with lower shrubs in the foreground to eliminate any gaps in screening.

16. The approved final landscape plan shall contain the following statements:
   a. All trees shall be callipered and undersized trees shall be rejected.
   b. All hedges shall be trimmed to maintain a solid hedge appearance.
   c. All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   d. Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   e. All landscaped open space shall consist of a minimum of 60% living materials.
   f. A letter, signed and sealed by a Kansas Registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

17. 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.

18. At the time of Final Plan, the applicant shall provide City staff with a copy of the covenants and restrictions proposed for the development.

19. All sidewalks shall be installed as per street construction standards.

20. The applicant shall obtain all approvals and permits from the Public Works Department, per the public works memo on file with the City of Leawood Planning and Development Department, prior to issuance of a building permit and recording the plat.

21. No construction shall be allowed between the hours of 9:00 p.m. to 7:00 a.m. and not on Sundays.

22. 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.

23. 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 twenty-two.

PLANNING COMMISSION CHANGES TO STIPULATIONS:
- Rephrasing of stipulation #11, with the Removal of stipulation 11(b) stating “Lots fronting on a cul-de-sac shall maintain a minimum frontage of 45 feet on the turn around and 100 feet at the building line”
- Stipulation #11 now reads “The development shall comply with Section 16-8-3.7 of the Leawood Development Ordinance stating; Lots shall not have a depth greater than three times the width and shall have buildable width generally facing and directly relating to the street upon which such lots front”
- Stipulation #7 was added. Stating; “This development shall include a deviation of 80’ at the build line for lots 10-12, 14-17, 54-56, and 61-63. The development shall meet all other required setbacks without deviations”.

APPLICANT:
- The applicant is Mark Simpson with Fontana Land Company, LLC.
- The property is owned by Fontana Land Company, LLC.
- The engineer is Tim Tucker with Phelps Engineering, Inc.

REQUEST:
- The applicant is requesting approval for Rezoning from SD-CR, SD-O, and RP-3 to RP-2, Preliminary Plat, and Preliminary Plan.

ZONING:
- The property is currently zoned SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 (Planned Cluster Attached Residential District).

COMPREHENSIVE PLAN:
- The Comprehensive Plan designates this property as Mixed Use north of 137th Street.

LOCATION AND CURRENT ZONING:
SURROUNDING ZONING:
- North: Directly north of 135th Street is undeveloped property, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).
- South: Directly south is the single family subdivision of Leawood Meadows, zoned R-1 (Planned Single Family Low-Density Residential).
- East: Directly east of Fontana Street is open undeveloped property, zoned SD-NCR (Planned Neighborhood Retail).
- West: Directly west is Roe Avenue is Plaza Pointe, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).

SITE PLAN COMMENTS:
- The applicant is proposing to build 63 single family homes and 11 tracts within the RP-2 Zoning District.
- Entrances into the property include, one off 135th street, two off Fontana street, along with an eyebrow, two off 137th accessing the north portion of the development, one off 137th accessing the south portion of the development, and one off Roe avenue.
- Lot size range from 25,374 sq. ft. to 9,776 sq. ft., with an average lot size of 14,223 sq. ft.
- Entrance off Roe avenue and 135th will have fountains on each side of said entrance.
- All islands within the development will incorporate some form of statuary or flower urn.
- Cul-de-sacs within the property include, one off Fontana street, one off 137th street, one off Granada Road, and two off 136th Street.
- All internal streets are private.
- Amenities include a dog park in the northwest corner (Tract A), pitch and putt golf (Tract F), bocce ball, and pickle ball (Tract G) in the southeast corner.
- The development will have 6’ integrated retaining wall and fence along the north and west sides.
- Lots 20-23 are facing 137th Street along the south side of 137th Street.

BULK REGULATIONS:
- The following table outlines the required and provided regulations for the RP-2 Zoning District:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>30’</td>
<td>25.5’</td>
<td>Deviation Requested</td>
</tr>
<tr>
<td>Side Setback</td>
<td>10’</td>
<td>10’</td>
<td>Complies</td>
</tr>
<tr>
<td>Corner Lot Street Side Setback</td>
<td>20’</td>
<td>22.5’</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>20’</td>
<td>22.5’</td>
<td>Complies</td>
</tr>
<tr>
<td>Lot Size</td>
<td>6,000 Square Feet per dwelling unit</td>
<td>Average = 15,000 sq. ft.</td>
<td>Complies</td>
</tr>
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PRELIMINARY PLAT:
- The applicant is proposing 63 single family lots for the Villa de Fontana subdivision.
- The applicant is proposing twelve common area tracts, a total of 9.89 acres, which shall be maintained by the Homes Association. The tracts are as follows:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Sq. ft.</th>
<th>Acres</th>
<th>Area</th>
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<tbody>
<tr>
<td>Tract A</td>
<td>53,082.86</td>
<td>1.2186</td>
<td>Northwest corner of the development along 135th Street. This tract will contain landscaping, development monument, Retaining wall/Fence, and Dog Park.</td>
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</tbody>
</table>
ELEVATIONS:
- The applicant has provided preliminary elevations of proposed buildings. Elevations are reviewed and approved at the time of final site plan application.
- The applicant is proposing single family homes with pitched roofs, and forward facing garages.

LANDSCAPING:
- The applicant has provided preliminary landscaping for the development. Landscaping is reviewed and approved at the time of final site plan application.
- The applicant is proposing to plant street trees along both sides of the private streets along with trees in the medians. Existing street trees are located along the perimeter public streets. The applicant proposes to supplement street trees in these areas.
- The applicant is also proposing to add trees to an existing sporadic tree line that runs along the common property line with Leawood Meadows.
SIGNAGE:
- No signage is proposed with this application, signage is reviewed and approved at the time of Final Site plan application.

LIGHTING:
- Lighting is reviewed and approved at the time of Final Plan application

INTERACT:
- An Interact meeting was held on August 13, 2020. A meeting summary and sign-in sheet are attached.

REQUESTED DEVIATIONS:
- The applicant is requesting the following deviations to the Leawood Development Ordinance.
  Front Yard Setbacks:
  Section 16-2-5.5 RP-2 requires that front yard setbacks to be a minimum of 30 ft. The applicant is proposing a deviation to the setback to allow for a 25.5’ front yard setback for twenty three lots (7, 8, 13, 18-30, 36, 44, 45, 51-53, and 57. Section 16-3-9 (A)(5)(b): provides a deviation for setbacks of buildings and paved areas from other than a public street may be reduced to 75% of the standard requirement. The deviation may be granted only if compensating common open space (not less than 1:1 ratio) is provided elsewhere in the project and where there is ample evidence that the deviation will not adversely affect the neighboring properties.
  Lot Width:
  Section 16-8-3.7(A)(2) of the Leawood Development Ordinance requires that lots fronting onto a cul-de-sac shall maintain a minimum frontage of 45’ on the turn around and 100’ at the building line. Per Section 16-9-168, the distance between the side property lines measured at the required front setback is the lot width. The applicant is requesting a deviation under Section 16-3-9(A)(6) that provides for a deviation to allow lot width and lot frontage to be reduced to 80% of the standard requirement. The deviation may be granted only when compensating common open space (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 property. Any space resulting from the deviation shall be set aside for the use and benefit of the occupants of such development or the general public.

IMPACT FEES:
Park Impact Fee
- The applicant shall be responsible for a Park Impact Fee prior to the recording of the Final Plat in the amount of $400.00 per dwelling unit. This amount is subject to change by Ordinance.

135th Street Corridor Impact Fee
- The applicant shall be responsible for a 135th Street Corridor Impact Fee prior to the recording of the Final Plat in the amount of $389.40 per dwelling unit. 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, for the portion of the development that is south of 137th Street, prior to the recording of the Final Plat at a rate of $625 x gross acres platted x miles from 135th Street. This amount is subject to change by Ordinance.
GOLDEN CRITERIA:
The character of the neighborhood:
The area is characterized by a major arterial street (135th); a undeveloped parcel of land comprehensively zoned Mixed use to the North, Leawood Meadows a low density residential subdivision zoned R-1 to the south, a collector street (Fontana); a undeveloped property zoned SD-NCR to the east, a major arterial street (Roe); Plaza Pointe a mixed use development to the west.

The Suitability of the subject property for uses to which it has been restricted:
Due to the mix of uses within the surrounding area and the property is adjacent to two major arterial and collector streets, the property is suitable to a mixed-use development. The property is surrounded on all sides by major streets: 135th St. to the north, 137th St. to the south, Roe Ave. to the west and Fontana St. to the east, providing the best opportunity for a mixed use development. The original development for this area was a mixed use development which better fit within the 135th Street Corridor. The project does not currently meet the 2019 comprehensive plan or 135th street community plan, as these plans indicate that mixed use in the best zoning for the area/corridor.

The time for which the property has been vacant:
The property was rezoned (Ord. 2091) in 2004 from Agriculture (AG) to Planned General Retail (SD-CR), Planned Office (SD-O), and Planned Cluster Attached Residential (RP-3) as part of the Pawnee Place mixed use development. The final plan for the Gardens of Villaggio portion of the development was approved (Res. 3254) in 2009 with only one of the three offices being built to date. The final plan for the M&I Bank portion of the development was approved (Res. 2927) in 2007.

The extent to which removal of the restrictions will detrimentally affect nearby property:
The development in this application is proposing to rezone existing SD-O and SD-CR properties, resulting in said properties to be in non-conformance with building setback and minimum acreage requirements. Building setback from residential for SD-CR is required to be 125’ and SD-O is required to be 75’. Minimum Acreage requirements for SD-CR and SD-O are required to be a minimum of 10 acres per development.

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:
Maintaining Mixed Use zoning along the north side of 137th Street would keep this area compatible with existing and approved adjoining residential development, which may create a relative gain to the public health, safety, and welfare to the neighboring community by reducing density, traffic, and overall impact to this residential area.

Conformance to the adopted master plan of the City of Leawood:
The proposed application does not conform to the Comprehensive Plan for the City of Leawood, the comprehensive plan designates this area as Mixed Use while the applicant is requesting Medium Density Residential.

STAFF COMMENTS:
- The proposed application does not conform to the Comprehensive Plan for the City of Leawood or the 135th street Community Plan. The Comprehensive Plan and 135th street Community Plan designate this area as Mixed Use while the applicant is requesting Medium
Density Residential. The neighborhood is characteristically defined by the major arterial streets (135th and Roe). Given the access to major arterial streets, the area should be developed with the highest/best use for the property. Removing existing restrictions on the property will allow for the existing office buildings to not be in conformance with Leawood Development Ordinance. The development is proposing to spot-zone by rezone existing SD-O and SD-CR properties, resulting in said properties to be in non-conformance with building setback and minimum acreage requirements. Building setback from residential for SD-CR is required to be 125’ and SD-O is required to be 75’.

- The proposed application does not conform to Leawood Development Ordinance, section 16-8-3.7 including; lots fronting on a cul-de-sac shall maintain a minimum frontage of 45 feet on the turn around and 100 feet at the building line. The applicant is requesting a deviation under Section 16-3-9(A)(6) that provides for deviation to allow lot width and lot frontage to be reduced to 80% of the standard requirement. The deviation may be granted only when compensating common open space (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 property. Any space resulting from the deviation shall be set aside for the use and benefit of the occupants of such development or the general public.

- Per Section 16-8-3.7(A)(5), lots shall not have a depth greater than three times the width and shall have buildable width generally facing and directly relating to the street upon which such lots front. Lot 62 does not meet this requirement.

- The proposed application does not conform to Leawood Development Ordinance, section 16-8-3.2 including that all private streets shall be built to public standards.

- The applicant is requesting a rule exception under Section 16-8-6.1 of the Leawood Development Ordinance not to meet the following two requirements.
  - Section 16-8-3.2(F) that requires that private streets be built to public street standards.
  - Section 16-8-3.7(A)(5) that states that lots shall not have a depth greater than three times the width and shall have a buildable widths generally facing and directly relating to the street upon which such lots front.

Section 16-8-6.1, Rule Exceptions, states whenever the tract to be subdivided is of such an unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these subdivision regulations would result in substantial hardship or inequity, the City may vary from said requirements of design, but not of procedure or improvements, so that the subdivider may develop the property in a reasonable manner. At the same time, however, there must be a finding of unusual hardship as opposed to the mere granting of privileges so that the public welfare and interest of the City is protected and general intent and spirit of this Ordinance preserved. Such a rule exception shall state the reason for each variation and may be passed by a three-fourths (3/4) vote of the regular membership of the Planning Commission subject to review and action, including approval, denial or conditional approval, by a majority of the membership of the Governing Body.
MEMO

DATE: September 9, 2020

TO: Richard Coleman, Director of Community Development

FROM: Brian Scovill, P.E., City Engineer
       Department of Public Works

SUBJECT: Villa De Fontana Rezoning, Prelim Plat, & Prelim Plan
         Case Number: 70-20

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) No access shall be granted directly to 137th street from lots 22, and 23 and said lots shall be noted LNA – Limits of No Access on the plat.

2) Traffic Impact Analysis:
   a) The proposed plan indicates a less intense traffic impact than the previously approved Villaggio development. Prior to Final Plan Submittal the developer shall provide a memo to supplement the latest Traffic Study documenting the reduced traffic impact.

   b) Access for lots 20 and 21 should be shifted east to minimize conflicting left turns with Granada Rd and create more separation from Granada Drive in accordance with KDOT Access Management Plan.

   c) The developer shall pay into escrow One Hundred Forty Thousand ($140,000) Dollars for traffic signals at 137th Street and Roe Ave. This amount is fifty (50) percent of the estimated cost of Two Hundred Eighty Thousand ($280,000) for traffic signal design, construction and inspection. This fee shall be paid prior to the City releasing the plat.

3) Storm Water Study:
   a) This development is proposed to occur on the previously approved Villaggio project. Since then the City Code has been updated and BMPs are now required.
b) The latest stormwater study was received on August 19, 2020 and is being reviewed by the City and our consultant. The applicant shall work with the city on any follow up comments and questions and resolve the same prior to Final Plan Submittal.

c) The latest study indicates the following is proposed:

i) Reduction to the southwest detention basin to make room for an additional lot. Sufficient detention remains to reduce off site runoff to a level within the capacity of downhill storm water facilities.

ii) Three hydrodynamic separators will be added as BMPs. One will be located at each detention facility.

iii) Modification to the outlet control structure of the south center basin is also proposed.

4) Permanent structures, including monument signs, shall not be placed within the Right-of-Way and Public Easements.

5) 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).

6) 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.

7) 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.

8) Construction vehicles, including vehicles of construction personnel, shall not be parked within the Right-of-Way. All staging and storage of equipment and/or materials for private improvements shall be contained on the proposed development unless a Right-of-Way Permit has been obtained by the Contractor.

9) The Developer shall repair and restore all damaged areas between the back of curb and the Right-of-Way abutting this development including any existing damage. This shall include but is not limited to street lighting equipment, traffic signal equipment, sidewalk, storm sewers, grass, etc.

10) The Developer shall provide documentation by a licensed professional engineer certifying on City forms the BMPs have been constructed in accordance with City standards and the approved plans.

11) The developer shall provide as-built storm sewer information in accordance with City standards. This includes, but is not limited to, vertical and horizontal coordinates of all structures constructed or modified, flow line information at each structure, pipe size information, downstream structure numbers and type of
structure. This information shall be provided to us on the Johnson County AIMS coordinate system. The spreadsheet for the data will be provided to the developer after the storm sewer improvements have been completed.

12) Prior to the City releasing the plat, the Developer shall file at the County an executed Right Of Way Maintenance Agreement for private infrastructure within the right-of-way.

13) Building Permits will not be issued and the plat will not be released for recording until all public improvement plans have been approved by the City Engineer.

14) The Certificate of Occupancy shall not be approved until the above requirements including payments to escrow accounts have been met.

If you have any questions, please call me at (913) 663-9134.
TO: Grant Lang  
FROM: Jarrett Hawley  
DATE: August 24, 2020  
SUBJECT: Villa de Fontana

The Leawood Fire Department has been presented with additional site plans showing street layout which meet minimum requirements for fire apparatus. After reviewing the updated street map and site plan, The Leawood Fire Department has no objections to the present site plan presented.

Jarrett Hawley  
Deputy Chief  
Leawood Fire Department
The meeting was held via Zoom call. There is no sign-in sheet, however, approximately 15 invitees attended the meeting.

The meeting began at 6:00 p.m. Mr. Petersen presented the project. Mr. Petersen began with a bit of history about the project and referenced the 2008 zoning plan, which resulted in the construction of the existing street network and storm water improvements. Mr. Petersen walked through the proposed site plan and indicated that the project would consist of 63 single-family lots with various amenities. The projected cost of these single-family villa homes would be in the range of $850,000 to more than a $1,000,000. Mr. Petersen then discussed the southern property line that is shared with the Leawood Meadows subdivision. Mr. Petersen explained that the applicant will not change the existing embankment that is adjacent to the Leawood Meadow homes in that area. These residents currently enjoy an embankment/berm area that ranges from a few feet to 10-feet in height and the applicant agrees that it will not changing that area for those neighbors. However, the applicant will be planting additional landscaping along this southern property line with evergreen and pine trees that will be planted at 15-20 feet in height on approximately 25-foot centers. Mr. Petersen also indicated that there will not be a fence or wall place along the existing embankment. Next, Mr. Petersen explained the active open spaces that are proposed for Tracts F and G on the site plan. These area will be utilized as open space/amenity areas as there is existing underground storm water facilities in these two areas. Mr. Petersen indicated that the pitch and putt golf, bocce ball, pick ball and other amenities are all very conceptual at this point and the applicant would provide more detailed information at the final plan stage for the areas. Mr. Petersen then shared the perimeter fencing/walls that will be constructed adjacent to the public streets and shared the overall quality, theme and concept that this project will reflect.

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

Question: The project looks very nice. We live near your proposed lots 22 and 23 and have cleaned up the tree line and brush in that area but know that the property line runs down the center of this landscape area. Will you be removing any of the existing trees in this area?
Response: No.
Question: Will the proposed 5’ walking trail shown in Tract G be provided along the entire southern property line?
Response: No, only in the area of Tract G.

Question: Will we see the new 5’ trail from our back yard?
Response: No. We will not be modifying your current view of the embankment/berm

Question: Are you making any modifications to the existing detention/retention system?
Response: We will be making slight modifications to the existing system as we need to size it appropriately for the single-family homes. The current system is too large as it was built for commercial development so we will likely be abandoning some of the underground cells that are not be utilized. We are working with City staff to work through those issues.

Question: Will the homes along the southern property line have enough room for patios?
Response: Yes.

Question: Will the August 25th Planning Commission meeting be in-person?
Response: City Hall is currently closed and is holding all meetings on-line at this time. We would recommend you contact the City Planning staff regarding the August 25th meeting.

Mr. Petersen took a brief moment to explain the public meeting dates. The application is currently scheduled for the August 25th Planning Commission agenda. However, we understand that this agenda is very full and there is a chance that our application will not be heard that evening. If that happens, the City will hold a special Planning Commission meeting on September 8th to consider this application and others. This means that the project will potentially be considered by the City Council on either September 21st or October 5, 2020.

2. Mr. Gagliano
Question: Will all homes be one story?
Response: Yes, Single level with some walk-out basements.

3. Mr. Groom
Question: Some concern about trajectory of golf balls within the pitch and putt area – people getting hit or windows being broken?
Response: Mark Simpson is currently working to design this concept. He is aware of the concern and would be happy to meet with any of you individually to help explain how this amenity will be designed to protect against this happening.

Question: Will the price of these villa homes being $1 million dollars affect our property taxes?
Response: It is hard to predict that. This is a different type of single-family home product from what is currently constructed in your subdivision and we do not know if the appraiser will consider these comp properties.
At this point in the meeting, Mr. Higday expressed several concerns with the development of the Majestic of Leawood proposing to be constructed east of the applicant’s project. There was discussion between Mr. Higday and Mr. Sharp (owner of the property) about that project.

4. Mr. Proderio  
Question/Comment: I think this project is very well designed. I do have a concern about whether or not anything will be built on top of the berm? I am glad to see the amenity area with bocce ball. You should know that there are several weekend warrior individuals who currently use this property and the berm for the enjoyment of the off-road vehicles? 
Response: No, the applicant will not build anything on top of the existing embankment/berm. Thank you for making us aware of the off-road vehicles. Obviously, that activity will be eliminated once the project is developed.

5. Mr. Sharp  
Question: Will the existing streets remain private?  
Response: Yes.

Questions: Mark Simpson and Saul Ellis are the Developers?  
Response: Yes.

6. Mr. Groom  
Question: Will this be an age-restricted project?  
Response: No. However, the proposed product appeal more to the 50+ age demographic.

7. Mr. and Mrs. Franklin  
Question: Mrs. Franklin provided some insight as to whether or not the adjacent property values will be impacted by the development. She also commented that this will help retain/increase the value of adjacent properties and is happy about less traffic along 137th Street and no adjacent parking lots and commercial development.

Question: Mr. Franklin asked what the average lot size will be for the homes around the Grandad Drive cul-de-sac?  
Response: Lot 15 will be approximately 18,000 sq. ft., Lot 16 will be approximately 13,500 sq. ft. and Lot 17 will be approximately 20,000 sq. ft. in size.

Question: When will construction start?  
Response: The Developer would like to break ground in Spring 2021.

Comment: The project looks very nice – best he has seen in a while.

8. Mr. Gagliano  
Question: Where will the model homes be located?  
Response: In the northern portion of the project near the entrance at Granada Drive and Lola Drive (Lots 38, 39 and 40).
9. Mr. Arnette
Question: I used to serve on the Worthington HOA board. The homes in that subdivision have struggled their pond needing to be drudged because of silt and runoff from other projects to the north not be constructed property.
Response: We appreciate how expensive that can be and the proposed development will follow the requirements that dictate how storm water run-off is handled. The Developer provided Phelps Engineering contact information should Mr. Arnette want to discuss this further with an engineering team.

Question: Will Doug Patterson’s office building remain?
Response: Yes.

Question: Will there be fencing along Roe as well?
Response: Yes.

Comment: Mr. Petersen indicated that the applicant will let the neighbors know about the final design of the amenity areas along the southern property line at the time final development plans are submitted to the City for review and approval.

The meeting concluded at 7:05 p.m.
July 31, 2020

RE: Interact Meeting (Thursday, August 13, 2020 at 6:00 p.m. via zoom meeting)

Project Name and Location: Villa de Fontana, located at the southeast corner of 135th Street and Roe Avenue, Leawood, KS (see attached legal description and map) – Case No. NC#70-20,
Rezoning, Preliminary Plan and Preliminary Plat

Dear Citizen:

We have confirmed that you own property within 500 feet or are a registered Homes Association within 1,500 feet of the above referenced property. We have filed an application with the City of Leawood for a rezoning, preliminary plan, and preliminary plat for this property. The proposed rezoning will be from RP-3 (Planned Cluster Attached Residential District), SD-0 (Planned Office), and SD-CR (Planned General Retail) to RP-2 (Planned Cluster Detached Residential District). This property is generally located at the Southeast corner of 135th Street and Roe Avenue. The development will consist of 60 single family lots on 30.44 acres.

In conformance with the City of Leawood’s Interact Program, you are invited to an Interact meeting to provide you, as a nearby property owner, an opportunity to learn about the project and to discuss any issues or concerns that you may have. Prior to a public hearing before the Planning Commission, a summary of the meeting will be filed with the City of Leawood Planning Department.

The Interact meeting will be held on Thursday, August 13, 2020 at 6:00 p.m. via zoom call. You will need to download the zoom meeting application on your phone or computer at zoom.com and can then join the zoom call with the Meeting ID: 995 2195 0699 and Passcode: 323941.

A public hearing before the Planning Commission will be held on August 25, 2020 at 6:00 p.m. in the City Council Chambers of Leawood City Hall, 4800 Town Center Drive, Leawood KS. The Planning Commission meeting will be broadcast via YouTube live. The general public will have an opportunity to comment on the proposed development by contacting the City at planning@leawood.org
IMPORTANT NOTE:

City Hall is currently closed to the public due to COVID-19. As such, your only opportunity to view the plans submitted with this application will be at the Interact meeting or by requesting copies from either Tim Tucker at ttucker@phelpsengineering.com or Grant Lang at glang@leawood.com.

If you have any questions or if you cannot attend the meeting we can be contacted at 913-393-1155.

Sincerely,

Tim Tucker, P.E.
Phelps Engineering, Inc.
Dear Leawood Planning Commission:

We have lived at 13701 Fontana Lane, Leawood, Kansas for eighteen years. This is the fourth or fifth proposal for the property located on 135th between Roe and Mission Roads. This one is by far the most ridiculous. The 135th Street Corridor is prime land for commercial retail and/or professional office development. A dog park on such expensive property is idiotic. The northern half of the property at 135 should be commercial. The Southern portion of this property should be developed as residential. Any residential lots should be at least 1/2 acre. A concrete pickle ball structure on top of an underground water retention system is a recipe for disaster.

The City of Leawood has an obligation to it’s residents to develop the property surrounding residents in the most reasonable manor to benefit the city and the citizens as best as possible. This plan does not meet those obligations. It is doomed to fail.

Sincerely,

Dr. David M. Blomeyer

Kristi L. Blomeyer

Sent from Windows Mail

WARNING: This email originated from an EXTERNAL SOURCE. DO NOT CLICK LINKS or ATTACHMENTS unless you recognize the sender and know the content is safe.
Hello, My husband Joseph Franklin and I live in Leawood Meadows at 4652 W 137th Terrace and our home is adjacent to the land that will become the Villa's de Fontana. We have seen the plat map and plans and are supportive of the development. In the past, the idea of a tall building and parking lot lights concerned us. Having neighbors in luxury homes on large lots are more preferable to us. I believe as a realtor there is a real need for this type of maintenance provided housing and as a house borders the plans, I believe it will help my property values and my neighbors.

This is also an opportunity to tell you how much we appreciate the beauty of Leawood and thanks for keeping the parks and streets so well kept.

Best wishes,

Denise Franklin
Dear Richard,

On behalf of myself and all of the fellow owners of the office building located at 4630 W. 137th Street as well as surrounding common areas, I am pleased to write in support of the above referenced rezoning Application. We have had the opportunity to review the proposed Villa de Fontana Plan with Mr. Ellis and Mr. Simpson and are convinced that this development will have a positive impact not only on our building but the general 135th corridor as well. Specifically, we have reviewed the proposed setbacks from our building to the adjacent single family residences and coupled with landscaping and other features fell it will provide an excellent transition between the two uses.

We strongly encourage the Planning Staff, Planning Commission and the City Council to approve the Project. Please place this correspondence in the public record for consideration as this application is reviewed.

Doug Patterson
Gardens of Villaggio Condominium Association, Inc.
HOAD, LLC

CC. Mayor Peggy Dunn
City Administrator, Scott Lambers

*******************************************************************************

NOTICE: During the current quarantine order/stay at home/shelter in place orders, our office has limited access, but Property Law Firm is fully operational. Its attorneys and staff remain working full time sometimes on a remote basis. All emails, documents, faxes, court matters and your files are just as available to us as if we were in the office and at our desks.

Douglas J. Patterson
PROPERTY LAW FIRM, LLC
4630 West 137th Street, Suite 100
Leawood, KANSAS 66224
913-663-1300 X.105
913-396-5105 direct dial
Planting Notes

1. Planting or sod shall be installed in a manner that promotes rapid growth and establishment.
2. All plantings shall be installed in a manner that promotes rapid growth and establishment.
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Landscape Calculations

Pondliner Landscape adjacent to public ROW:

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<th>9/14/2020</th>
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<tr>
<td>Project #</td>
<td>427</td>
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<tr>
<td>Preliminary Landscape Plan</td>
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<tr>
<td>Villa De Fontana</td>
<td>3E Cor of 135th and Roe</td>
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<tr>
<td>Leadwood, KS</td>
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Landscape Schedule

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<tr>
<td>Irrigation</td>
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Date: 9/14/2020
Project #: 427
Preliminary Landscape Plan
Villa De Fontana
3E Cor of 135th and Roe
Leadwood, KS
Preliminary Stormwater Study

Villas of Fontana
Single Family Residential

135th Street and Roe Avenue
Leawood, Kansas

Prepared by:

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

PEI #200597
August 7, 2020
August 7, 2020

Brian Scovill, P.E.
City of Leawood, Kansas
4800 Town Center Drive
Leawood, KS 66211

Re: Villa de Fontana
Preliminary Stormwater Study
PEI #200597

Dear Mr. Scovill:

Phelps Engineering, Inc. is pleased to submit this Preliminary Stormwater Management Study for the above referenced project. Villa de Fontana is located at the southeast corner of the intersection of 135th Street and Roe Avenue. The site is 30.44 net acres and is currently zoned as a RP-3 Planned Cluster Attached Residential District, SD-O Planned Office, and SD-CR Planned General Retail and will be rezoned to RP-2 Planned Cluster Detached Residential District. The preliminary plat contains 63 lots with a density of 2.07 lots / acres (equal to 1/2 acre lots).

The Villa de Fontana is the eastern half of an existing approved development plan called the Villaggio at Leawood; which was proposed to be developed as a mixed use of apartments, office, and retail. The public and private infrastructure was previously constructed on the Villaggio at Leawood, which includes utilities, sanitary sewers, storm sewers, streets, and stormwater detention facilities. The Villa de Fontana development proposes to modify the eastern half of the Villaggio at Leawood by down zone 30.44 acres to single family residential lots utilizing the existing infrastructure in place.

Onsite Drainage System
The existing site is contained in four watersheds draining to the northwest, north central, south central and to the southwest. 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.
Downstream Analysis
A stormwater study was previously approved for the currently approved Villaggio at Leawood Development, which was prepared by Continental Consulting Engineers, Inc. and dated December 21, 2007.

The streets, storm sewer, and stormwater detention has been constructed for this project and is currently in place.

The approved study included a very extensive analysis of downstream drainage system. The Villaggio at Leawood development has six watersheds discharging the site at the Northwest, North Central, Northeast, Southeast, South Central, and Southwest. An existing runoff model was developed for each watershed, and the capacity of each downstream system was analyzed. A site release was determined by using the lowest runoff based on the two criteria; existing runoff or downstream storm sewer capacity. If the downstream capacity was the controlling criteria, then the site release rate was further reduced based on the ratio of onsite runoff and offsite runoff. The following table outlines the approved release rates for the Villaggio at Leawood:

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<th>Watershed</th>
<th>Storm Event</th>
<th>Existing Runoff, cfs</th>
<th>Downstream Capacity, cfs</th>
<th>Onsite % Downstream Capacity</th>
<th>Onsite % Downstream Capacity, cfs</th>
<th>Allowable Release Rate, cfs</th>
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<td>Capacity 30&quot; RCP</td>
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<td>% Capacity 30&quot; RCP</td>
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<td>70</td>
<td>25.4</td>
<td>25.4</td>
<td>% Capacity 30&quot; RCP</td>
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<td>76.95</td>
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<td>56.93</td>
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<td>18</td>
<td>76.95</td>
<td>56.93</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>25</td>
<td>69.86</td>
<td>436</td>
<td>18</td>
<td>76.95</td>
<td>69.86</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>50</td>
<td>79.2</td>
<td>436</td>
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<td>76.95</td>
<td>76.95</td>
<td>% Capacity 72&quot; RCP</td>
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<td>436</td>
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<td>76.95</td>
<td>% Capacity 72&quot; RCP</td>
</tr>
<tr>
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<td>27.71</td>
<td>39.7</td>
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<tr>
<td>South Central Basin</td>
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<td>55.25</td>
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<tr>
<td>South Central Basin</td>
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<td>67.83</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>% Capacity 36&quot; CMP</td>
</tr>
<tr>
<td>South Central Basin</td>
<td>50</td>
<td>76.83</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>% Capacity 36&quot; CMP</td>
</tr>
<tr>
<td>South Central Basin</td>
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<td>89.7</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>% Capacity 36&quot; CMP</td>
</tr>
</tbody>
</table>

** NC, NE, and SE basin are offsite basins to Villa de Fontana therefore ae not included in table

See The Villaggio at Leawood Stormwater Study dated December 21, 2007 by Continental for more details.
Detention
Underground detention is currently provided for the entire Villaggio at Leawood development. The detention was designed for a mixed land use of office, apartments, and commercial. The Villa de Fontana site is located on the western half of the Villaggio at Leawood development which is proposed to be developed as single family residential, a much less intense development. Villa de Fontana is located in the Northwest, North Central, South Central, and Southwest drainage basins of the Villaggio at Leawood; therefore no detention analysis is included for the Northeast or Southeast basins.

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. The CN values used in the proposed analysis are the same valued used in the currently approved Villaggio at Leawood Stormwater Study for soils and land cover, except for the addition of single-family land use into the model. The drainage areas have been re-evaluated and updated to the proposed plan.

See Appendix “D” for the proposed HydroCAD modeling results.

Northwest Watershed
The northwest detention basin is an existing underground detention facility utilizing 84” diameter CMP pipes. The existing detention facility will be utilized as constructed with no modifications to the storage or outlet structure. The existing storage consists of 1,233 linear feet of 84” CMP pipe. The existing outlet structure is a multi-stage outlet structure designed to control peak runoff rates in the 2, 10, 25, 50, and 100-year storm events. The first stage is an 8”x8” orifice at an elevation of 999.0, the second stage is a 24-inch wide by 12-inch tall orifice with a flowline elevation of 1002.0, and the third stage is a 9-feet wide by 31” tall orifice at an elevation of 1005.91. The 100-year WSE in the basin is 1005.23 with a storage volume of 0.886 ac-ft and contained in the outlet structure with a top of structure elevation of 1009.0 See Table below for the northwest watershed proposed conditions.

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Allowable Release Rate, cfs</th>
<th>Inflow Rate, cfs</th>
<th>Outflow Rate, cfs</th>
<th>WSE, ft</th>
<th>Storage, ac-ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-year</td>
<td>Basin</td>
<td>NA</td>
<td>17.84</td>
<td>3.99</td>
<td>1002.15</td>
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<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>12.87</td>
<td>NA</td>
<td>5.05</td>
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<td></td>
</tr>
<tr>
<td>10-year</td>
<td>Basin</td>
<td>NA</td>
<td>33.69</td>
<td>13.57</td>
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<td>0.549</td>
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<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>23.9</td>
<td>NA</td>
<td>14.28</td>
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<td></td>
</tr>
<tr>
<td>25-year</td>
<td>Basin</td>
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<td>40.81</td>
<td>16.55</td>
<td>1004.4</td>
<td>0.667</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>25.4</td>
<td>NA</td>
<td>17.43</td>
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</tr>
<tr>
<td>50-year</td>
<td>Basin</td>
<td>NA</td>
<td>45.92</td>
<td>18.48</td>
<td>1004.51</td>
<td>0.756</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>25.4</td>
<td>NA</td>
<td>19.48</td>
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<td></td>
</tr>
<tr>
<td>100-year</td>
<td>Basin</td>
<td>NA</td>
<td>50.09</td>
<td>21.08</td>
<td>1005.23</td>
<td>0.886</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>25.4</td>
<td>NA</td>
<td>22.24</td>
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</tbody>
</table>
North Central Watershed
The north central detention basin was not analyzed since the tributary area from the Villa de Fontana project is unchanged. The area contributing to the north central watershed from Villa de Fontana consist of existing streets with no changes proposed.

Southwest Watershed
The southwest detention basin is an existing underground detention facility utilizing 84” diameter CMP pipes. The existing detention facility consist of 3,561 linear feet of 84” diameter CMP pipes, and this development proposes to remove 1,216 feet of storage pipe and utilize 2,345 of the existing pipes for storage. The existing outlet structure will not be modified. The existing outlet structure is a multi-stage outlet structure designed to the control peak runoff rates in the 2, 10, 25, 50, and 100-year storm events. The first stage is an 16-inch wide and 8-inch tall orifice at an elevation of 980.5, the second stage is a 30-inch wide by 10-inch tall orifice with a flowline elevation of 982.0, the third stage is a 5-feet wide by 12” tall orifice at an elevation of 984.5, and the fourth stage is a 9-feet wide by 13.2” tall orifice at an elevation of 987.9. The 100-year WSE in the basin is 987.84 with a storage volume of 1.886 ac-ft and contained in the outlet structure with a top of structure elevation of 989.5 See Table below for the southwest watershed proposed conditions.

Southwest Watershed Proposed Conditions

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Allowable Release Rate, cfs</th>
<th>Proposed Condition</th>
<th>Inflow Rate, cfs</th>
<th>Outflow Rate, cfs</th>
<th>WSE, ft</th>
<th>Storage, ac-ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-year</td>
<td>Basin</td>
<td>NA</td>
<td>43.03</td>
<td>19.32</td>
<td>983.84</td>
<td>0.492</td>
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<tr>
<td></td>
<td><strong>Southwest Total Outfall</strong></td>
<td><strong>28.67</strong></td>
<td><strong>NA</strong></td>
<td><strong>19.59</strong></td>
<td><strong>NA</strong></td>
<td><strong>NA</strong></td>
<td></td>
</tr>
<tr>
<td>10-year</td>
<td>Basin</td>
<td>NA</td>
<td>86.77</td>
<td>45.83</td>
<td>985.59</td>
<td>1.134</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Southwest Total Outfall</strong></td>
<td><strong>56.93</strong></td>
<td><strong>NA</strong></td>
<td><strong>46.33</strong></td>
<td><strong>NA</strong></td>
<td><strong>NA</strong></td>
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</tr>
<tr>
<td>25-year</td>
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<td>106.84</td>
<td>57.4</td>
<td>986.29</td>
<td>1.394</td>
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<tr>
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<td><strong>Southwest Total Outfall</strong></td>
<td><strong>69.86</strong></td>
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<td><strong>58.04</strong></td>
<td><strong>NA</strong></td>
<td><strong>NA</strong></td>
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<tr>
<td>50-year</td>
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<td>64.84</td>
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<tr>
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<td><strong>65.56</strong></td>
<td><strong>NA</strong></td>
<td><strong>NA</strong></td>
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<tr>
<td>100-year</td>
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<td>141.44</td>
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<td>987.84</td>
<td>1.886</td>
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<tr>
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<td><strong>NA</strong></td>
<td><strong>76.12</strong></td>
<td><strong>NA</strong></td>
<td><strong>NA</strong></td>
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</tr>
</tbody>
</table>

South Central Watershed
The south central detention basin is an existing underground detention facility utilizing 84” diameter CMP pipes. The existing detention facility will be utilized as constructed with no modifications to the storage. The existing storage consists of 2,805 linear feet of 84” CMP pipe. The existing outlet structure is a multi-stage outlet structure designed to the control peak runoff rates in the 2, 10, 25, 50, and 100-year storm events. The outlet structure will be modified utilizing the following multi-stage outlet. The first stage is an 20” diameter orifice at an elevation of 984.0, and the second stage is a 9-feet wide and 13.2-inch tall orifice with a flowline elevation of 994.0. The 100-year WSE in the basin is
993.6 with a storage volume of 2.333 ac-ft and contained in the outlet structure with a top of structure elevation of 996.0 See Table below for the south central watershed proposed conditions.

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Allowable Release Rate, cfs</th>
<th>Proposed Condition Inflow Rate, cfs</th>
<th>Outflow Rate, cfs</th>
<th>WSE, ft</th>
<th>Storage, ac-ft</th>
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</thead>
<tbody>
<tr>
<td>2-year</td>
<td>Basin</td>
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<td>35.13</td>
<td>20.63</td>
<td>989.69</td>
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<td>20.75</td>
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<tr>
<td>10-year</td>
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<tr>
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<tr>
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<td>993.6</td>
<td>2.333</td>
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<td>32.2</td>
<td>NA</td>
<td>31.41</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Stream Buffers
The entire property has been enclosed in storm sewer pipes with the current approved Villaggio at Leawood development.

FEMA
All parts of the property have been designated as Zone X, per Map Panel 20091C084G 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 all portions of the property are located outside the regulatory floodplain.

Corps of Engineers
The entire property is improved with streets and storm sewer, which is part of the current approved Villaggio at Leawood development. No water or wetlands of the United States are located on this property.

Water Quality BMP Requirements
The proposed development is part of the currently constructed Villaggio at Leawood development. The Villaggio at Leawood is a mixed use development consisting of apartments, office buildings, and retail; which was approved with no Stormwater Quality BMP requirements. The streets, storm sewers, and detention for the project where constructed with the Villaggio, and the only change to the Villaggio development plan is the down zoning to single family residential. The Villas de Fontana development
Conclusion
This stormwater management plan and attached exhibits complete Phelps Engineering’s submittal of the Preliminary Stormwater Study for the Villas de Fontana. Please feel free to contact PEI at (913) 393-1155 if you require additional information.

Sincerely,

Phelps Engineering, Inc.

Tim Tucker, P.E.

Enclosures 8-7-20
proposes to down zone 30.44 acres of the Villaggio at Leawood mixed use to single family residential lots.

The site is 30.44 net acres and is proposed to be zoned as a Single Family Residential Development. The proposed plan has 63 lots for a density of 2.07 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 land cover consists of asphalt streets and grass in good condition. The site consists of HSG Type “B” and HSG Type “C” soils, which have been bumped up one soil group to HSG “C” and HSG “D” soils to account for hard panning of soil from previous construction. See enclosed soil survey printouts in Appendix “G”. The predevelopment CN is calculated at 80.

The proposed CN was calculated by using a land type of 1/2 acres single family residential lots. The HSG has not been bumped up one level from the pre-developed condition since the this was accounted for in the pre-development CN calculations since this is a previously constructed site. The post development CN is calculated at 84.

The proposed development has increased the existing CN by 4, therefore requiring a level of service of 5.3 in accordance with APWA Best Management Practices for Water Quality. See Level of Service Worksheet 1 and the Predevelopment CN Exhibit in Appendix “C” for more details.

The proposed development BMP mitigation required to provide a minimum water quality level of service of 5.3 is provided with hydro-dynamic separators being installed at the Northwest, Southwest, and Southcentral discharge points.

The Level of Service provided is 5.3, meeting the requirements set forth in APWA. See Level of Service Worksheet 2 and the Post Development Mitigation Exhibit for more details.

All maintenance of BMP’s will be the sole responsibility of the Homes Association and BMP’s are contained in a Tracts providing maintenance access.
Chairman Elkins: Frankly, that was one of the questions I asked about the term of their license because it would make sense to tie the Special Use Permit to the term of their license. It’s unfortunate they’re not in a position to share the term of that license. Other comments?

Comm. Peterson: I do agree with Commissioner Block. I don’t think we should consider shortening the term of the Special Use Permit from 20 years primarily because the State of Kansas ultimately could close them down within months if they wish to. If there is any hazard to the children or any violation of state law, I would hope the State of Kansas would step in and take appropriate action. I am somewhat confused. I’ve been in that area many times before, especially because of Sydney’s Spa. There appears to be, to the south and west, a reasonable amount of parking available. I do not know what the peak times are because the times I’ve been there are probably not peak times; however, the large area to the west of Dr. Tally’s building and Sydney’s Spa is one that I was not aware was not a common area. It is fairly significant. Getting back to Commissioner Block’s point, I don’t see any reason to shorten the time period on the Special Use Permit. Frankly, if something goes seriously wrong, the most important thing would be the safety of the children. The school wants to protect the license with the State of Kansas and do everything in their power to continue operation. Otherwise, this is going to be a very expensive project for them. That’s really the bulk of what I would like to say. I personally propose to support this.

Chairman Elkins: Thank you. Other comments? Is there a motion?

A motion to recommend approval of CASE 68-20 – PLAZA POINTE – GUIDEPOST MONTESSORI – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, for a Daycare/Montessori, located south of 135th Street and west of Roe Avenue – with the elimination of Stipulation No. 9 - was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

Chairman Elkins: Thank you to the applicant and to the public.

Adjourning for a five-minute recess

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

Staff Presentation:
City Planner Grant Lang made the following presentation:
Mr. Lang: This is Case 70-20 – Request for approval of a Rezoning from SD-CR, SD-O, and RP-3 to RP-2. This is a Preliminary Plat and Preliminary Plan. The applicant is proposing a residential development consisting of 63 single-family homes. Planning staff is not supportive of this development, as it does not represent the highest and best use for the 135th Street Corridor or the City of Leawood. The project will create two nonconforming properties located in the existing SD-O and SD-CR zoning districts. Building setbacks to residential from SD-O are 75 feet and 125 feet from SD-CR. These zoning districts are also to maintain a minimum of ten acres. The proposed application does not conform to the LDO, stating that private streets shall be built to public standards, as the current infrastructure was built with commercial development in mind. The proposed application does not conform to the LDO stating lots fronting on a cul de sac shall maintain a frontage of 45 feet on the turnaround and 100 feet at the building line. Lots shall not have a depth greater than three times the width. The application does not meet all requirements per the LDO and Golden Criteria. Staff recommends denial of Case 70-20 with the stipulations listed in the Staff Report. I will answer any questions.

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

Comm. Block: We had a revised Staff Report on the dais. It looks like the only addition was on the fourth page with lot widths. Is that the only addition?

Mr. Lang: Yes, and I believe Staff Comments include the definition for 16-8-6.1, relating to hardships and special requests.

Chairman Elkins: I believe Mr. Lang sent out an email to the commission early this afternoon about it.

Mr. Lang: It might have come from Mark Klein.

Comm. McGurren: I’m curious. This has a bit of the undertones from a case we had last month where land sits almost exclusively vacant. What had originally been intended within the Comprehensive Plan or 135th Street Corridor Plan has never happened on this property. I was curious if staff had a conversation with others within the city or with the applicant. Even though it does not meet the Comprehensive Plan or the 135th Street Plan if it did meet the LDO if there were adjustments made by the applicant, would this come closer to staff recommendation?

Mr. Lang: I don’t believe it would as this use is comprehensively planned for MX-D.

Comm. McGurren: To me, that goes back to the idea that the Comprehensive Plan hasn’t worked for 20 years or more, and we end up with all this land just sitting there. In the case of this property, it looks quite odd when all the streets and everything are all ready to go and only one or two buildings have been built and obviously a minor portion of what was intended on this property. I fully get the concept that says that this isn’t what it was intended to be. On the other hand, I’m curious if there has been much of a conversation
of beginning to adapt to what might be more realistic. For example, when we look at the plan that Mr. Regnier paid for. None of what we want on this property is currently viable. What Mr. Simpson is bringing is listed as viable in the marketplace. That was before the pandemic and not after. I’m just curious whether the Planning Department is beginning to have more of a conversation about whether or not the Comprehensive Plan or 135th Street Corridor Plan is viable.

Mr. Lang: At my level, I don’t believe any of those conversations have happened. We might refer to Richard or Mark on that one.

Mr. Coleman: First, we weren’t approached to ask about the use of the property. The plan was submitted as you’re looking at it. We would have looked to have probably some of the residential south of 137th Street and then have it transition into some commercial, some small retail and other residential north of 137th Street. Not only does this not meet the Comprehensive Plan, as it is, it’s creating nonconforming parcels of land, which is against the LDO. They’re going to ask you to overlook that. Our recommendation is not to overlook it.

Chairman Elkins: Thank you. Other questions for staff? If not, I would welcome Mr. Petersen.

Applicant Presentation:
John Petersen, Polsinelli, PC, 11817 Norwood Drive, Leawood, appeared before the Planning Commission via Zoom on behalf of Fontana Land Co., LLC and made the following comments:

Mr. Petersen: Mark Simpson and Saul Ellis are very familiar names to the City of Leawood for residential developers for foresight, uniqueness, and quality. We’re pleased to bring this application before you. I’m going to ruin your evening tonight and make a point to explain why I’m going to pick up my case tonight. I am the applicant for every remaining agenda item. I know how packed your agendas have been, so I’m going to try to really go through this. Not to be rude or dismissive, but I want to get my presentation in and then be happy to answer any questions so maybe we can get to some of the other applications. I want to start by talking about the context of this application. Commissioner McGurren, thank you for bringing us back to a sense of reality, to look at 135th and Roe and the application of this use against a thought and idea that has had 20 years to come to fruition. This isn’t land planning, but this story will put into context and allow you to understand why we are bringing this forward. I’m going to make a contradiction of staff, who says it’s not in compliance with the LDO. That’s not true. It is in compliance if you use some of the features and some of the mechanisms in the LDO, which allows the Planning Commission and City Council to exert discretion in a unique set of circumstances. The story is represented by the beautiful fountain at 135th and Roe, which is probably one of the more iconic features in the corridor and one of the few vertical features. That fountain is almost analogous to a monument over a battlefield where a battle was lost. The battle plan was the Comprehensive Plan. It wasn’t the 135th Street Corridor Plan; it was the plan from the early 2000s that said to build a bunch of
commercial, have it inward focused, pack it up with density, make it walkable inside. That was good street design and all those things that were the idea of the day before we decided to double down on the idea with the 135th Street Corridor Plan and go vertical. That plan with the street system was there in good times, through some bad times, and also through the greatest development atmosphere I’ve ever experienced before COVID-19. This plan was marketed. People tried to do it. Fifteen years later, it’s one fountain, one office building in the southeast corner, and one building in the northeast corner. The bank couldn’t survive, so now it’s being utilized for office. We’re trying to be creative to bring a win not only to this landowner but also to the city. This piece of ground is in the deepest financial hole you’ll see as a Planning Commission. To create that grid system, buy that land, put the sewers in, put the streets in, the developer went hard, close to $10 million. This is an epithet over this dead battlefield of overleverage, overutilization of public money. The public, including the City of Leawood, the county, and all the taxing jurisdictions in Johnson County were not paid back. One TBD bond issuance, three SBD bond issuances totaled almost $7 million. There were two bank foreclosures, and defaulted bonds. The SBD bonds did not default because the City of Leawood started picking up the tab. Property taxes haven’t been paid. $1 million of general real estate property taxes are in arrears. The City of Leawood is approaching $2 million out of pocket to continue to pay the general obligation bond that was the risk factor to see if commercial in this type of density would work on this property. Finally, those bonds are still outstanding. We have a very unique approach. We’re not asking for incentives to tackle the problem. We’re asking for the opportunity to bring a project forward that is viable, actionable, will be a great addition to a different type of residential use in the mosaic of the 135th Street Corridor, will help other retailers who are struggling, and will help bring some retail to other projects that have already been approved. Before we begin, we’ll write the city, the county, and all the taxing jurisdictions a check in the neighborhood of $3 million, filling in the financial abyss, and taking over the responsibility for the outstanding general obligation bonds. We have a product there is actually a market for. It is not a theory or a plan; it is something that can be acted on.

We’re going to utilize the street grid system and improve it with some eyebrows and small cul de sacs. We’re going to bring the flair and panache of Mark Simpson and Saul Ellis. We’re not just going to create some residential to solve the problem; we’re going to follow up on the iconic nature of the fountain and create an iconic piece of the puzzle of the 135th Street Corridor. Because it’s on a thoroughfare, there will be a wall system around the thoroughfare portion. We’re going to pick that theme of the fountain up. The wall will be used for retaining, for part of the grading, and as a buffer from the thoroughfares. It is also going to be part of the décor and the theme and elegance of the project. Our grand entrance is off 135th and Granada. The fountains and statue will be a hallmark of this project. On the right is the wall system with a design that will be incorporated into the wall as the wall moves from the main entrance back to the west toward Roe.

Next is an idea with new eyebrows and cul de sacs. Each street addition will be a place for a fountain or piece of art that will pick up distinctive character and flavor for the 63-lot neighborhood. On the south part of 137th had a multi-story senior care facility approved. We’re planning to put one new cul de sac in with seven lots surrounding the cul de sac. We have two lots that will access directly onto 137th Street moving next to the
cul de sac, and then two more lots are farther east. The area is also going to be the amenity area. It’s important to note that we have a wall around the project because of the interface with the thoroughfares primarily and becoming part of the art of the project. We’re not trying to be so exclusive that we don’t want people coming in. We brought the amenity areas out that will be visual improvements for those using the bike-hike trail along 137th Street. Also, the public will be welcome in one. Tract F, which is farthest west, is going to be a Pitch and Putt. It is styled and designed appropriately with a synthetic grass surface and a bunker to do short putting and pitching. The quality of the synthetic grass is unbelievable. It will be a wonderful pocket visual amenity. Tract G to the east will be accessed by the public more often. It will have Bocce, Pickleball, yard bowling, and a pavilion. It is going to be a great open amenity area along 137th Street. There will be a sun shade for the bike-hike trail and a place to sit.

There will be three builders for the project. In terms of size and value, it is 2,200-2,600 square feet on the main floor, 1,200-2,200 on the lower floor, depending on if there is a walkout and if people want to utilize the lower level, with a price range of $800,000-$2 million. These will be the villa concept with concierge services. It is another nice piece to bring interest.

We’ll move to the issue staff raised. I’m going to move through these quickly, and we can talk about the ones you want to talk about. I made the best case I can make that this is going to be a unique housing addition, but this is the type of project with the flexibility that can fill the financial abyss before we start. Millions of dollars that were expended due to prior developer’s failure will be paid. It wasn’t these developers. We have a needle to thread and a piece of thread that will be good, but we just don’t have all sorts of perfect flexibility to make it nice and tidy for staff. They go to their code where you have the flexibility to work with us. We must use the existing infrastructure. We must officially maximize the site in terms of setbacks. We need to develop and sell 63 lots. I’ll emphasize one more time that we designed and can build it within the parameters of the LDO.

Forget the 135th Street Corridor Plan. With all due respect to all those that want to hold out for it, this site is not going to develop in the model of the plan in our opinion. You have heard testimony from other developers and a nationally respected company that did a feasibility study. It’s not going to happen. The shopping center with Gaslight Grill has retail, and it still has 40% of the project that hasn’t been built yet because of the market. Take the ones that are already zoned and approved and add in the Cameron project and the Lashbrook project that has retail as a part of it. From Roe to State Line is 1.8 million square feet of commercial.

The takeaway from the study done on the 135th Street Corridor is that retail is 300% overbuilt for the area. I not only am going to bring an excellent residential plan; I’m going to suggest that bringing 63 new residences to this corner, within a five-minute walk to the built retail that is struggling, within a five-minute walk to the retail zoned to the east, and a 15-minute bicycle ride down 137th Street to another 700,000 square feet of retail that is approved or pending approval is an asset.

Staff raised some issues. We have two residential-style office buildings on the northeast and southeast corner. Staff says it is out of compliance because it doesn’t meet requirements. No. 2 indicates, “The project shall comply with the bulk regulations for SD-O and SD-CR.” We’re rezoning to RP-2. Those are requirements for an office or CR
commercial development that would not be able to build office buildings too close to residential. The buildings are there. We’re bringing residential. With a villa concept, the buying public is okay with snuggling up a little closer to a non-residential use, particularly with a residential-style office building. We’re going to use it with buffering our wall system and landscaping. We’re going to make the transition just fine. It isn’t going to be neighbors asking why you let the office building get built this close to their houses. This stipulation should be deleted because it’s not even applicable to our application because we’re not operating under that zoning. By the way, the owners of both office buildings support our project and have, in fact, written letters of support. Stipulation No. 8 talks about the new cul de sac or the mini cul de sacs in the main part of the project and how we need to build them to the same standards. I’m good with that. If I read it right, they’re saying to tear out the streets.

The next issue is the existing private streets. I could read Stipulation No. 8 as staff saying that the mini cul de sacs are built to exact city standards, which is something we’re doing, but it seems to read that we should tear all the streets out and start over from scratch. We’re going to pay $3 million or more to pay for the streets and get the public off the hook for the streets. This doesn’t work if we tear the streets out. They work fine. They’re going to be private drives. To tear those streets out would mean tearing out all the stormwater, all the utilities, and it’s a deal-killer. We don’t have to do that. The code allows, under a rule exception, that you and Governing Body have the discretion to waive requirements that the streets are as perfect as they could be if they were built on a virgin piece of dirt and started from the beginning. In our Revised Stipulation No. 8, that is what we are asking to do. All new street construction, we will do to city standards. We’ll repair the existing streets. We’ve had them evaluated by O’Donnell and Sons, who indicated they were in great shape. Given the financial constraints of this project, that’s how we must move forward.

I’m moving fast and may sound frustrated, but I know there’s a lot on the agenda. I’m a little frustrated by the situation with the cul de sacs and two issues: we have to work to keep the front yard along the street at 45 feet, which we have, and the build line of the house can have a deviation to from 100 feet to 80 feet, which we did on 13 of the lots. Staff is recommending denial because they don’t support that deviation. They granted the deviation for front yard setbacks because they always do with villa projects. They’ve recommended approval on this exact same configuration with Village of Leawood, Hills of Leawood, Leabrooke Town Manor, Hallbrook. We would modify Stipulation No. 11 to allow us to have that deviation.

We have one lot in the southeast corner where the back yard runs up against 137th next to the office building. You can see it’s a fairly deep lot. It’s deeper than the typically preferred minimum. It’s good for that house because of the location. Staff says the lot is too deep. To cure that, all we would have to do is draw a line from east to west at the perfect depth of that lot and have a dangling tract of grass that is inefficient. Again, a rule exception would allow this. We would ask for a deviation for Stipulation No. 11.

We had a cul de sac coming off 137th for seven lots. We have four lots that face onto 137th. Two of them, we were able to put an eyebrow system off 137th to access the drive. We don’t have the depth to do it for these two lots because we promised the neighbors to the south that we would stay out of the original no-build area beyond the setback that runs along the south property line. It’s two drives that we would require side-
entry garages with a turnaround, which would logically tell you the cars would enter 137th. This is minimal traffic impact. That would be a modification to Public Works Stipulation No. 1A.

The last issue involves an exaction in place in 2002 that the commercial developer of 300,000 square feet of retail would pay $140,000 toward the future light at 137th and Roe, which is the street that goes west toward Church of the Resurrection. Their share of it would be $140,000, so we are proposing to pay $70,000. Staff is stuck on the 20-year-old estimate. That is all I have. I went through it quickly for a number of reasons. I tried to be as direct and to the point as I could. We ask for your support to move us on to Governing Body to solve past problems and create new opportunities for the corridor. I’d be happy to answer questions.

Chairman Elkins: Thank you. Questions for Mr. Peterson? I guess I get to start. You have appeared repeatedly on behalf of a number of clients who have challenged the potential success of the Comprehensive Plan and the 135th Street Corridor Plan. You’ve made the case repeatedly before this commission that it is not workable and that we should contemplate exceptions. The commission and City Council revisit the Comprehensive Plan on an annual basis. As part of that, the 135th Street Corridor Plan is a subset. Every year, when we look at it, we hear from staff. We have a working session on it. We then have a meeting and Public Hearing, in my recollection, I don’t recall you or your clients ever approaching us about a comprehensive approach to revising the Comprehensive Plan. I’m putting you on the spot by asking why not. These plans must have been on the books for at least a year. Why not take advantage of the process and take a comprehensive approach rather than a spot approach?

Mr. Peterson: It’s a legitimate question, and it’s not unique to Leawood. You don’t have developers and representatives on spec just for the good of the order going to cities and saying that something isn’t working. They wait until they have a viable project that challenges it. The plans are guides, visions, and in some ways, hopes. It is a challenge to try to take some pieces and move forward. Overland Park did it with Vision Metcalf. Every corner has a ten-story building with a parking structure. Pieces of it were taken. There are still fast-food restaurants along Metcalf, and it’s a flavor. The theme is the mixture of uses. I had the client that owned this property before these guys. He came to a session and pointed out that mixed-use wouldn’t work without a lot of incentives. There is no office market here. There is too much retail now, and it is never going to be an office building of any significance. You talk about walkability, multi-family, villas, attached villas, townhomes, and single family. All the pieces come together with a submarket for some leisure and retail opportunities. That is how it works, just like it did with the Lashbrook project. Today, the Master Plan has been changed to reflect the Lashbrook project. The 135th Street Corridor is not the Master Plan. It is a planning tool. My client knew the consultant that did your study.

Chairman Elkins: You talked to us about Tracts F and G as amenities. I note that there is a Tract A along 135th Street. Can you tell us what’s planned for that?
Mr. Petersen: That’s our dog park to be utilized by the residents primarily because of where it’s located. It’s a nice area with a sidewalk and an area for the dogs.

Chairman Elkins: That will be a private dog park for the residents of the Villa de Fontana group?

Mr. Petersen: I think, given its location, that is the way it will be utilized. There won’t be restrictions that say the public can’t access it.

Chairman Elkins: You mentioned Tract G would be available to the public. Would Tract F be as well?

Mr. Petersen: That, we would probably leave up to the residents to decide. What would be more likely to be open to the general public would be the Bocce area.

Chairman Elkins: I’d like to ask you to comment on the value and size of the homes that your clients are contemplating. They certainly fit with what we like to see in Leawood. Part of the 135th Street Plan and Comprehensive Plan have always suggested that some sort of buffer between 135th Street as it exists today and residential units should be considered. Your client is contemplating six, if not eight $850,000 homes that back onto 135th Street. Can you talk about the financial feasibility of that?

Mr. Petersen: First of all, anything facing the two thoroughfares will have a wall system that is decorative and quality and extensive landscaping. These gentlemen know this market, and this is not affordable housing. This is the Leawood residents who like being at 135th and Roe. They still want to walk to Gaslight Grill and the retailers. They like being in the center of things, but they want a little buffering and something that is special. Meadowbrook is not much different. It sits off Nall just of 95th. The kind of living may not be to every person’s liking, but there is a market for this size.

Chairman Elkins: Thank you. You found a provision in the LDO that I was not aware of, so I need your thoughts in a bit more detail. It relates to 16-8-6.1 and the rule exceptions. To paraphrase my understanding, it permits us, in the event of finding a substantial hardship or inequity, to permit a variance from design requirements, but it specifically calls out that the exception does not apply to procedure or improvements. You can correct me, but my sense is that the streets themselves constitute improvements. How do I get from the requirement around the specifications for the private streets that we currently have to your exception, given that there is a proviso in the exception that it cannot be used to modify the requirements of improvements?

Mr. Petersen: You’re right that it is our provision. Also, one of the other requirements is so that the public welfare and interest of the city is protected. In this case, that is the reason I spent some time bringing the city back on this whole commercial endeavor. Remember, we are not making an improvement to the streets other than maintenance. We want a rule exception for design. The streets we are building are to the exact city standards and city design. We are asking for a variance from said requirements of design.
Our streets are slightly narrower than a city street, and obviously, because they’re private drives, we don’t give the same amount of right-of-way. We have utility easements. They fit perfectly with the villa concept. We’re asking for a variance from the design requirements. The reason staff is suggesting a stipulation, I think, is that they don’t meet the design requirements.

**Chairman Elkins:** How much narrower are the current streets from what is typically required?

**Mr. Petersen:** 2 feet.

**Chairman Elkins:** Are there other deviations from the specifications that the city requires of the streets, other than just their width?

**Mr. Petersen:** It’s mostly the amount of right-of-way to get sidewalks in, which doesn’t fit as well because it pushes the front yard back and doesn’t work as well in the villa. If you built the street today, there may be some different specs with some of the asphalt mixes used. These streets were designed to handle commercial traffic, and we’re going to do a typical maintenance of them with milling the top and adding asphalt to bring them to absolute A grade.

**Chairman Elkins:** What circumstance, in your reading of 16-8-6.1, would the “but not of procedure improvements” apply to?

**Mr. Petersen:** I have to be honest; I don’t understand that phrase. I’m not building anything here; I’m just going to maintain it.

**Chairman Elkins:** Would you agree that the streets and infrastructure put in by the prior developer would constitute improvements?

**Mr. Petersen:** Yes, but they weren’t seeking a rule exception, and they were approved. I doubt if, magically, someone wanted to use the street system, staff would say that we didn’t use the right asphalt mix that we use today, so the streets would need to be torn out. I think maybe they don’t like it because it’s against the Master Plan. I think we’re on firm ground to use the rule exception. I think it’s common sense. It’s not going to do anything to detract from the quality of the project. We’re going to pay the $1.5 million that was already paid to put in the streets and then another $1.5 million to solve a problem that will remain exactly as it is today because of that deep financial abyss. That is the concept under hardship, welfare, and interest of the city. Let’s do something to solve the past mistakes and bring something cool and viable to the corridor.

**Chairman Elkins:** I understand that. The question I asked was if the streets are an improvement.

**Mr. Petersen:** Well, if you want to say it is an improvement as a noun, yes. I think the ordinance speaks to improvement as a verb.
Chairman Elkins: Pretty rare to have an “S” on it and still be a verb, but I follow your thinking.

Mr. Petersen: Would you agree that it’s motion and moving forward?

Chairman Elkins: You made the point earlier that the hardship or inequity that would form the basis for the exception is the burden of removing the streets and replacing them with streets of the proper width. Is that correct?

Mr. Petersen: Yes.

Chairman Elkins: Is there anything else to point us to as a basis for meeting the substantial hardship or inequity test?

Mr. Petersen: Storm sewers would have to be moved, and utilities are already in place that would have to be moved.Honestly, as a city, utilizing this rule exception, I don’t think it is necessarily just a substantial hardship or equity of the developer; I would make the case that the city is left holding the bag of over $2 million in general obligation bonds paid and another $2 million left to pay for this to sit and $1 million general property taxes that haven’t gone to our schools or libraries. That is a hardship to the public at large that needs to be rectified.

Chairman Elkins: Thank you. Could you move to the slide that indicated the action items? I want a clear sense for the record of which of the action items you want us to apply the 16-8-6.1 exception to.

Mr. Petersen: The rule exception approach would be Lot 62 in terms of its depth, which is a unique circumstance, and the hardship is that the lot will look exactly the same but will just sit there. It’s a lot we can sell that will keep the house a distance away from 137th Street. We want it for the private streets.

Chairman Elkins: That is Stipulation No. 8, correct?

Mr. Petersen: Stipulation No. 11 is the lot depth; No. 8 is the private streets.

Chairman Elkins: It is the second, third, and fourth bullets you would ask that we apply the exception to.

Mr. Petersen: There’s a mistake on this. Stipulation No. 11 with the 80’ wide building line is really a deviation. Staff initially said that needed to be a rule exception, but it has now changed to deviation.

Chairman Elkins: It is the second and fourth bullet.
Mr. Petersen: Yes, and the deviation is the third, and it has been granted on the projects I mentioned before.

Chairman Elkins: Thank you. Do any other commissioners have questions? If not, this requires a Public Hearing as a result of the request for Rezoning. I would reiterate the standing practice that comments be limited to four minutes. I do not believe that any member of the public cared to comment.

Public Hearing

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

Chairman Elkins: That takes us to discussion on Case 70-20. Comments from the commissioners?

Comm. Block: Overall, it’s a nice plan with good use of a hard-to-use area with existing streets. As I’ve said on previous cases in this corridor, if it doesn’t comply with the Comprehensive Plan and 135th Street Community Plan, I don’t feel comfortable approving it. Leawood doesn’t have much land left, and since so much was put into that plan, at this point, we should follow it and wait for something that comes along that fits it.

Comm. Coleman: I was reviewing my packet over the weekend, and I saw that this was single-family houses on 135th Street and wondered if I was reading it right. This doesn’t even come close to the 135th Street Plan. I agree that Leawood needs housing like this. We’ve seen villas coming through time and time again. Obviously, there is a need for it; however, like Commissioner Block, we have certain regulations and rules that we need to follow as a Planning Commission. One is the LDO; one is the Comprehensive Plan, which includes the 135th Street Community Plan. To my knowledge, we have not started a new committee to look at any of these things. As the chairman said, we have an annual review of the Comprehensive Plan, which includes the 135th Street Community Plan. We don’t get input written or in person. That is the opportunity. If this plan is not viable, we can take another look, but it is what we have to go on right now. As far as I’m concerned, this development has merit, but it is spot zoning. With that, I cannot support it in its current form.

Comm. Peterson: I really do appreciate the study brought in by Mr. Regnier. It led me to question the whole 135th Street Plan. I believe it needs to be revisited and probably very quickly. I shared that the full 208 pages that I was able to find on the web have a lot of interesting statistical data. Mr. Petersen makes some interesting points. Where have we gone in 20 years? This land is still basically undeveloped. In the current environment, office space is beginning to crater. Retail space is also under a great deal of pressure. There is a significant need for this type of residential development. I believe that the 135th Street Community Plan needs to be addressed sooner rather than later; however, I
must absolutely agree with Mr. Petersen, and I greatly appreciate the comments from Commissioner McGurren. We need to look at this. I basically am fully in support of this plan and the deviations they request.

**Comm. Stevens:** I feel Commissioner Block and Coleman said the very same things I would say. Single-family development right on the edge of 135th Street and surrounded by commercial seems inappropriate. I can’t get past the nonconformance items of the LDO, Comprehensive Plan, and 135th Street Community Plan. Then there are compliance issues with the Public Works memo. For those reasons, I am not supportive.

**Comm. McGurren:** First, I’d like to thank Mr. Simpson and Mr. Petersen for bringing a viable option that could finally enable this land to be put to productive use. It is obviously a blue-sky scenario that we would look at a plan that brought residential to the area, where the other forms of development have never panned out if this met the LDO and the Comprehensive Plan, or the 135th Street Plan had been adjusted or updated. I get the logic that says developers ought to ask for changes to the plan, but on the other hand, I would hope that the city would be proactive enough after 20-some years to realize that certain things aren’t going to happen and make necessary adjustments. We all sat at a meeting a year ago where we sent people out to Colorado and Lee’s Summit and found developments that were a bit different than this one. They plotted them on existing 135th Street land and showed us what had been built in Lee’s Summit that was more in the $400,000-$500,000 range that would allow people to downsize and stay in Leawood would fit on these parcels of land. There’s a part of me that wonders why we keep sitting here having the same conversation, and yet we say we have a goal that would enable us to utilize this land. I think it’s a little odd to forget that Hallbrook homes that are of higher value than these sit on State Line and 119th Street with the appropriate landscaping screening, and everybody thinks they are fabulous. I don’t see any reason why a development like this couldn’t be built on 135th and 137th Street. We basically move into a logic that says that we’re not going to have everything in mixed-use in every spot on 135th. We’re going to have mixed-use along 135th, and we’re going to have developments that are viable and finally fill in this land over some period of time. I would love to be able to say I would vote for that type of plan. Yet, it needs to meet the LDO, and it needs to get the appropriate deviations. I asked staff about whether they would lean toward an approval if the project was not deviating from the LDO but did deviate from the existing Comprehensive Plan. The same question could be asked of the applicant. Would you sign up for the staff stipulations? Obviously not, but it seems that there should be middle ground that would enable this land to finally be put to appropriate public use. I think we’re going to come to the conclusion at some point that we should have been reacting much sooner to the market conditions that exist. I, too, would be unable to support the plan as it exists without the changes that staff recommends, but I also would have hoped that before now or subsequent to now, there is a lot more conversation about how we get to the point that the plan becomes one that is approvable.

**Comm. Belzer:** I agree with Commissioners Peterson and McGurren that it is time for us to start looking at things differently and what the market is going to support. This may not be the exact intended mixed-use that is part of the 135th Street Plan, but I really feel
that, based on the amenities and the things that are open to the public and the likeness to Meadowbrook, this proposal has a very strong sense of place that would bring community together. I feel, like Commissioner McGurren, that there needs to be middle ground. I’m not sure how that gets solved here tonight, whether it’s Mr. Petersen and Mr. Simpson deciding they can work within the LDO or how that all works out. I so want to support this plan, and I’m not sure I can the way that it is right now. I really feel very strongly that we have to look at our 135th Street Community Plan sooner rather than later.

Chairman Elkins:  Thank you. We’re coming up on the 9:00 hour. Is there a motion to extend the meeting?

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

Chairman Elkins: Any other comments relative to this case? I’ll make some comments. Some were indicated by some of my questions. I will confess to a certain amount of frustration. Mr. Petersen expressed frustration by a number of his developer clients as he has appeared. Both statutorily and as a matter of common sense, land use planning should be done on a comprehensive basis. That’s what a case long ago taught us. That’s become a hallmark of planning around the United States. I understand that the developers have been frustrated with the city and with this commission, but we have a statutory process that is mandated by the State of Kansas for us to revisit our Comprehensive Plan on an annual basis. I’ve served on this commission for more than a decade, and I cannot recall an instance when a developer chose to participate or address their concerns about our Comprehensive Plan. We had the workshops with respect to the 135th Street Plan, and a few developers attended that, but this is an annual thing, and it’s frustrating for us to be asked, on a piecemeal basis, to come in and make decisions. We’re not bound by statute. The Comprehensive Plan is not something we’re mandated to follow, but it is something we should pay heed to. Mr. Petersen and his clients have made very persuasive arguments about the viability of the city’s commitment to mixed-use in the traditional manner. Certainly, this commission has indicated a desire to revisit that. We can’t revisit in a vacuum. We have to have participation by the public and by the development community. For whatever reason, the development community has opted not to do that. The potential outcome here is exactly what Commissioner McGurren spoke to. We have the potential, if we were to approve this plan, to have one housing development along 135th Street that backs onto that. With the other developments Mr. Petersen spoke to. We have the potential, if we were to approve this plan, to have one housing development along 135th Street that backs onto that. With the other developments Mr. Petersen’s clients have proposed, the rest would be either commercial or office space. Again, trying to abide by the spirit of the mixed-use idea in other context, we have approved the use of that space directly contiguous with 135th Street for commercial and office uses as a barrier toward residential uses deeper in, especially to the south. This is exactly why it is difficult for us to move forward on a case-by-case basis. Having said that, I commend Mr. Ellis and his partner on this plan. This is more again to redevelopment than it is to what has been the history of development in Leawood for the last 75 years. It’s not true redevelopment because we’re not tearing something down, but this is space that the city and a parade of developers have invested in. It hasn’t failed because of time; it has failed for lots of other
reasons. This is essentially along the lines of redevelopment. That’s why, in many cases, despite my frustration, were I to vote, I might well support this. Having said that, I think we need to approach this in two respects because of this unusual power that we suddenly find ourselves having with respect to recommending an exception to the rules. I have my concerns about whether it applies to the streets, but I will say that I think the idea of tearing out the streets, utilities, and stormwater infrastructure would certainly qualify for the standard we have with respect to the exception in Section 16-8-6.1 of the LDO. I would suggest that we have an obligation to take up and consider the applicant’s request for a rule exception with respect to those two stipulations. What I would ask the commission is to suspend your thoughts about the project overall and consider whether, in the event that we did decide to move forward with this plan, we would be willing to support the application of the exception. I’d ask for conversation from the commission with respect to that specific request.

Comm. Block: Only as it applies to the roads?

Chairman Elkins: We can take them up one at a time. The other had to do with the depth of Lot 62.

Comm. Block: As it relates to the roads, I think the roads can stay, and a deviation is fine. As far as the lot is concerned, as I mentioned, I don’t think this plan fits this space, so I wouldn’t want to give a deviation on that.

Chairman Elkins: It’s a fine point, but it’s a rule exception as opposed to a deviation.

Comm. McGurren: Mr. Petersen made the point that an exception similar to that requested on Lot 62 has been done in other places. I believe he referenced Hallbrook, where the 100 was reduced to 80. Was that something the city can confirm?

Chairman Elkins: Just to clarify, the frontage from 100 to 80 feet is in the nature of a deviation. The lot depth, which is the second part, is the matter that requires a rule exception. Does staff have a recollection of a rule exception such as this?

Mr. Klein: Honestly, I can’t remember the instance. I know that Hills of Leawood used the deviation for the 80’ lot width, but I don’t recall one with the rule exception, though.

Chairman Elkins: Mr. Petersen, I know we don’t typically let you speak once we get to discussion, but are you aware of an instance in which the rule exception has been applied to the lot depth?

Mr. Petersen: I can’t; it just seemed like such a simple issue. I didn’t do the research on that. The deviation we asked for on the 80 feet, Mark mentioned one. There are four other subdivisions that they have supported the 80’ build line. That is commonly supported by staff.

Chairman Elkins: Thank you. Any other comments about the rule exception?
Comm. McGurren: I would support both of those rule exceptions.

Mr. Scovill: I just wanted to bring to your consideration that, when these roads were constructed, they weren’t required to be constructed to city standards. At that time, the city standards did include utilizing things like the Kansas City Metropolitan Materials Board for Concrete. These curbs are not to standard. They are built with substandard materials like poor-quality limestone. We’ve gone through the city and replaced a lot of the public curbs that were built with that years ago. Another item I might point out is Public Works hasn’t seen any information regarding the condition of the road. I would just mention that we would like to evaluate the condition of the road. We just don’t want to get into a situation where these roads are passed on to the residents of 63 properties and then later, they can’t afford to maintain them. If the road isn’t built to the thickness required by standards, which we don’t know if it is or isn’t, it could be a substantial hardship on those residents.

Chairman Elkins: Thank you. Mr. Petersen, would you like to respond?

Mr. Petersen: They were built to standard. We had the roads inspected by O’Donnell, one of the leading street construction groups in the city. Once they do the mill and overlay, they’ll operate at the same level of serviceability as a new public street. By the way, these are private streets. There is a provision in the code that speaks to utilization of private drives and private streets in a villa-type project with all protection built in for the city, including that anybody can’t get an occupancy permit until they acknowledge that they are on a private street and it’s their responsibility to maintain it. We have reserve funding in place. We’re required, as part of this application, to submit a CCNR, in which is the ability fund the streets. This is a red herring.

Chairman Elkins: Thank you.

Ms. Knight: I just wanted to make the commission aware that it is in your Revised Staff Report on Page 6 that it isn’t merely something that sounds like a good idea; the commission has to find an unusual hardship, the tract to be subdivided is an unusual size or shape or is surrounded by unusual conditions that strict application would result in a substantial hardship. That section was written in such a way that the intent may not cover this. Mr. Petersen was saying the hardship may be to the city at one point, but if you read on, it says that there must be a finding of unusual hardship. You would have to make that finding on the record, and it does require a vote of ¾ of the commission membership, which would require seven.

Chairman Elkins: Thank you. Additional discussion around this idea of rule exception or deviation?

Comm. Block: I find that pretty compelling with what Mr. Scovill said. As a resident of a neighborhood with a small homeowners’ association, I wouldn’t want to buy an $800,000 house and then think the streets would be fine, only to find out that 2-3 years
later, all the curbs would need to be pulled out. How were the streets put in, in the first place if they didn’t meet city standards?

**Mr. Scovill:** At that time, we did not require private streets or private developments to be built to city standards. That requirement came around 2010 as I understand.

**Comm. Block:** I guess getting more information would be important. We don’t have a report or anything. The contractor has told the applicant that they just need a mill and overlay, but I do think there’s something to be said about the city inspecting before we take action.

**Comm. McGurren:** I would agree.

**Chairman Elkins:** I think what I would like to do is take these up one at a time and get a decision on them. Is someone willing to make a motion with respect to Stipulation No. 8? The motion should include a reference to a substantial hardship that justifies application of the 16-8-6.1 rule exception. Hearing none, the idea dies for lack of a motion. I take up the second issue, which relates to the deviation relating to the frontage on cul de sacs. It is a reference to Stipulation No. 11. Would anyone care to make a motion recommending approval of a deviation with respect to the frontage?

**Comm. McGurren:** Is this in reference to the 100 feet to 80 feet on all lots that would be reduced?

**Chairman Elkins:** Yes, it approves a deviation to allow Lots 12, 14-17, 21, 54-56, 61, and 62 to provide a minimum frontage of 80 feet at the building line.

**Comm. McGurren:** If we had a validation from the department that it has occurred in four other locations over time, I would gladly provide my recommendation that we provide that deviation, but I’m a little reluctant not knowing if that is the accurate truth.

**Mr. Klein:** The deviation has been used in other developments in which staff was supportive. In this case, staff is generally not supportive of the application overall.

**A motion to recommend approval of the deviation to allow Lots 12, 14-17, 21, 54-56, 61, and 62 to provide a minimum frontage of 80 feet at the building line – was made by McGurren; seconded by Peterson.**

**Comm. Block:** I’m going to vote against it. I don’t think we should be setting policy. I’m going to vote to deny the application, so I don’t think setting a standard for changing the rule exception is appropriate. I think we should take it up and change the ordinance if that needs to be done aside from this so we can understand those other scenarios and not take it on blind faith.

**Chairman Elkins:** The pending motion is on a deviation, which we do regularly. It’s not unique at all.
Comm. Block: But if I don’t support the underlying application, I don’t know why I would approve that.

Chairman Elkins: To inform the City Council. Part of our function is to advise on how we feel on these things. Any other comments?

Motion did not carry with a roll call vote of 4-3: For: McGurren, Hunter, Belzer, Peterson. Opposed: Coleman, Block, Stevens.

Chairman Elkins: That takes us to the third item, which is the rule exception. Commissioner Block’s points are well taken there. With respect to the approval of a rule exception under 16-8-6.1. In order to recommend this to the Governing Body for approval, we must make a finding that there is substantial and unusual hardship in enforcing the lot depth requirements of the LDO. I will admit that I’m not sure I’ve heard what the hardship is with respect to that particular provision. Is there anyone who would like to make a motion and propose unusual hardship? I don’t want to put words in the applicant’s mouth, but my sense is that the applicant would tell us that the hanging piece of property would be the hardship. Is there such a motion? If not, that idea dies for lack of a motion. That will take us to consideration of Case 70-20.

A motion to recommend denial of CASE 70-20 – VILLA DE FONTANA – Request for approval of a Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 ((Planned Custer Attached Residential District)(6,000 Sq. Ft. Per Dwelling)) to RP-2 (Planned Cluster Detached Residential District)(6,000 Sq. Ft. Per Dwelling)), Preliminary Plan, and Preliminary Plat, located south of 135th Street and east of Roe Avenue – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

Chairman Elkins: I believe this next case is moot for lack of approval of a Preliminary Plat and Preliminary Plan.

CASE 81-20 – VILLA DE FONTANA – Request for approval of a Final Plan and Final Plat, located south of 135th Street and east of Roe Avenue.

Mr. Petersen: I’d like to try to short-circuit this. First Ascent is under a time constraint, and I’d really like to try to get that considered by the Planning Commission tonight. We would ask that you take the action to deny the Final Plan and move it to City Council. We’ll have them look at this. There’s one shot, and if it doesn’t work on October 12, this property will go into bankruptcy. We need to get the Final Plan up there to keep the procedure going. We have bonds in default. We have all sorts of intricate financial measures. We need a final decision on the 12th. With that, you’re going to deny. We’d ask for a vote to deny and send it on.

Chairman Elkins: Do I have authority to do that?

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Ms. Knight: You can consider and deny it. The October 12th Governing Body meeting is a special meeting. I don’t know that it’s set specifically for this case; it was just due to the backlog.

Chairman Elkins: Mr. Petersen, would you ask that the record that was made on the Preliminary Plan be included as the record for Case 81-20?

Mr. Petersen: I so request; thank you.

Chairman Elkins: The chair notes that the record made for Case 70-20 shall become the record for Case 81-20 as well.

A motion to recommend denial of CASE 81-20 – VILLA DE FONTANA – Request for approval of a Final Plan and Final Plat, located south of 135th Street and east of Roe Avenue – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

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

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

Staff Presentation:
City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: You may remember from the August 11 work session that we talked about LDO amendments. This is one we discussed, which is the increase in height to the SD-CR building heights. Previously, in the work session, we showed examples, including an additional 1 foot and 2 feet per 1 foot of height for a building. After the comments we received from the Planning Commission, we thought maybe the setback was too small, so we increased that from 1 foot to 10 feet on each side per 1 foot in height. The LDO amendment we’re bringing forward would allow a building to up to a height of 65 feet, but it would increase the setback to 150 feet. We are available for questions.

Comm. Coleman: What is the reason for increasing the height of the buildings from 50 feet to 65 feet?

Mr. Sanchez: We have heard from developers, such as in the next case, that some want taller buildings in existing SD-CR developments. Staff thought it would be okay if this taller building is not near a close-knit neighborhood, or if it is a true SD-CR retail area.
RESOLUTION PROVIDING FOR A SPECIAL CALL FOR A SPECIAL GOVERNING BODY MEETING FOR OCTOBER 12, 2020, FOR THE PURPOSE OF CONSIDERING PLANNING CASE NOS. 70-20 AND 81-20, PERTAINING TO THE VILLA DE FONTANA DEVELOPMENT

WHEREAS, Section 1-203 of the Leawood City Code provides that special sessions may be called by the Mayor in accordance with Kansas Statute, by specifying the object and purpose of the meeting, which request shall be read at the meeting and entered at length on the journal;

WHEREAS, K.S.A. 13-510 allows the Mayor to call a special meeting, the object of which is to be submitted to the council in writing;

WHEREAS, Case No. 70-20 was scheduled to be heard by the Planning Commission on August 25, 2020, but was continued to the September 9, 2020, Planning Commission meeting and then continued to September 22, 2020 meeting due to the length of the Planning Commission agendas;

WHEREAS, Case No. 81-20 pertaining to the Villa De Fontana Final Plan and Plat is also scheduled to be heard on September 22, 2020;

WHEREAS, the fourteen day protest period must lapse before the Planning Commission recommendation on the rezoning and preliminary plan can be heard by the Governing Body;

WHEREAS, the Applicant for Case Nos. 70-20 and 81-20 has requested an expedited hearing by the Governing Body; and

WHEREAS, the Mayor desires to call a special meeting to consider items of regular business in order to limit the delay in consideration of these cases as much as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body of the City of Leawood, Kansas hereby calls a special meeting to be held at 6:00 p.m. on October 12, 2020, at Leawood City Hall, 4800 Town Center Drive, for the express purpose of considering the Planning Commission recommendations on Planning Case Nos. 70-20 and 81-20, and no other business shall be transacted.

SECTION TWO: That this Resolution shall take effect from and after its passage and approval by the Mayor.
PASSED by the City Council this 21st day of September, 2020.

APPROVED by the Mayor this 21st day of September, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
RESOLUTION NO. 5413

RESOLUTION AMENDING RESOLUTION 5405 AND PROVIDING FOR A SPECIAL CALL FOR A SPECIAL GOVERNING BODY MEETING FOR OCTOBER 12, 2020, FOR THE PURPOSE OF CONSIDERING PLANNING CASE NOS. 70-20 AND 81-20, PERTAINING TO THE VILLA DE FONTANA DEVELOPMENT AND REQUEST FOR PUBLIC FINANCING

WHEREAS, Section 1-203 of the Leawood City Code provides that special sessions may be called by the Mayor in accordance with Kansas Statute, by specifying the object and purpose of the meeting, which request shall be read at the meeting and entered at length on the journal;

WHEREAS, K.S.A. 13-510 allows the Mayor to call a special meeting, the object of which is to be submitted to the council in writing;

WHEREAS, Case No. 70-20 was scheduled to be heard by the Planning Commission on August 25, 2020, but was continued to the September 9, 2020, Planning Commission meeting and then continued to September 22, 2020 meeting due to the length of the Planning Commission agendas;

WHEREAS, Case No. 81-20 pertaining to the Villa De Fontana Final Plan and Plat is also scheduled to be heard on September 22, 2020;

WHEREAS, the fourteen day protest period must lapse before the Planning Commission recommendation on the rezoning and preliminary plan can be heard by the Governing Body;

WHEREAS, the Applicant for Case Nos. 70-20 and 81-20 has requested an expedited hearing by the Governing Body along with making a request for public financing; and

WHEREAS, the Mayor desires to call a special meeting to consider items of regular business in order to limit the delay in consideration of these cases as much as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body of the City of Leawood, Kansas hereby calls a special meeting to be held at 6:00 p.m. on October 12, 2020, at Leawood City Hall, 4800 Town Center Drive, for the express purpose of considering the Planning Commission recommendations on Planning Case Nos. 70-20 and 81-20, and the Applicant’s requests for public financing, and no other business shall be transacted.

SECTION TWO: Resolution 5405 is hereby amended.

SECTION THREE: this Resolution shall take effect from and after its passage and approval by the Mayor.
PASSED by the City Council this 5th day of October, 2020.

APPROVED by the Mayor this 5th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, CMC, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
RESOLUTION NO. ___________

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT PERTAINING TO CREATION OF A COMMUNITY IMPROVEMENT DISTRICT FOR THE VILLA DE FONTANA DEVELOPMENT

WHEREAS, the City has reviewed a request by the Developer of the Villa De Fontana Development for the creation of a Community Improvement District; and

WHEREAS, the Governing Body has reviewed, discussed and decided upon a number of terms for that Development Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby approves and authorizes the Mayor to execute a Development Agreement containing the terms accepted by the Governing Body as set forth in the official record of the meeting.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 12th day of October, 2020.

APPROVED by the Mayor this 12th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, CMC, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
ORDINANCE NO. ____________

ORDINANCE APPROVING PLANNING COMMISSION’S RECOMMENDATION OF DENIAL OF A REZONING FROM SD-CR (Planned General Retail), SD-O (PLANNED OFFICE), AND RP-3 (PLANNED CLUSTER ATTACHED RESIDENTIAL) TO RP-2 (PLANNED CLUSTER DETACHED RESIDENTIAL), PRELIMINARY PLAN AND PRELIMINARY PLAT FOR VILLA DE FONTANA, LOCATED SOUTH OF 135TH STREET AND EAST OF ROE AVENUE. (PC CASE 70-20)

WHEREAS, the applicant is requesting approval of a Rezoning, Preliminary Plan, and Preliminary Plat for property located south of 135th Street and East of Roe Avenue;

WHEREAS, the Planning Commission reviewed the application on September 22, 2020, and recommended denial of the application; and

WHEREAS, the Planning Commission’s recommendation was presented to the Governing Body on October 12, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body, having reviewed (a) the information presented to the Planning Commission; (b) the minutes of the Planning Commission meeting; (c) the recommendation of the Planning Commission; (d) the record submitted to the Governing Body; (e) the comments and input of the property owner and developer; and (f) any other information in the record, does hereby approve the Planning Commission’s recommendation of denial of the application for a Rezoning, Preliminary Plan, and Preliminary Plat for property located south of 135th Street and East of Roe Avenue.

SECTION TWO: This ordinance shall become effective upon its passage and publication in accordance with law.

PASSED by the Governing Body this 12th day of October, 2020.

APPROVED by the Mayor this 12th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk
APPROVED AS TO FORM:

Marcia L. Knight, Assistant City Attorney
VILLA DE FONTANA – REQUEST FOR APPROVAL FOR FINAL PLAT AND FINAL PLAN – LOCATED SOUTH OF 135TH STREET AND EAST OF ROE AVENUE
CASE 81-20

PLANNING COMMISSION RECOMMENDATIONS:
Planning Commission recommends unanimous denial (7/0) deny Case 81-20, Villa de Fontana – approval request for Final Plat and Final Plan. If the Planning Commission were to approve the application against the recommendation from planning staff, the following stipulations are provided:

1. This project is subject to approval of Case 70-20 – Villa de Fontana Preliminary Plat and Preliminary Plan. Shall Case 70-20 be denied by the Governing Body, this case shall automatically be remanded back to the Planning Commission with the changes needed to be made with the Preliminary Plan and Preliminary Plat.

2. This application shall meet all requirements per the Leawood Development Ordinance per the comments made in the “Staff Comments” portion of this document.

3. The project is limited to 63 lots and 12 tracts on 30.44 acres. of construction for the residential subdivision Villa de Fontana, zoned RP-2.

4. The project shall comply with the bulk regulations for SD-O and SD-CR, not allowing existing property to be in non-conformance.

5. The applicant/owner shall be responsible for the following impact fees:
   a. Park Impact Fee prior to the recording of the Final Plat in the amount of $400.00 per dwelling unit. This amount is subject to change by Ordinance.
   b. 135th Street Corridor Impact Fee prior to the recording of the Final Plat in the amount of $389.40 per dwelling unit. This amount is subject to change by Ordinance.
   c. South Leawood Transportation Impact Fee, for the portion of the development that is south of 137th Street, prior to the recording of the Final Plat at a rate of $625 x gross acres platted x miles from 135th Street. This amount is subject to change by Ordinance.

6. All new utility boxes with a height of less than 56 inches, a footprint of equal to or less than 15 square feet in area, or a pad footprint of equal to or less than 15 square feet, may be installed only with the prior approval of the Director of Community Development as being in compliance with this Ordinance. However, all new electric vehicle-charging stations shall only be permitted within the interior of a garage.

7. All new utility boxes with a height of 56 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.

8. This development shall include a deviation of 80’ at the build line for lots 10-12, 14-17, 54-56, and 61-63. The development shall meet all other required setbacks without deviations.

9. This development shall include a deviation of 25.5’ front yard setback for lots 7, 8, 13, 18-30, 36, 44, 45, 51-53, and 57. The development shall meet all other required setbacks without deviations.

10. All streets within the subdivision shall be private with the exception of 137th street, and shall comply with Section 16-8-3.2, of the Leawood Development Ordinance, including that all private streets shall be built to public standards. The developer or Homes Association shall maintain any planting or
11. All monument signs shall be placed within a common area designated as a separate tract of land to be maintained by the homes association.

12. All monument signs shall be located outside of all sight triangles, and shall be a minimum of 5’ from all property lines and sidewalks.

13. The development shall comply with Section 16-8-3.7 of the Leawood Development Ordinance stating; Lots shall not have a depth greater than three times the width and shall have buildable width generally facing and directly relating to the street upon which such lots front.

14. Per the Leawood Development Ordinance, all landscaped areas shall be irrigated

15. Per the Leawood Development Ordinance, all medium and large deciduous trees (including street trees), shall be 2 ½” caliper as measured 6” above the ground, all small deciduous and ornamental trees shall be a minimum of 1 ½” caliper as measured 6” above the ground, conifers and evergreen trees shall be a minimum of 6’ in height, and shrubs shall be a 24” in height at the time of planting.

16. Per the Leawood Development Ordinance, at the time of planting, plant material screening the ground mounted utilities shall be a minimum of 6” taller than the utility it is to screen, with lower shrubs in the foreground to eliminate any gaps in screening.

17. The approved final landscape plan shall contain the following statements:
   a. All trees shall be callipered and undersized trees shall be rejected.
   b. All hedges shall be trimmed to maintain a solid hedge appearance.
   c. All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   d. Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   e. All landscaped open space shall consist of a minimum of 60% living materials.
   f. A letter, signed and sealed by a Kansas Registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

18. 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.

19. All sidewalks shall be installed as per street construction standards.

20. The applicant shall obtain all approvals and permits from the Public Works Department, per the public works memo on file with the City of Leawood Planning and Development Department, prior to issuance of a building permit and recording the plat.

21. Prior to Governing Body consideration, all final detail will be provided per the Leawood Development Ordinance.

22. No construction shall be allowed between the hours of 9:00 p.m. to 7:00 a.m. and not on Sundays.

23. 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 twenty two.

**PLANNING COMMISSION CHANGES TO STIPULATIONS:**
- Rephrasing of stipulation #12, with the Removal of stipulation 12(b) stating “Lots fronting on a cul-de-sac shall maintain a minimum frontage of 45 feet on the turn around and 100 feet at the building line”
- Stipulation #11 now reads “The development shall comply with Section 16-8-3.7 of the Leawood Development Ordinance stating; Lots shall not have a depth greater than three times the width and shall have buildable width generally facing and directly relating to the street upon which such lots front”
- Stipulation #8 was added. Stating; “This development shall include a deviation of 80’ at the build line for lots 10-12, 14-17, 54-56, and 61-63. The development shall meet all other required setbacks without deviations”.

**APPLICANT:**
- The applicant is Mark Simpson with Fontana Land Company, LLC.
- The property is owned by Fontana Land Company, LLC.
- The engineer is Tim Tucker with Phelps Engineering, Inc.

**REQUEST:**
- The applicant is requesting approval for Final Plat and Final Plan.

**ZONING:**
- The property is currently zoned SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 (Planned Cluster Attached Residential District).

**COMPREHENSIVE PLAN:**
- The Comprehensive Plan designates this property as Mixed Use north of 137th Street.

**LOCATION AND CURRENT ZONING:**
SURROUNDING ZONING:
- North: Directly north of 135th Street is undeveloped property, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).
- South: Directly south is the single family subdivision of Leawood Meadows, zoned R-1 (Planned Single Family Low-Density Residential).
- East: Directly east of Fontana Street is open undeveloped property, zoned SD-NCR (Planned Neighborhood Retail).
- West: Directly west is Roe Avenue is Plaza Pointe, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).

SITE PLAN COMMENTS:
- The applicant is proposing to build 63 single family homes and 12 tracts within the RP-2 Zoning District.
- Entrances into the property include, one off 135th street, two off Fontana street, along with an eyebrow, two off 137th accessing the north portion of the development, one off 137th accessing the south portion of the development, and one off Roe avenue.
- Lot size range from 25,374 sq. ft. to 9,776 sq. ft., with an average lot size of 14,223 sq. ft.
- Entrance off Roe avenue and 135th will have fountains on each side of said entrance.
- All islands within the development will incorporate some form of statuary or flower urn.
- Cul-de-sacs within the property include, one off Fontana Street, one off 137th street, one off Granada Road, and two off 136th Street.
- All internal streets are private.
- Amenities include a dog park in the northwest corner (Tract A), pitch and putt golf (Tract F), bocce ball, and pickle ball (Tract G) in the southeast corner.
- The development will have 6’ integrated retaining wall and fence along the north and west sides.
- Lots 20-23 are facing 137th Street along the south side of 137th Street.

BULK REGULATIONS:
- The following table outlines the required and provided regulations for the RP-2 Zoning District:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>30’</td>
<td>25.5’</td>
<td>Deviation Requested</td>
</tr>
<tr>
<td>Side Setback</td>
<td>10’</td>
<td>10’</td>
<td>Complies</td>
</tr>
<tr>
<td>Corner Lot Street Side Setback</td>
<td>20’</td>
<td>22.5’</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>20’</td>
<td>22.5’</td>
<td>Complies</td>
</tr>
<tr>
<td>Lot Size</td>
<td>6,000 Square Feet per dwelling unit</td>
<td>Average = 15,000 sq. ft.</td>
<td>Complies</td>
</tr>
</tbody>
</table>

PRELIMINARY PLAT:
- The applicant is proposing 63 single family lots for the Villa de Fontana subdivision.
- The applicant is proposing twelve common area tracts, a total of 9.89 acres, which shall be maintained by the Homes Association. The tracts are as follows:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Sq. ft.</th>
<th>Acres</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tract A</td>
<td>53,082.86</td>
<td>1.2186</td>
<td>Northwest corner of the development along 135th Street. This tract will contain landscaping, development monument, Retaining wall/Fence, and Dog Park.</td>
</tr>
</tbody>
</table>
### ELEVATIONS:
- The applicant is proposing single family homes with pitched roofs, and forward facing garages.

### LANDSCAPING:
- The applicant is proposing to plant street trees along both sides of the private streets along with trees in the medians. Existing street trees are located along the perimeter public streets. The applicant proposes to supplement street trees in these areas.
- The applicant is also proposing to add trees to an existing sporadic tree line that runs along the common property line with Leawood Meadows.

<table>
<thead>
<tr>
<th>Tract</th>
<th>Area (sq ft)</th>
<th>Ratio</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13,792.46</td>
<td>0.3166</td>
<td>Northeast corner of the development along 135th Street. This tract will contain landscaping, Retaining wall/Fence, and development monument.</td>
</tr>
<tr>
<td>C</td>
<td>10,404.14</td>
<td>0.2388</td>
<td>Internal open space of the development along Roe Ave. This tract will contain landscaping, Retaining wall/Fence, and development monument.</td>
</tr>
<tr>
<td>D</td>
<td>11,650.80</td>
<td>0.2675</td>
<td>West boundary of the development along Roe Ave. This tract will contain landscaping, Retaining wall/Fence, and development monument.</td>
</tr>
<tr>
<td>E</td>
<td>1,0002.48</td>
<td>0.2296</td>
<td>Southwest corner of the development along Roe Ave. This tract will contain landscaping, Retaining wall/Fence, and development monument.</td>
</tr>
<tr>
<td>F</td>
<td>57092.30</td>
<td>1.3107</td>
<td>Southern boundary of the development, south of 137th Street. This common area will contain underground detention basins and open play space.</td>
</tr>
<tr>
<td>G</td>
<td>43,791.76</td>
<td>1.0053</td>
<td>Southern boundary of the development, south of 137th Street. This common area will contain underground detention basins and open play space.</td>
</tr>
<tr>
<td>H</td>
<td>193,727.54</td>
<td>4.4474</td>
<td>Contains all private streets within the main development, excluding cul-de-sacs</td>
</tr>
<tr>
<td>I</td>
<td>8,790.87</td>
<td>0.2018</td>
<td>Internal cul-de-sac along 136th Ter, contains landscaping and statuary.</td>
</tr>
<tr>
<td>J</td>
<td>7,893.23</td>
<td>0.1812</td>
<td>Internal cul-de-sac along Fontana St, contains landscaping and statuary.</td>
</tr>
<tr>
<td>K</td>
<td>15,244.45</td>
<td>0.3500</td>
<td>Internal cul-de-sac along 137th St, contains landscaping and statuary.</td>
</tr>
<tr>
<td>L</td>
<td>4,260.93</td>
<td>0.0978</td>
<td>Eyebrow drive along 137th St, contains landscaping and statuary.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>429,733.82</strong></td>
<td><strong>9.8653</strong></td>
<td></td>
</tr>
</tbody>
</table>
LIGHTING:
- Gooseneck lighting matching existing 135th street corridor is proposed of all interior streets, including islands along Granada road.

REQUESTED DEVIATIONS:
- The applicant is requesting the following deviations to the Leawood Development Ordinance.
  
  **Front Yard Setbacks:**
  Section 16-2-5.5 RP-2 requires that front yard setbacks to be a minimum of 30 ft. The applicant is proposing a deviation to the setback to allow for a 25.5’ front yard setback for twenty three lots (7, 8, 13, 18-30, 36, 44, 45, 51-53, and 57. Section 16-3-9 (A)(5)(b): provides a deviation for setbacks of buildings and paved areas from other than a public street may be reduced to 75% of the standard requirement. The deviation may be granted only if compensating common open space (not less than 1:1 ratio) is provided elsewhere in the project and where there is ample evidence that the deviation will not adversely affect the neighboring properties.

- **Lot Width:**
  Section 16-8-3.7(A)(2) of the Leawood Development Ordinance requires that lots fronting onto a cul-de-sac shall maintain a minimum frontage of 45’ on the turn around and 100’ at the building line. Per Section 16-9-168, the distance between the side property lines measured at the required front setback is the lot width. The applicant is requesting a deviation under Section 16-3-9(A)(6) that provides for deviation to allow lot width and lot frontage to be reduced to 80% of the standard requirement. The deviation may be granted only when compensating common open space (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 property. Any space resulting from the deviation shall be set aside for the use and benefit of the occupants of such development or the general public.

IMPACT FEES:
- **Park Impact Fee**
  The applicant shall be responsible for a Park Impact Fee prior to the recording of the Final Plat in the amount of $400.00 per dwelling unit. This amount is subject to change by Ordinance.

- **135th Street Corridor Impact Fee**
  The applicant shall be responsible for a 135th Street Corridor Impact Fee prior to the recording of the Final Plat in the amount of $389.40 per dwelling unit. 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, for the portion of the development that is south of 137th Street, prior to the recording of the Final Plat at a rate of $625 x gross acres platted x miles from 135th Street. This amount is subject to change by Ordinance.

STAFF COMMENTS:
- The proposed application does not conform to the Comprehensive Plan for the City of Leawood or the 135th street Community Plan. The Comprehensive Plan and 135th street Community Plan designate this area as Mixed Use while the applicant is requesting Medium Density Residential. The neighborhood is characteristically defined by the major arterial streets (135th and Roe). Given the access to major arterial streets, the area should be developed with the highest/best use for the property. Removing existing restrictions on the property will allow
for the existing office buildings to not be in conformance with Leawood Development Ordinance. The development is proposing to spot-zone by rezone existing SD-O and SD-CR properties, resulting in said properties to be in non-conformance with building setback and minimum acreage requirements. Building setback from residential for SD-CR is required to be 125' and SD-O is required to be 75'.

- The proposed application does not conform to Leawood Development Ordinance, section 16-8-3.7 including; lots fronting on a cul-de-sac shall maintain a minimum frontage of 45 feet on the turn around and 100 feet at the building line. The applicant is requesting a deviation under Section 16-3-9(A)(6) that provides for deviation to allow lot width and lot frontage to be reduced to 80% of the standard requirement. The deviation may be granted only when compensating common open space (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 property. Any space resulting from the deviation shall be set aside for the use and benefit of the occupants of such development or the general public.

- Per Section 16-8-3.7(A)(5), lots shall not have a depth greater than three times the width and shall have buildable width generally facing and directly relating to the street upon which such lots front.

- The proposed application does not conform to Leawood Development Ordinance, section 16-8-3.2(F) including that all private streets shall be built to public standards.

- The applicant is requesting a rule exception under Section 16-8-6.1 of the Leawood Development Ordinance not to meet the following two requirements.
  - Section 16-8-3.2(F) that requires that private streets be built to public street standards.
  - Section 16-8-3.7(A)(5) that states that lots shall not have a depth greater than three times the width and shall have a buildable widths generally facing and directly relating to the street upon which such lots front.

Section 16-8-6.1, Rule Exceptions, states whenever the tract to be subdivided is of such an unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these subdivision regulations would result in substantial hardship or inequity, the City may vary from said requirements of design, but not of procedure or improvements, so that the subdivider may develop the property in a reasonable manner. At the same time, however, there must be a finding of unusual hardship as opposed to the mere granting of privileges so that the public welfare and interest of the City is protected and general intent and spirit of this Ordinance preserved. Such a rule exception shall state the reason for each variation and may be passed by a three-fourths (3/4) vote of the regular membership of the Planning Commission subject to review and action, including approval, denial or conditional approval, by a majority of the membership of the Governing Body.
MEMO

DATE: September 17, 2020

TO: Richard Coleman, Director of Community Development

FROM: Brian Scovill, P.E., City Engineer
        Department of Public Works

SUBJECT: Villa De Fontana Rezoning, Final Plat, & Final Plan
          Case Number: 81-20

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) No access shall be granted directly to 137th street from lots 22, and 23 and said lots shall be noted LNA – Limits of No Access on the plat.
   b) The developer shall work with the City and Utility Companies to vacate easements conflicting with proposed lots.
   c) The developer shall dedicate to the Home Owners Association a storm drainage easement over the private storm drainage system.
   d) The developer shall dedicate an access easement to the City of Leawood over the private storm drainage easement requested above.

2) Traffic Impact Analysis:
   a) The proposed plan and traffic memo documents a less intense traffic impact than the previously approved Villaggio development.
   b) The developer shall pay into escrow One Hundred Forty Thousand ($140,000) Dollars for traffic signals at 137th Street and Roe Ave. This amount is fifty (50) percent of the estimated cost of Two Hundred Eighty Thousand ($280,000) for traffic signal design, construction and inspection. This fee shall be paid prior to the City releasing the plat.

3) Storm Water Study:
   a) This development is proposed to occur on the previously approved Villaggio project. The City Code has been updated since the Villaggio project and BMPs are now required.
b) The latest study indicates the following is proposed:
   i) Reduction to the southwest detention basin to make room for an additional lot. Sufficient detention remains to reduce off site runoff to a level within the capacity of downhill storm water facilities.
   ii) Three hydrodynamic separators will be added as BMPs. One will be located at each detention facility.
   iii) Modification to the outlet control structure of the south center basin is also proposed.

4) All infrastructure including roads, storm drainage system, and street lighting outside the City's right-of-way shall be private and maintained by the HOA.

5) Permanent structures, including monument signs, shall not be placed within the Right-of-Way and Public Easements.

6) 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).

7) 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.

8) 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.

9) Construction vehicles, including vehicles of construction personnel, shall not be parked within the Right-of-Way. All staging and storage of equipment and/or materials for private improvements shall be contained on the proposed development unless a Right-of-Way Permit has been obtained by the Contractor.

10) The Developer shall repair and restore all damaged areas between the back of curb and the Right-of-Way abutting this development including any existing damage. This shall include but is not limited to street lighting equipment, traffic signal equipment, sidewalk, storm sewers, grass, etc.

11) The Developer shall provide documentation by a licensed professional engineer certifying on City forms the BMPs have been constructed in accordance with City standards and the approved plans.

12) The developer shall provide as-built storm sewer information in accordance with City standards. This includes, but is not limited to, vertical and horizontal coordinates of all structures constructed or modified, flow line information at each structure, pipe size information, downstream structure numbers and type of structure. This information shall be provided to us on the Johnson County AIMS
coordinate system. The spreadsheet for the data will be provided to the developer after the storm sewer improvements have been completed.

13) Prior to the City releasing the plat, the Developer shall file at the County an executed Right Of Way Maintenance Agreement for private infrastructure within the right-of-way.

14) Building Permits will not be issued and the plat will not be released for recording until all public improvement plans have been approved by the City Engineer.

15) The Certificate of Occupancy shall not be approved until the above requirements including payments to escrow accounts have been met.

If you have any questions, please call me at (913) 663-9134.
Memorandum

TO: Grant Lang
FROM: Jarrett Hawley
DATE: August 24, 2020
SUBJECT: Villa de Fontana

The Leawood Fire Department has been presented with additional site plans showing street layout which meet minimum requirements for fire apparatus. After reviewing the updated street map and site plan, The Leawood Fire Department has no objections to the present site plan presented.

Jarrett Hawley
Deputy Chief
Leawood Fire Department
VILLA DE FONTANA
A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 13, RANGE 23
IN THE CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS
Planting Notes

1. Permit holder shall utilize the planting plan in Section 5.0 of the Landscape Master Plan.
2. All plantable areas shall be developed concurrently with the construction of the site.
3. All plantable areas shall be finished with a minimum of 2" of topsoil.
4. All plantable areas shall be paved with a minimum of 2' of topsoil.
5. All plantable areas shall be finished with a minimum of 1' of topsoil.
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99. All plantable areas shall be finished with a minimum of 1' of topsoil.
100. All plantable areas shall be finished with a minimum of 1' of topsoil.

Landscape Calculations

Perimeter Landscaping adjacent to public ROW:
- 2.5' of sod, 2.5' of mulch, 2.5' of landscape fabric
- 3.0' of sod, 3.0' of mulch, 3.0' of landscape fabric

Landscape Schedule

<table>
<thead>
<tr>
<th>Section</th>
<th>Material</th>
<th>Location</th>
<th>Quantity</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>Black Mulch</td>
<td>Front Yard</td>
<td>1000 cu. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>White Mulch</td>
<td>Front Yard</td>
<td>1000 cu. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Landscape Fabric</td>
<td>Front Yard</td>
<td>1000 sq. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Turf Grass</td>
<td>Front Yard</td>
<td>1000 sq. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Decorative Stone</td>
<td>Front Yard</td>
<td>1000 cu. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Ornamental Shrubs</td>
<td>Front Yard</td>
<td>1000 sq. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Ornamental Trees</td>
<td>Front Yard</td>
<td>1000 sq. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Ornamental Garden</td>
<td>Front Yard</td>
<td>1000 sq. ft.</td>
<td>2&quot; of topsoil to be applied.</td>
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<tr>
<td>Front Yard</td>
<td>Ornamental Fence</td>
<td>Front Yard</td>
<td>1000 ft.</td>
<td>2&quot; of topsoil to be applied.</td>
</tr>
</tbody>
</table>

Date: 9/14/2020
Project #: 427
Final Landscape Plan

Villa De Fontana
3E Cor of 135th and Roe
Leawood, KS

MEIER LANDSCAPE ARCHITECTURE
13244 Midland Pkwy
Overland Park, KS 66223
913.787.3217

CURRENT
Villa De Fontana
3E Cor of 135th and Roe
Leawood, KS

PROJECT
Villa De Fontana
3E Cor of 135th and Roe
Leawood, KS

1 LANDSCAPE PLAN - OVERALL SITE
2 CULTIVATED EDGE DETAIL
MATCHLINE L3
MATCHLINE L5

Landscape Schedule

<table>
<thead>
<tr>
<th>Number</th>
<th>Type</th>
<th>Size</th>
<th>Location</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Trees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Shrubs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Vines</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Fences</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>5</td>
<td>Water Features</td>
<td></td>
<td></td>
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</tbody>
</table>

Date: 9/14/2020
Project #: 627
Final Landscape Plan
ENTRY MONUMENT ELEVATION VIEW (135TH AND GRANADA, 137TH AND ROE, NE CORNER OF PARK ON 137TH STREET)

MAIN ENTRY FOUNTAIN MONUMENT ELEVATION VIEW (135TH AND GRANADA)
Preliminary Stormwater Study

Villas of Fontana
Single Family Residential

135th Street and Roe Avenue
Leawood, Kansas

Prepared by:

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

PEI #200597
August 7, 2020
August 7, 2020

Brian Scovill, P.E.
City of Leawood, Kansas
4800 Town Center Drive
Leawood, KS 66211

Re: Villa de Fontana
Preliminary Stormwater Study
PEI #200597

Dear Mr. Scovill:

Phelps Engineering, Inc. is pleased to submit this Preliminary Stormwater Management Study for the above referenced project. Villa de Fontana is located at the southeast corner of the intersection of 135th Street and Roe Avenue. The site is 30.44 net acres and is currently zoned as a RP-3 Planned Cluster Attached Residential District, SD-O Planned Office, and SD-CR Planned General Retail and will be rezoned to RP-2 Planned Cluster Detached Residential District. The preliminary plat contains 63 lots with a density of 2.07 lots / acres (equal to 1/2 acre lots).

The Villa de Fontana is the eastern half of an existing approved development plan called the Villaggio at Leawood; which was proposed to be developed as a mixed use of apartments, office, and retail. The public and private infrastructure was previously constructed on the Villaggio at Leawood, which includes utilities, sanitary sewers, storm sewers, streets, and stormwater detention facilities. The Villa de Fontana development proposes to modify the eastern half of the Villaggio at Leawood by down zone 30.44 acres to single family residential lots utilizing the existing infrastructure in place.

Onsite Drainage System
The existing site is contained in four watersheds draining to the northwest, north central, south central and to the southwest. 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.
Downstream Analysis
A stormwater study was previously approved for the currently approved Villaggio at Leawood Development, which was prepared by Continental Consulting Engineers, Inc. and dated December 21, 2007.

The streets, storm sewer, and stormwater detention has been constructed for this project and is currently in place.

The approved study included a very extensive analysis of downstream drainage system. The Villaggio at Leawood development has six watersheds discharging the site at the Northwest, North Central, Northeast, Southeast, South Central, and Southwest. An existing runoff model was developed for each watershed, and the capacity of each downstream system was analyzed. A site release was determined by using the lowest runoff based on the two criteria; existing runoff or downstream storm sewer capacity. If the downstream capacity was the controlling criteria, then the site release rate was further reduced based on the ratio of onsite runoff and offsite runoff. The following table outlines the approved release rates for the Villaggio at Leawood:

The Villaggio at Leawood - Site Release Rates

<table>
<thead>
<tr>
<th>Watershed</th>
<th>Storm Event</th>
<th>Existing Runoff, cfs</th>
<th>Downstream Capacity, cfs</th>
<th>Onsite % Downstream Capacity</th>
<th>Onsite % Downstream Capacity, cfs</th>
<th>Allowable Release Rate, cfs</th>
<th>Controlling Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northwest Basin</td>
<td>2</td>
<td>12.87</td>
<td>36.4</td>
<td>70</td>
<td>25.4</td>
<td>12.87</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Northwest Basin</td>
<td>10</td>
<td>23.9</td>
<td>36.4</td>
<td>70</td>
<td>25.4</td>
<td>23.9</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Northwest Basin</td>
<td>25</td>
<td>28.83</td>
<td>36.4</td>
<td>70</td>
<td>25.4</td>
<td>25.4</td>
<td>Capacity 30&quot; RCP</td>
</tr>
<tr>
<td>Northwest Basin</td>
<td>50</td>
<td>32.35</td>
<td>36.4</td>
<td>70</td>
<td>25.4</td>
<td>25.4</td>
<td>% Capacity 30&quot; RCP</td>
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<tr>
<td>Northwest Basin</td>
<td>100</td>
<td>37.3</td>
<td>36.4</td>
<td>70</td>
<td>25.4</td>
<td>25.4</td>
<td>% Capacity 30&quot; RCP</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>2</td>
<td>28.67</td>
<td>436</td>
<td>18</td>
<td>76.95</td>
<td>28.67</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>10</td>
<td>56.93</td>
<td>436</td>
<td>18</td>
<td>76.95</td>
<td>56.93</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>25</td>
<td>69.86</td>
<td>436</td>
<td>18</td>
<td>76.95</td>
<td>69.86</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>50</td>
<td>79.2</td>
<td>436</td>
<td>18</td>
<td>76.95</td>
<td>76.95</td>
<td>% Capacity 72&quot; RCP</td>
</tr>
<tr>
<td>Southwest Basin</td>
<td>100</td>
<td>92.34</td>
<td>436</td>
<td>18</td>
<td>76.95</td>
<td>76.95</td>
<td>% Capacity 72&quot; RCP</td>
</tr>
<tr>
<td>South Central Basin</td>
<td>2</td>
<td>27.71</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>27.71</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>South Central Basin</td>
<td>10</td>
<td>55.25</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>Existing Runoff</td>
</tr>
<tr>
<td>South Central Basin</td>
<td>25</td>
<td>67.83</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>% Capacity 36&quot; CMP</td>
</tr>
<tr>
<td>South Central Basin</td>
<td>50</td>
<td>76.83</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>% Capacity 36&quot; CMP</td>
</tr>
<tr>
<td>South Central Basin</td>
<td>100</td>
<td>89.7</td>
<td>39.7</td>
<td>81</td>
<td>32.2</td>
<td>32.2</td>
<td>% Capacity 36&quot; CMP</td>
</tr>
</tbody>
</table>

** NC, NE, and SE basin are offsite basins to Villa de Fontana therefore ae not included in table

See The Villaggio at Leawood Stormwater Study dated December 21, 2007 by Continental for more details.
Detention
Underground detention is currently provided for the entire Villaggio at Leawood development. The detention was designed for a mixed land use of office, apartments, and commercial. The Villa de Fontana site is located on the western half of the Villaggio at Leawood development which is proposed to be developed as single family residential, a much less intense development. Villa de Fontana is located in the Northwest, North Central, South Central, and Southwest drainage basins of the Villaggio at Leawood; therefore no detention analysis is included for the Northeast or Southeast basins.

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. The CN values used in the proposed analysis are the same valued used in the currently approved Villaggio at Leawood Stormwater Study for soils and land cover, except for the addition of single-family land use into the model. The drainage areas have been re-evaluated and updated to the proposed plan.

See Appendix “D” for the proposed HydroCAD modeling results.

Northwest Watershed
The northwest detention basin is an existing underground detention facility utilizing 84” diameter CMP pipes. The existing detention facility will be utilized as constructed with no modifications to the storage or outlet structure. The existing storage consists of 1,233 linear feet of 84” CMP pipe. The existing outlet structure is a multi-stage outlet structure designed to control peak runoff rates in the 2, 10, 25, 50, and 100-year storm events. The first stage is an 8”x8” orifice at an elevation of 999.0, the second stage is a 24-inch wide by 12-inch tall orifice with a flowline elevation of 1002.0, and the third stage is a 9-feet wide by 31” tall orifice at an elevation of 1005.91. The 100-year WSE in the basin is 1005.23 with a storage volume of 0.886 ac-ft and contained in the outlet structure with a top of structure elevation of 1009.0. See Table below for the northwest watershed proposed conditions.

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Allowable Release Rate, cfs</th>
<th>Proposed Condition</th>
<th>Storage, ac-ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-year</td>
<td>Basin</td>
<td>NA</td>
<td>Inflow Rate, cfs</td>
<td>WSE, ft</td>
</tr>
<tr>
<td></td>
<td></td>
<td>17.84</td>
<td>3.99</td>
<td>1002.15</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>12.87</td>
<td>5.05</td>
<td>NA</td>
</tr>
<tr>
<td>10-year</td>
<td>Basin</td>
<td>NA</td>
<td>33.69</td>
<td>13.57</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>23.9</td>
<td>14.28</td>
<td>NA</td>
</tr>
<tr>
<td>25-year</td>
<td>Basin</td>
<td>NA</td>
<td>40.81</td>
<td>16.55</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>25.4</td>
<td>17.43</td>
<td>NA</td>
</tr>
<tr>
<td>50-year</td>
<td>Basin</td>
<td>NA</td>
<td>45.92</td>
<td>18.48</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>25.4</td>
<td>19.48</td>
<td>NA</td>
</tr>
<tr>
<td>100-year</td>
<td>Basin</td>
<td>NA</td>
<td>50.09</td>
<td>21.08</td>
</tr>
<tr>
<td></td>
<td>Northwest Total Outfall</td>
<td>25.4</td>
<td>22.24</td>
<td>NA</td>
</tr>
</tbody>
</table>
North Central Watershed
The north central detention basin was not analyzed since the tributary area from the Villa de Fontana project is unchanged. The area contributing to the north central watershed from Villa de Fontana consist of existing streets with no changes proposed.

Southwest Watershed
The southwest detention basin is an existing underground detention facility utilizing 84" diameter CMP pipes. The existing detention facility consist of 3,561 linear feet of 84" diameter CMP pipes, and this development proposes to remove 1,216 feet of storage pipe and utilize 2,345 of the existing pipes for storage. The existing outlet structure will not be modified. The existing outlet structure is a multi-stage outlet structure designed to control peak runoff rates in the 2, 10, 25, 50, and 100-year storm events. The first stage is an 16-inch wide and 8-inch tall orifice at an elevation of 980.5, the second stage is a 30-inch wide by 10-inch tall orifice with a flowline elevation of 982.0, the third stage is a 5-feet wide by 12" tall orifice at an elevation of 984.5, and the fourth stage is a 9-feet wide by 13.2" tall orifice at an elevation of 987.9. The 100-year WSE in the basin is 987.84 with a storage volume of 1.886 ac-ft and contained in the outlet structure with a top of structure elevation of 989.5 See Table below for the southwest watershed proposed conditions.

Southwest Watershed Proposed Conditions

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Allowable Release Rate, cfs</th>
<th>Proposed Condition</th>
<th>Inflow Rate, cfs</th>
<th>Outflow Rate, cfs</th>
<th>WSE, ft</th>
<th>Storage, ac-ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-year</td>
<td>Basin</td>
<td>NA</td>
<td>Southwest Total Outfall</td>
<td>43.03</td>
<td>19.32</td>
<td>983.84</td>
<td>0.492</td>
</tr>
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<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-year</td>
<td>Basin</td>
<td>NA</td>
<td>Southwest Total Outfall</td>
<td>86.77</td>
<td>45.83</td>
<td>985.59</td>
<td>1.134</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25-year</td>
<td>Basin</td>
<td>106.84</td>
<td>Southwest Total Outfall</td>
<td>69.86</td>
<td>58.04</td>
<td>986.29</td>
<td>1.394</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50-year</td>
<td>Basin</td>
<td>NA</td>
<td>Southwest Total Outfall</td>
<td>141.44</td>
<td>75.27</td>
<td>987.84</td>
<td>1.886</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>100-year</td>
<td>Basin</td>
<td>141.44</td>
<td>Southwest Total Outfall</td>
<td>76.95</td>
<td>65.56</td>
<td>987.84</td>
<td>1.886</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

South Central Watershed
The south central detention basin is an existing underground detention facility utilizing 84" diameter CMP pipes. The existing detention facility will be utilized as constructed with no modifications to the storage. The existing storage consists of 2,805 linear feet of 84" CMP pipe. The existing outlet structure is a multi-stage outlet structure designed to control peak runoff rates in the 2, 10, 25, 50, and 100-year storm events. The outlet structure will be modified utilizing the following multi-stage outlet. The first stage is a 20" diameter orifice at an elevation of 984.0, and the second stage is a 9-feet wide and 13.2-inch tall orifice with a flowline elevation of 994.0. The 100-year WSE in the basin is
993.6 with a storage volume of 2.333 ac-ft and contained in the outlet structure with a top of structure elevation of 996.0 See Table below for the south central watershed proposed conditions.

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Allowable Release Rate, cfs</th>
<th>Proposed Condition</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Inflow Rate, cfs</td>
<td>Outflow Rate, cfs</td>
<td>WSE, ft</td>
<td>Storage, ac-ft</td>
<td></td>
</tr>
<tr>
<td>2-year</td>
<td>Basin</td>
<td>NA</td>
<td>35.13</td>
<td>20.63</td>
<td>989.69</td>
<td>0.335</td>
</tr>
<tr>
<td></td>
<td><strong>South Central Total Outfall</strong></td>
<td>27.71</td>
<td>NA</td>
<td>20.75</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>10-year</td>
<td>Basin</td>
<td>NA</td>
<td>64.26</td>
<td>25.41</td>
<td>990.69</td>
<td>1.167</td>
</tr>
<tr>
<td></td>
<td><strong>South Central Total Outfall</strong></td>
<td>32.2</td>
<td>NA</td>
<td>25.62</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>25-year</td>
<td>Basin</td>
<td>NA</td>
<td>77.22</td>
<td>27.37</td>
<td>991.62</td>
<td>1.585</td>
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<td><strong>South Central Total Outfall</strong></td>
<td>32.2</td>
<td>NA</td>
<td>27.61</td>
<td>NA</td>
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<td>50-year</td>
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<td>NA</td>
<td>86.64</td>
<td>28.8</td>
<td>992.35</td>
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<td><strong>South Central Total Outfall</strong></td>
<td>32.2</td>
<td>NA</td>
<td>29.06</td>
<td>NA</td>
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<td>100-year</td>
<td>Basin</td>
<td>NA</td>
<td>99.65</td>
<td>31.11</td>
<td>993.6</td>
<td>2.333</td>
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<td>32.2</td>
<td>NA</td>
<td>31.41</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Stream Buffers
The entire property has been enclosed in storm sewer pipes with the current approved Villaggio at Leawood development.

FEMA
All parts of the property have been designated as Zone X, per Map Panel 20091C084G 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 all portions of the property are located outside the regulatory floodplain.

Corps of Engineers
The entire property is improved with streets and storm sewer, which is part of the current approved Villaggio at Leawood development. No water or wetlands of the United States are located on this property.

Water Quality BMP Requirements
The proposed development is part of the currently constructed Villaggio at Leawood development. The Villaggio at Leawood is a mixed use development consisting of apartments, office buildings, and retail; which was approved with no Stormwater Quality BMP requirements. The streets, storm sewers, and detention for the project where constructed with the Villaggio, and the only change to the Villaggio development plan is the down zoning to single family residential. The Villas de Fontana development
proposes to down zone 30.44 acres of the Villaggio at Leawood mixed use to single family residential lots.

The site is 30.44 net acres and is proposed to be zoned as a Single Family Residential Development. The proposed plan has 63 lots for a density of 2.07 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 land cover consists of asphalt streets and grass in good condition. The site consists of HSG Type “B” and HSG Type “C” soils, which have been bumped up one soil group to HSG “C” and HSG “D” soils to account for hard panning of soil from previous construction. See enclosed soil survey printouts in Appendix “G”. The predevelopment CN is calculated at 80.

The proposed CN was calculated by using a land type of 1/2 acres single family residential lots. The HSG has not been bumped up one level from the pre-developed condition since the this was accounted for in the pre-development CN calculations since this is a previously constructed site. The post development CN is calculated at 84.

The proposed development has increased the existing CN by 4, therefore requiring a level of service of 5.3 in accordance with APWA Best Management Practices for Water Quality. See Level of Service Worksheet 1 and the Predevelopment CN Exhibit in Appendix “C” for more details.

The proposed development BMP mitigation required to provide a minimum water quality level of service of 5.3 is provided with hydro-dynamic separators being installed at the Northwest, Southwest, and Southcentral discharge points.

The Level of Service provided is 5.3, meeting the requirements set forth in APWA. See Level of Service Worksheet 2 and the Post Development Mitigation Exhibit for more details.

All maintenance of BMP’s will be the sole responsibility of the Homes Association an BMP’s are contained in a Tracts providing maintenance access.
Conclusion
This stormwater management plan and attached exhibits complete Phelps Engineering’s submittal of the Preliminary Stormwater Study for the Villas de Fontana. Please feel free to contact PEI at (913) 393-1155 if you require additional information.

Sincerely,

Phelps Engineering, Inc.

Tim Tucker, P.E. 8–7–20

Enclosures
Chairman Elkins: Frankly, that was one of the questions I asked about the term of their license because it would make sense to tie the Special Use Permit to the term of their license. It’s unfortunate they’re not in a position to share the term of that license. Other comments?

Comm. Peterson: I do agree with Commissioner Block. I don’t think we should consider shortening the term of the Special Use Permit from 20 years primarily because the State of Kansas ultimately could close them down within months if they wish to. If there is any hazard to the children or any violation of state law, I would hope the State of Kansas would step in and take appropriate action. I am somewhat confused. I’ve been in that area many times before, especially because of Sydney’s Spa. There appears to be, to the south and west, a reasonable amount of parking available. I do not know what the peak times are because the times I’ve been there are probably not peak times; however, the large area to the west of Dr. Tally’s building and Sydney’s Spa is one that I was not aware was not a common area. It is fairly significant. Getting back to Commissioner Block’s point, I don’t see any reason to shorten the time period on the Special Use Permit. Frankly, if something goes seriously wrong, the most important thing would be the safety of the children. The school wants to protect the license with the State of Kansas and do everything in their power to continue operation. Otherwise, this is going to be a very expensive project for them. That’s really the bulk of what I would like to say. I personally propose to support this.

Chairman Elkins: Thank you. Other comments? Is there a motion?

A motion to recommend approval of CASE 68-20 – PLAZA POINTE – GUIDEPOST MONTESSORI – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, for a Daycare/Montessori, located south of 135th Street and west of Roe Avenue – with the elimination of Stipulation No. 9 - was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

Chairman Elkins: Thank you to the applicant and to the public.

Adjourning for a five-minute recess

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

Staff Presentation:
City Planner Grant Lang made the following presentation:
Mr. Lang: This is Case 70-20 – Request for approval of a Rezoning from SD-CR, SD-O, and RP-3 to RP-2. This is a Preliminary Plat and Preliminary Plan. The applicant is proposing a residential development consisting of 63 single-family homes. Planning staff is not supportive of this development, as it does not represent the highest and best use for the 135th Street Corridor or the City of Leawood. The project will create two nonconforming properties located in the existing SD-O and SD-CR zoning districts. Building setbacks to residential from SD-O are 75 feet and 125 feet from SD-CR. These zoning districts are also to maintain a minimum of ten acres. The proposed application does not conform to the LDO, stating that private streets shall be built to public standards, as the current infrastructure was built with commercial development in mind. The proposed application does not conform to the LDO stating lots fronting on a cul-de-sac shall maintain a frontage of 45 feet on the turnaround and 100 feet at the building line. Lots shall not have a depth greater than three times the width. The application does not meet all requirements per the LDO and Golden Criteria. Staff recommends denial of Case 70-20 with the stipulations listed in the Staff Report. I will answer any questions.

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

Comm. Block: We had a revised Staff Report on the dais. It looks like the only addition was on the fourth page with lot widths. Is that the only addition?

Mr. Lang: Yes, and I believe Staff Comments include the definition for 16-8-6.1, relating to hardships and special requests.

Chairman Elkins: I believe Mr. Lang sent out an email to the commission early this afternoon about it.

Mr. Lang: It might have come from Mark Klein.

Comm. McGurren: I’m curious. This has a bit of the undertones from a case we had last month where land sits almost exclusively vacant. What had originally been intended within the Comprehensive Plan or 135th Street Corridor Plan has never happened on this property. I was curious if staff had a conversation with others within the city or with the applicant. Even though it does not meet the Comprehensive Plan or the 135th Street Plan if it did meet the LDO if there were adjustments made by the applicant, would this come closer to staff recommendation?

Mr. Lang: I don’t believe it would as this use is comprehensively planned for MX-D.

Comm. McGurren: To me, that goes back to the idea that the Comprehensive Plan hasn’t worked for 20 years or more, and we end up with all this land just sitting there. In the case of this property, it looks quite odd when all the streets and everything are all ready to go and only one or two buildings have been built and obviously a minor portion of what was intended on this property. I fully get the concept that says that this isn’t what it was intended to be. On the other hand, I’m curious if there has been much of a conversation
of beginning to adapt to what might be more realistic. For example, when we look at the plan that Mr. Regnier paid for. None of what we want on this property is currently viable. What Mr. Simpson is bringing is listed as viable in the marketplace. That was before the pandemic and not after. I’m just curious whether the Planning Department is beginning to have more of a conversation about whether or not the Comprehensive Plan or 135th Street Corridor Plan is viable.

Mr. Lang: At my level, I don’t believe any of those conversations have happened. We might refer to Richard or Mark on that one.

Mr. Coleman: First, we weren’t approached to ask about the use of the property. The plan was submitted as you’re looking at it. We would have looked to have probably some of the residential south of 137th Street and then have it transition into some commercial, some small retail and other residential north of 137th Street. Not only does this not meet the Comprehensive Plan, as it is, it’s creating nonconforming parcels of land, which is against the LDO. They’re going to ask you to overlook that. Our recommendation is not to overlook it.

Chairman Elkins: Thank you. Other questions for staff? If not, I would welcome Mr. Petersen.

Applicant Presentation:
John Petersen, Polsinelli, PC, 11817 Norwood Drive, Leawood, appeared before the Planning Commission via Zoom on behalf of Fontana Land Co., LLC and made the following comments:

Mr. Petersen: Mark Simpson and Saul Ellis are very familiar names to the City of Leawood for residential developers for foresight, uniqueness, and quality. We’re pleased to bring this application before you. I’m going to ruin your evening tonight and make a point to explain why I’m going to pick up my case tonight. I am the applicant for every remaining agenda item. I know how packed your agendas have been, so I’m going to try to really go through this. Not to be rude or dismissive, but I want to get my presentation in and then be happy to answer any questions so maybe we can get to some of the other applications. I want to start by talking about the context of this application. Commissioner McGurren, thank you for bringing us back to a sense of reality, to look at 135th and Roe and the application of this use against a thought and idea that has had 20 years to come to fruition. This isn’t land planning, but this story will put into context and allow you to understand why we are bringing this forward. I am the applicant for every remaining agenda item. I know how packed your agendas have been, so I’m going to try to really go through this. Not to be rude or dismissive, but I want to get my presentation in and then be happy to answer any questions so maybe we can get to some of the other applications. I want to start by talking about the context of this application. Commissioner McGurren, thank you for bringing us back to a sense of reality, to look at 135th and Roe and the application of this use against a thought and idea that has had 20 years to come to fruition. This isn’t land planning, but this story will put into context and allow you to understand why we are bringing this forward. I’m going to make a contradiction of staff, who says it’s not in compliance with the LDO. That’s not true. It is in compliance if you use some of the features and some of the mechanisms in the LDO, which allows the Planning Commission and City Council to exert discretion in a unique set of circumstances. The story is represented by the beautiful fountain at 135th and Roe, which is probably one of the more iconic features in the corridor and one of the few vertical features. That fountain is almost analogous to a monument over a battlefield where a battle was lost. The battle plan was the Comprehensive Plan. It wasn’t the 135th Street Corridor Plan; it was the plan from the early 2000s that said to build a bunch of
commercial, have it inward focused, pack it up with density, make it walkable inside. That was good street design and all those things that were the idea of the day before we decided to double down on the idea with the 135th Street Corridor Plan and go vertical. That plan with the street system was there in good times, through some bad times, and also through the greatest development atmosphere I’ve ever experienced before COVID-19. This plan was marketed. People tried to do it. Fifteen years later, it’s one fountain, one office building in the southeast corner, and one building in the northeast corner. The bank couldn’t survive, so now it’s being utilized for office. We’re trying to be creative to bring a win not only to this landowner but also to the city. This piece of ground is in the deepest financial hole you’ll see as a Planning Commission. To create that grid system, buy that land, put the sewers in, put the streets in, the developer went hard, close to $10 million. This is an epitaph over this dead battlefield of overleverage, overutilization of public money. The public, including the City of Leawood, the county, and all the taxing jurisdictions in Johnson County were not paid back. One TBD bond issuance, three SBD bond issuances totaled almost $7 million. There were two bank foreclosures, and defaulted bonds. The SBD bonds did not default because the City of Leawood started picking up the tab. Property taxes haven’t been paid. $1 million of general real estate property taxes are in arrears. The City of Leawood is approaching $2 million out of pocket to continue to pay the general obligation bond that was the risk factor to see if commercial in this type of density would work on this property. Finally, those bonds are still outstanding. We have a very unique approach. We’re not asking for incentives to tackle the problem. We’re asking for the opportunity to bring a project forward that is viable, actionable, will be a great addition to a different type of residential use in the mosaic of the 135th Street Corridor, will help other retailers who are struggling, and will help bring some retail to other projects that have already been approved. Before we begin, we’ll write the city, the county, and all the taxing jurisdictions a check in the neighborhood of $3 million, filling in the financial abyss, and taking over the responsibility for the outstanding general obligation bonds. We have a product there is actually a market for. It is not a theory or a plan; it is something that can be acted on.

We’re going to utilize the street grid system and improve it with some eyebrows and small cul de sacs. We’re going to bring the flair and panache of Mark Simpson and Saul Ellis. We’re not just going to create some residential to solve the problem; we’re going to follow up on the iconic nature of the fountain and create an iconic piece of the puzzle of the 135th Street Corridor. Because it’s on a thoroughfare, there will be a wall system around the thoroughfare portion. We’re going to pick that theme of the fountain up. The wall will be used for retaining, for part of the grading, and as a buffer from the thoroughfares. It is also going to be part of the décor and the theme and elegance of the project. Our grand entrance is off 135th and Granada. The fountains and statue will be a hallmark of this project. On the right is the wall system with a design that will be incorporated into the wall as the wall moves from the main entrance back to the west toward Roe.

Next is an idea with new eyebrows and cul de sacs. Each street addition will be a place for a fountain or piece of art that will pick up distinctive character and flavor for the 63-lot neighborhood. On the south part of 137th had a multi-story senior care facility approved. We’re planning to put one new cul de sac in with seven lots surrounding the cul de sac. We have two lots that will access directly onto 137th Street moving next to the
cul de sac, and then two more lots are farther east. The area is also going to be the amenity area. It’s important to note that we have a wall around the project because of the interface with the thoroughfares primarily and becoming part of the art of the project. We’re not trying to be so exclusive that we don’t want people coming in. We brought the amenity areas out that will be visual improvements for those using the bike-hike trail along 137th Street. Also, the public will be welcome in one. Tract F, which is farthest west, is going to be a Pitch and Putt. It is styled and designed appropriately with a synthetic grass surface and a bunker to do short putting and pitching. The quality of the synthetic grass is unbelievable. It will be a wonderful pocket visual amenity. Tract G to the east will be accessed by the public more often. It will have Bocce, Pickleball, yard bowling, and a pavilion. It is going to be a great open amenity area along 137th Street. There will be a sun shade for the bike-hike trail and a place to sit.

There will be three builders for the project. In terms of size and value, it is 2,200-2,600 square feet on the main floor, 1,200-2,200 on the lower floor, depending on if there is a walkout and if people want to utilize the lower level, with a price range of $800,000-$2 million. These will be the villa concept with concierge services. It is another nice piece to bring interest.

We’ll move to the issue staff raised. I’m going to move through these quickly, and we can talk about the ones you want to talk about. I made the best case I can make that this is going to be a unique housing addition, but this is the type of project with the flexibility that can fill the financial abyss before we start. Millions of dollars that were expended due to prior developer’s failure will be paid. It wasn’t these developers. We have a needle to thread and a piece of thread that will be good, but we just don’t have all sorts of perfect flexibility to make it nice and tidy for staff. They go to their code where you have the flexibility to work with us. We must use the existing infrastructure. We must officially maximize the site in terms of setbacks. We need to develop and sell 63 lots. I’ll emphasize one more time that we designed and can build it within the parameters of the LDO.

Forget the 135th Street Corridor Plan. With all due respect to all those that want to hold out for it, this site is not going to develop in the model of the plan in our opinion. You have heard testimony from other developers and a nationally respected company that did a feasibility study. It’s not going to happen. The shopping center with Gaslight Grill has retail, and it still has 40% of the project that hasn’t been built yet because of the market. Take the ones that are already zoned and approved and add in the Cameron project and the Lashbrook project that has retail as a part of it. From Roe to State Line is 1.8 million square feet of commercial.

The takeaway from the study done on the 135th Street Corridor is that retail is 300% overbuilt for the area. I not only am going to bring an excellent residential plan; I’m going to suggest that bringing 63 new residences to this corner, within a five-minute walk to the built retail that is struggling, within a five-minute walk to the retail zoned to the east, and a 15-minute bicycle ride down 137th Street to another 700,000 square feet of retail that is approved or pending approval is an asset.

Staff raised some issues. We have two residential-style office buildings on the northeast and southeast corner. Staff says it is out of compliance because it doesn’t meet requirements. No. 2 indicates, “The project shall comply with the bulk regulations for SD-O and SD-CR.” We’re rezoning to RP-2. Those are requirements for an office or CR
commercial development that would not be able to build office buildings too close to residential. The buildings are there. We’re bringing residential. With a villa concept, the buying public is okay with snuggling up a little closer to a non-residential use, particularly with a residential-style office building. We’re going to use it with buffering our wall system and landscaping. We’re going to make the transition just fine. It isn’t going to be neighbors asking why you let the office building get built this close to their houses. This stipulation should be deleted because it’s not even applicable to our application because we’re not operating under that zoning. By the way, the owners of both office buildings support our project and have, in fact, written letters of support. Stipulation No. 8 talks about the new cul de sac or the mini cul de sacs in the main part of the project and how we need to build them to the same standards. I’m good with that. If I read it right, they’re saying to tear out the streets.

The next issue is the existing private streets. I could read Stipulation No. 8 as staff saying that the mini cul de sacs are built to exact city standards, which is something we’re doing, but it seems to read that we should tear all the streets out and start over from scratch. We’re going to pay $3 million or more to pay for the streets and get the public off the hook for the streets. This doesn’t work if we tear the streets out. They work fine. They’re going to be private drives. To tear those streets out would mean tearing out all the stormwater, all the utilities, and it’s a deal-killer. We don’t have to do that. The code allows, under a rule exception, that you and Governing Body have the discretion to waive requirements that the streets are as perfect as they could be if they were built on a virgin piece of dirt and started from the beginning. In our Revised Stipulation No. 8, that is what we are asking to do. All new street construction, we will do to city standards. We’ll repair the existing streets. We’ve had them evaluated by O’Donnell and Sons, who indicated they were in great shape. Given the financial constraints of this project, that’s how we must move forward.

I’m moving fast and may sound frustrated, but I know there’s a lot on the agenda. I’m a little frustrated by the situation with the cul de sacs and two issues: we have to work to keep the front yard along the street at 45 feet, which we have, and the build line of the house can have a deviation to from 100 feet to 80 feet, which we did on 13 of the lots. Staff is recommending denial because they don’t support that deviation. They granted the deviation for front yard setbacks because they always do with villa projects. They’ve recommended approval on this exact same configuration with Village of Leawood, Hills of Leawood, Leabrooke Town Manor, Hallbrook. We would modify Stipulation No. 11 to allow us to have that deviation.

We have one lot in the southeast corner where the back yard runs up against 137th next to the office building. You can see it’s a fairly deep lot. It’s deeper than the typically preferred minimum. It’s good for that house because of the location. Staff says the lot is too deep. To cure that, all we would have to do is draw a line from east to west at the perfect depth of that lot and have a dangling tract of grass that is inefficient. Again, a rule exception would allow this. We would ask for a deviation for Stipulation No. 11.

We had a cul de sac coming off 137th for seven lots. We have four lots that face onto 137th. Two of them, we were able to put an eyebrow system off 137th to access the drive. We don’t have the depth to do it for these two lots because we promised the neighbors to the south that we would stay out of the original no-build area beyond the setback that runs along the south property line. It’s two drives that we would require side-
entry garages with a turnaround, which would logically tell you the cars would enter 137th. This is minimal traffic impact. That would be a modification to Public Works Stipulation No. 1A.

The last issue involves an exaction in place in 2002 that the commercial developer of 300,000 square feet of retail would pay $140,000 toward the future light at 137th and Roe, which is the street that goes west toward Church of the Resurrection. Their share of it would be $140,000, so we are proposing to pay $70,000. Staff is stuck on the 20-year-old estimate. That is all I have. I went through it quickly for a number of reasons. I tried to be as direct and to the point as I could. We ask for your support to move us on to Governing Body to solve past problems and create new opportunities for the corridor. I’d be happy to answer questions.

Chairman Elkins: Thank you. Questions for Mr. Peterson? I guess I get to start. You have appeared repeatedly on behalf of a number of clients who have challenged the potential success of the Comprehensive Plan and the 135th Street Corridor Plan. You’ve made the case repeatedly before this commission that it is not workable and that we should contemplate exceptions. The commission and City Council revisit the Comprehensive Plan on an annual basis. As part of that, the 135th Street Corridor Plan is a subset. Every year, when we look at it, we hear from staff. We have a working session on it. We then have a meeting and Public Hearing, in my recollection, I don’t recall you or your clients ever approaching us about a comprehensive approach to revising the Comprehensive Plan. I’m putting you on the spot by asking why not. These plans must have been on the books for at least a year. Why not take advantage of the process and take a comprehensive approach rather than a spot approach?

Mr. Peterson: It’s a legitimate question, and it’s not unique to Leawood. You don’t have developers and representatives on spec just for the good of the order going to cities and saying that something isn’t working. They wait until they have a viable project that challenges it. The plans are guides, visions, and in some ways, hopes. It is a challenge to try to take some pieces and move forward. Overland Park did it with Vision Metcalf. Every corner has a ten-story building with a parking structure. Pieces of it were taken. There are still fast-food restaurants along Metcalf, and it’s a flavor. The theme is the mixture of uses. I had the client that owned this property before these guys. He came to a session and pointed out that mixed-use wouldn’t work without a lot of incentives. There is no office market here. There is too much retail now, and it is never going to be an office building of any significance. You talk about walkability, multi-family, villas, attached villas, townhomes, and single family. All the pieces come together with a submarket for some leisure and retail opportunities. That is how it works, just like it did with the Lashbrook project. Today, the Master Plan has been changed to reflect the Lashbrook project. The 135th Street Corridor is not the Master Plan. It is a planning tool. My client knew the consultant that did your study.

Chairman Elkins: You talked to us about Tracts F and G as amenities. I note that there is a Tract A along 135th Street. Can you tell us what’s planned for that?
Mr. Petersen: That’s our dog park to be utilized by the residents primarily because of where it’s located. It’s a nice area with a sidewalk and an area for the dogs.

Chairman Elkins: That will be a private dog park for the residents of the Villa de Fontana group?

Mr. Petersen: I think, given its location, that is the way it will be utilized. There won’t be restrictions that say the public can’t access it.

Chairman Elkins: You mentioned Tract G would be available to the public. Would Tract F be as well?

Mr. Petersen: That, we would probably leave up to the residents to decide. What would be more likely to be open to the general public would be the Bocce area.

Chairman Elkins: I’d like to ask you to comment on the value and size of the homes that your clients are contemplating. They certainly fit with what we like to see in Leawood. Part of the 135th Street Plan and Comprehensive Plan have always suggested that some sort of buffer between 135th Street as it exists today and residential units should be considered. Your client is contemplating six, if not eight $850,000 homes that back onto 135th Street. Can you talk about the financial feasibility of that?

Mr. Petersen: First of all, anything facing the two thoroughfares will have a wall system that is decorative and quality and extensive landscaping. These gentlemen know this market, and this is not affordable housing. This is the Leawood residents who like being at 135th and Roe. They still want to walk to Gaslight Grill and the retailers. They like being in the center of things, but they want a little buffering and something that is special. Meadowbrook is not much different. It sits off Nall just of 95th. The kind of living may not be to every person’s liking, but there is a market for this size.

Chairman Elkins: Thank you. You found a provision in the LDO that I was not aware of, so I need your thoughts in a bit more detail. It relates to 16-8-6.1 and the rule exceptions. To paraphrase my understanding, it permits us, in the event of finding a substantial hardship or inequity, to permit a variance from design requirements, but it specifically calls out that the exception does not apply to procedure or improvements. You can correct me, but my sense is that the streets themselves constitute improvements. How do I get from the requirement around the specifications for the private streets that we currently have to your exception, given that there is a proviso in the exception that it cannot be used to modify the requirements of improvements?

Mr. Petersen: You’re right that it is our provision. Also, one of the other requirements is so that the public welfare and interest of the city is protected. In this case, that is the reason I spent some time bringing the city back on this whole commercial endeavor. Remember, we are not making an improvement to the streets other than maintenance. We want a rule exception for design. The streets we are building are to the exact city standards and city design. We are asking for a variance from said requirements of design.
Our streets are slightly narrower than a city street, and obviously, because they’re private drives, we don’t give the same amount of right-of-way. We have utility easements. They fit perfectly with the villa concept. We’re asking for a variance from the design requirements. The reason staff is suggesting a stipulation, I think, is that they don’t meet the design requirements.

**Chairman Elkins:** How much narrower are the current streets from what is typically required?

**Mr. Petersen:** 2 feet.

**Chairman Elkins:** Are there other deviations from the specifications that the city requires of the streets, other than just their width?

**Mr. Petersen:** It’s mostly the amount of right-of-way to get sidewalks in, which doesn’t fit as well because it pushes the front yard back and doesn’t work as well in the villa. If you built the street today, there may be some different specs with some of the asphalt mixes used. These streets were designed to handle commercial traffic, and we’re going to do a typical maintenance of them with milling the top and adding asphalt to bring them to absolute A grade.

**Chairman Elkins:** What circumstance, in your reading of 16-8-6.1, would the “but not of procedure improvements” apply to?

**Mr. Petersen:** I have to be honest; I don’t understand that phrase. I’m not building anything here; I’m just going to maintain it.

**Chairman Elkins:** Would you agree that the streets and infrastructure put in by the prior developer would constitute improvements?

**Mr. Petersen:** Yes, but they weren’t seeking a rule exception, and they were approved. I doubt if, magically, someone wanted to use the street system, staff would say that we didn’t use the right asphalt mix that we use today, so the streets would need to be torn out. I think maybe they don’t like it because it’s against the Master Plan. I think we’re on firm ground to use the rule exception. I think it’s common sense. It’s not going to do anything to detract from the quality of the project. We’re going to pay the $1.5 million that was already paid to put in the streets and then another $1.5 million to solve a problem that will remain exactly as it is today because of that deep financial abyss. That is the concept under hardship, welfare, and interest of the city. Let’s do something to solve the past mistakes and bring something cool and viable to the corridor.

**Chairman Elkins:** I understand that. The question I asked was if the streets are an improvement.

**Mr. Petersen:** Well, if you want to say it is an improvement as a noun, yes. I think the ordinance speaks to improvement as a verb.
Chairman Elkins: Pretty rare to have an “S” on it and still be a verb, but I follow your thinking.

Mr. Petersen: Would you agree that it’s motion and moving forward?

Chairman Elkins: You made the point earlier that the hardship or inequity that would form the basis for the exception is the burden of removing the streets and replacing them with streets of the proper width. Is that correct?

Mr. Petersen: Yes.

Chairman Elkins: Is there anything else to point us to as a basis for meeting the substantial hardship or inequity test?

Mr. Petersen: Storm sewers would have to be moved, and utilities are already in place that would have to be moved. Honestly, as a city, utilizing this rule exception, I don’t think it is necessarily just a substantial hardship or equity of the developer; I would make the case that the city is left holding the bag of over $2 million in general obligation bonds paid and another $2 million left to pay for this to sit and $1 million general property taxes that haven’t gone to our schools or libraries. That is a hardship to the public at large that needs to be rectified.

Chairman Elkins: Thank you. Could you move to the slide that indicated the action items? I want a clear sense for the record of which of the action items you want us to apply the 16-8-6.1 exception to.

Mr. Petersen: The rule exception approach would be Lot 62 in terms of its depth, which is a unique circumstance, and the hardship is that the lot will look exactly the same but will just sit there. It’s a lot we can sell that will keep the house a distance away from 137th Street. We want it for the private streets.

Chairman Elkins: That is Stipulation No. 8, correct?

Mr. Petersen: Stipulation No. 11 is the lot depth; No. 8 is the private streets.

Chairman Elkins: It is the second, third, and fourth bullets you would ask that we apply the exception to.

Mr. Petersen: There’s a mistake on this. Stipulation No. 11 with the 80’ wide building line is really a deviation. Staff initially said that needed to be a rule exception, but it has now changed to deviation.

Chairman Elkins: It is the second and fourth bullet.
Mr. Petersen: Yes, and the deviation is the third, and it has been granted on the projects I mentioned before.

Chairman Elkins: Thank you. Do any other commissioners have questions? If not, this requires a Public Hearing as a result of the request for Rezoning. I would reiterate the standing practice that comments be limited to four minutes. I do not believe that any member of the public cared to comment.

Public Hearing

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

Chairman Elkins: That takes us to discussion on Case 70-20. Comments from the commissioners?

Comm. Block: Overall, it’s a nice plan with good use of a hard-to-use area with existing streets. As I’ve said on previous cases in this corridor, if it doesn’t comply with the Comprehensive Plan and 135th Street Community Plan, I don’t feel comfortable approving it. Leawood doesn’t have much land left, and since so much was put into that plan, at this point, we should follow it and wait for something that comes along that fits it.

Comm. Coleman: I was reviewing my packet over the weekend, and I saw that this was single-family houses on 135th Street and wondered if I was reading it right. This doesn’t even come close to the 135th Street Plan. I agree that Leawood needs housing like this. We’ve seen villas coming through time and time again. Obviously, there is a need for it; however, like Commissioner Block, we have certain regulations and rules that we need to follow as a Planning Commission. One is the LDO; one is the Comprehensive Plan, which includes the 135th Street Community Plan. To my knowledge, we have not started a new committee to look at any of these things. As the chairman said, we have an annual review of the Comprehensive Plan, which includes the 135th Street Community Plan. We don’t get input written or in person. That is the opportunity. If this plan is not viable, we can take another look, but it is what we have to go on right now. As far as I’m concerned, this development has merit, but it is spot zoning. With that, I cannot support it in its current form.

Comm. Peterson: I really do appreciate the study brought in by Mr. Regnier. It led me to question the whole 135th Street Plan. I believe it needs to be revisited and probably very quickly. I shared that the full 208 pages that I was able to find on the web have a lot of interesting statistical data. Mr. Petersen makes some interesting points. Where have we gone in 20 years? This land is still basically undeveloped. In the current environment, office space is beginning to crater. Retail space is also under a great deal of pressure. There is a significant need for this type of residential development. I believe that the 135th Street Community Plan needs to be addressed sooner rather than later; however, I
must absolutely agree with Mr. Petersen, and I greatly appreciate the comments from Commissioner McGurren. We need to look at this. I basically am fully in support of this plan and the deviations they request.

Comm. Stevens: I feel Commissioner Block and Coleman said the very same things I would say. Single-family development right on the edge of 135th Street and surrounded by commercial seems inappropriate. I can’t get past the nonconformance items of the LDO, Comprehensive Plan, and 135th Street Community Plan. Then there are compliance issues with the Public Works memo. For those reasons, I am not supportive.

Comm. McGurren: First, I’d like to thank Mr. Simpson and Mr. Petersen for bringing a viable option that could finally enable this land to be put to productive use. It is obviously a blue-sky scenario that we would look at a plan that brought residential to the area, where the other forms of development have never panned out if this met the LDO and the Comprehensive Plan, or the 135th Street Plan had been adjusted or updated. I get the logic that says developers ought to ask for changes to the plan, but on the other hand, I would hope that the city would be proactive enough after 20-some years to realize that certain things aren’t going to happen and make necessary adjustments. We all sat at a meeting a year ago where we sent people out to Colorado and Lee’s Summit and found developments that were a bit different than this one. They plotted them on existing 135th Street land and showed us what had been built in Lee’s Summit that was more in the $400,000-$500,000 range that would allow people to downsize and stay in Leawood would fit on these parcels of land. There’s a part of me that wonders why we keep sitting here having the same conversation, and yet we say we have a goal that would enable us to utilize this land. I think it’s a little odd to forget that Hallbrook homes that are of higher value than these sit on State Line and 119th Street with the appropriate landscaping screening, and everybody thinks they are fabulous. I don’t see any reason why a development like this couldn’t be built on 135th and 137th Street. We basically move into a logic that says that we’re not going to have everything in mixed-use in every spot on 135th. We’re going to have mixed-use along 135th, and we’re going to have developments that are viable and finally fill in this land over some period of time. I would love to be able to say I would vote for that type of plan. Yet, it needs to meet the LDO, and it needs to get the appropriate deviations. I asked staff about whether they would lean toward an approval if the project was not deviating from the LDO but did deviate from the existing Comprehensive Plan. The same question could be asked of the applicant. Would you sign up for the staff stipulations? Obviously not, but it seems that there should be middle ground that would enable this land to finally be put to appropriate public use. I think we’re going to come to the conclusion at some point that we should have been reacting much sooner to the market conditions that exist. I, too, would be unable to support the plan as it exists without the changes that staff recommends, but I also would have hoped that before now or subsequent to now, there is a lot more conversation about how we get to the point that the plan becomes one that is approvable.

Comm. Belzer: I agree with Commissioners Peterson and McGurren that it is time for us to start looking at things differently and what the market is going to support. This may not be the exact intended mixed-use that is part of the 135th Street Plan, but I really feel
that, based on the amenities and the things that are open to the public and the likeness to Meadowbrook, this proposal has a very strong sense of place that would bring community together. I feel, like Commissioner McGurren, that there needs to be middle ground. I’m not sure how that gets solved here tonight, whether it’s Mr. Petersen and Mr. Simpson deciding they can work within the LDO or how that all works out. I so want to support this plan, and I’m not sure I can the way that it is right now. I really feel very strongly that we have to look at our 135th Street Community Plan sooner rather than later.

Chairman Elkins: Thank you. We’re coming up on the 9:00 hour. Is there a motion to extend the meeting?

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

Chairman Elkins: Any other comments relative to this case? I’ll make some comments. Some were indicated by some of my questions. I will confess to a certain amount of frustration. Mr. Petersen expressed frustration by a number of his developer clients as he has appeared. Both statutorily and as a matter of common sense, land use planning should be done on a comprehensive basis. That’s what a case long ago taught us. That’s become a hallmark of planning around the United States. I understand that the developers have been frustrated with the city and with this commission, but we have a statutory process that is mandated by the State of Kansas for us to revisit our Comprehensive Plan on an annual basis. I’ve served on this commission for more than a decade, and I cannot recall an instance when a developer chose to participate or address their concerns about our Comprehensive Plan. We had the workshops with respect to the 135th Street Plan, and a few developers attended that, but this is an annual thing, and it’s frustrating for us to be asked, on a piecemeal basis, to come in and make decisions. We’re not bound by statute. The Comprehensive Plan is not something we’re mandated to follow, but it is something we should pay heed to. Mr. Petersen and his clients have made very persuasive arguments about the viability of the city’s commitment to mixed-use in the traditional manner. Certainly, this commission has indicated a desire to revisit that. We can’t revisit in a vacuum. We have to have participation by the public and by the development community. For whatever reason, the development community has opted not to do that. The potential outcome here is exactly what Commissioner McGurren spoke to. We have the potential, if we were to approve this plan, to have one housing development along 135th Street that backs onto that. With the other developments Mr. Petersen spoke to, the rest would be either commercial or office space. Again, trying to abide by the spirit of the mixed-use idea in other context, we have approved the use of that space directly contiguous with 135th Street for commercial and office uses as a barrier toward residential uses deeper in, especially to the south. This is exactly why it is difficult for us to move forward on a case-by-case basis. Having said that, I commend Mr. Ellis and his partner on this plan. This is more again to redevelopment than it is to what has been the history of development in Leawood for the last 75 years. It’s not true redevelopment because we’re not tearing something down, but this is space that the city and a parade of developers have invested in. It hasn’t failed because of time; it has failed for lots of other
reasons. This is essentially along the lines of redevelopment. That’s why, in many cases, despite my frustration, were I to vote, I might well support this. Having said that, I think we need to approach this in two respects because of this unusual power that we suddenly find ourselves having with respect to recommending an exception to the rules. I have my concerns about whether it applies to the streets, but I will say that I think the idea of tearing out the streets, utilities, and stormwater infrastructure would certainly qualify for the standard we have with respect to the exception in Section 16-8-6.1 of the LDO. I would suggest that we have an obligation to take up and consider the applicant’s request for a rule exception with respect to those two stipulations. What I would ask the commission is to suspend your thoughts about the project overall and consider whether, in the event that we did decide to move forward with this plan, we would be willing to support the application of the exception. I’d ask for conversation from the commission with respect to that specific request.

Comm. Block: Only as it applies to the roads?

Chairman Elkins: We can take them up one at a time. The other had to do with the depth of Lot 62.

Comm. Block: As it relates to the roads, I think the roads can stay, and a deviation is fine. As far as the lot is concerned, as I mentioned, I don’t think this plan fits this space, so I wouldn’t want to give a deviation on that.

Chairman Elkins: It’s a fine point, but it’s a rule exception as opposed to a deviation.

Comm. McGurren: Mr. Petersen made the point that an exception similar to that requested on Lot 62 has been done in other places. I believe he referenced Hallbrook, where the 100 was reduced to 80. Was that something the city can confirm?

Chairman Elkins: Just to clarify, the frontage from 100 to 80 feet is in the nature of a deviation. The lot depth, which is the second part, is the matter that requires a rule exception. Does staff have a recollection of a rule exception such as this?

Mr. Klein: Honestly, I can’t remember the instance. I know that Hills of Leawood used the deviation for the 80’ lot width, but I don’t recall one with the rule exception, though.

Chairman Elkins: Mr. Petersen, I know we don’t typically let you speak once we get to discussion, but are you aware of an instance in which the rule exception has been applied to the lot depth?

Mr. Petersen: I can’t; it just seemed like such a simple issue. I didn’t do the research on that. The deviation we asked for on the 80 feet, Mark mentioned one. There are four other subdivisions that they have supported the 80’ build line. That is commonly supported by staff.

Chairman Elkins: Thank you. Any other comments about the rule exception?
Comm. McGurren: I would support both of those rule exceptions.

Mr. Scovill: I just wanted to bring to your consideration that, when these roads were constructed, they weren’t required to be constructed to city standards. At that time, the city standards did include utilizing things like the Kansas City Metropolitan Materials Board for Concrete. These curbs are not to standard. They are built with substandard materials like poor-quality limestone. We’ve gone through the city and replaced a lot of the public curbs that were built with that years ago. Another item I might point out is Public Works hasn’t seen any information regarding the condition of the road. I would just mention that we would like to evaluate the condition of the road. We just don’t want to get into a situation where these roads are passed on to the residents of 63 properties and then later, they can’t afford to maintain them. If the road isn’t built to the thickness required by standards, which we don’t know if it is or isn’t, it could be a substantial hardship on those residents.

Chairman Elkins: Thank you. Mr. Petersen, would you like to respond?

Mr. Petersen: They were built to standard. We had the roads inspected by O’Donnell, one of the leading street construction groups in the city. Once they do the mill and overlay, they’ll operate at the same level of serviceability as a new public street. By the way, these are private streets. There is a provision in the code that speaks to utilization of private drives and private streets in a villa-type project with all protection built in for the city, including that anybody can’t get an occupancy permit until they acknowledge that they are on a private street and it’s their responsibility to maintain it. We have reserve funding in place. We’re required, as part of this application, to submit a CCNR, in which is the ability fund the streets. This is a red herring.

Chairman Elkins: Thank you.

Ms. Knight: I just wanted to make the commission aware that it is in your Revised Staff Report on Page 6 that it isn’t merely something that sounds like a good idea; the commission has to find an unusual hardship, the tract to be subdivided is an unusual size or shape or is surrounded by unusual conditions that strict application would result in a substantial hardship. That section was written in such a way that the intent may not cover this. Mr. Petersen was saying the hardship may be to the city at one point, but if you read on, it says that there must be a finding of unusual hardship. You would have to make that finding on the record, and it does require a vote of ¾ of the commission membership, which would require seven.

Chairman Elkins: Thank you. Additional discussion around this idea of rule exception or deviation?

Comm. Block: I find that pretty compelling with what Mr. Scovill said. As a resident of a neighborhood with a small homeowners’ association, I wouldn’t want to buy an $800,000 house and then think the streets would be fine, only to find out that 2-3 years
later, all the curbs would need to be pulled out. How were the streets put in, in the first place if they didn’t meet city standards?

Mr. Scovill: At that time, we did not require private streets or private developments to be built to city standards. That requirement came around 2010 as I understand.

Comm. Block: I guess getting more information would be important. We don’t have a report or anything. The contractor has told the applicant that they just need a mill and overlay, but I do think there’s something to be said about the city inspecting before we take action.


Chairman Elkins: I think what I would like to do is take these up one at a time and get a decision on them. Is someone willing to make a motion with respect to Stipulation No. 8? The motion should include a reference to a substantial hardship that justifies application of the 16-8-6.1 rule exception. Hearing none, the idea dies for lack of a motion. I take up the second issue, which relates to the deviation relating to the frontage on cul de sacs. It is a reference to Stipulation No. 11. Would anyone care to make a motion recommending approval of a deviation with respect to the frontage?

Comm. McGurren: Is this in reference to the 100 feet to 80 feet on all lots that would be reduced?

Chairman Elkins: Yes, it approves a deviation to allow Lots 12, 14-17, 21, 54-56, 61, and 62 to provide a minimum frontage of 80 feet at the building line.

Comm. McGurren: If we had a validation from the department that it has occurred in four other locations over time, I would gladly provide my recommendation that we provide that deviation, but I’m a little reluctant not knowing if that is the accurate truth.

Mr. Klein: The deviation has been used in other developments in which staff was supportive. In this case, staff is generally not supportive of the application overall.

A motion to recommend approval of the deviation to allow Lots 12, 14-17, 21, 54-56, 61, and 62 to provide a minimum frontage of 80 feet at the building line – was made by McGurren; seconded by Peterson.

Comm. Block: I’m going to vote against it. I don’t think we should be setting policy. I’m going to vote to deny the application, so I don’t think setting a standard for changing the rule exception is appropriate. I think we should take it up and change the ordinance if that needs to be done aside from this so we can understand those other scenarios and not take it on blind faith.

Chairman Elkins: The pending motion is on a deviation, which we do regularly. It’s not unique at all.
Comm. Block: But if I don’t support the underlying application, I don’t know why I would approve that.

Chairman Elkins: To inform the City Council. Part of our function is to advise on how we feel on these things. Any other comments?

Motion did not carry with a roll call vote of 4-3: For: McGurren, Hunter, Belzer, Peterson. Opposed: Coleman, Block, Stevens.

Chairman Elkins: That takes us to the third item, which is the rule exception. Commissioner Block’s points are well taken there. With respect to the approval of a rule exception under 16-8-6.1. In order to recommend this to the Governing Body for approval, we must make a finding that there is substantial and unusual hardship in enforcing the lot depth requirements of the LDO. I will admit that I’m not sure I’ve heard what the hardship is with respect to that particular provision. Is there anyone who would like to make a motion and propose unusual hardship? I don’t want to put words in the applicant’s mouth, but my sense is that the applicant would tell us that the hanging piece of property would be the hardship. Is there such a motion? If not, that idea dies for lack of a motion. That will take us to consideration of Case 70-20.

A motion to recommend denial of CASE 70-20 – VILLA DE FONTANA – Request for approval of a Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 ((Planned Custer Attached Residential District)(6,000 Sq. Ft. Per Dwelling)) to RP-2 ((Planned Cluster Detached Residential District )(6,000 Sq. Ft. Per Dwelling)), Preliminary Plan, and Preliminary Plat, located south of 135th Street and east of Roe Avenue – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

Chairman Elkins: I believe this next case is moot for lack of approval of a Preliminary Plat and Preliminary Plan.

CASE 81-20 – VILLA DE FONTANA – Request for approval of a Final Plan and Final Plat, located south of 135th Street and east of Roe Avenue.

Mr. Petersen: I’d like to try to short-circuit this. First Ascent is under a time constraint, and I’d really like to try to get that considered by the Planning Commission tonight. We would ask that you take the action to deny the Final Plan and move it to City Council. We’ll have them look at this. There’s one shot, and if it doesn’t work on October 12, this property will go into bankruptcy. We need to get the Final Plan up there to keep the procedure going. We have bonds in default. We have all sorts of intricate financial measures. We need a final decision on the 12th. With that, you’re going to deny. We’d ask for a vote to deny and send it on.

Chairman Elkins: Do I have authority to do that?
Ms. Knight: You can consider and deny it. The October 12th Governing Body meeting is a special meeting. I don’t know that it’s set specifically for this case; it was just due to the backlog.

Chairman Elkins: Mr. Petersen, would you ask that the record that was made on the Preliminary Plan be included as the record for Case 81-20?

Mr. Petersen: I so request; thank you.

Chairman Elkins: The chair notes that the record made for Case 70-20 shall become the record for Case 81-20 as well.

A motion to recommend denial of CASE 81-20 – VILLA DE FONTANA – Request for approval of a Final Plan and Final Plat, located south of 135th Street and east of Roe Avenue – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

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

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

Staff Presentation:
City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: You may remember from the August 11 work session that we talked about LDO amendments. This is one we discussed, which is the increase in height to the SD-CR building heights. Previously, in the work session, we showed examples, including an additional 1 foot and 2 feet per 1 foot of height for a building. After the comments we received from the Planning Commission, we thought maybe the setback was too small, so we increased that from 1 foot to 10 feet on each side per 1 foot in height. The LDO amendment we’re bringing forward would allow a building to up to a height of 65 feet, but it would increase the setback to 150 feet. We are available for questions.

Comm. Coleman: What is the reason for increasing the height of the buildings from 50 feet to 65 feet?

Mr. Sanchez: We have heard from developers, such as in the next case, that some want taller buildings in existing SD-CR developments. Staff thought it would be okay if this taller building is not near a close-knit neighborhood, or if it is a true SD-CR retail area
RESOLUTION NO. 5405

RESOLUTION PROVIDING FOR A SPECIAL CALL FOR A SPECIAL GOVERNING BODY MEETING FOR OCTOBER 12, 2020, FOR THE PURPOSE OF CONSIDERING PLANNING CASE NOS. 70-20 AND 81-20, PERTAINING TO THE VILLA DE FONTANA DEVELOPMENT

WHEREAS, Section 1-203 of the Leawood City Code provides that special sessions may be called by the Mayor in accordance with Kansas Statute, by specifying the object and purpose of the meeting, which request shall be read at the meeting and entered at length on the journal;

WHEREAS, K.S.A. 13-510 allows the Mayor to call a special meeting, the object of which is to be submitted to the council in writing;

WHEREAS, Case No. 70-20 was scheduled to be heard by the Planning Commission on August 25, 2020, but was continued to the September 9, 2020, Planning Commission meeting and then continued to September 22, 2020 meeting due to the length of the Planning Commission agendas;

WHEREAS, Case No. 81-20 pertaining to the Villa De Fontana Final Plan and Plat is also scheduled to be heard on September 22, 2020;

WHEREAS, the fourteen day protest period must lapse before the Planning Commission recommendation on the rezoning and preliminary plan can be heard by the Governing Body;

WHEREAS, the Applicant for Case Nos. 70-20 and 81-20 has requested an expedited hearing by the Governing Body; and

WHEREAS, the Mayor desires to call a special meeting to consider items of regular business in order to limit the delay in consideration of these cases as much as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body of the City of Leawood, Kansas hereby calls a special meeting to be held at 6:00 p.m. on October 12, 2020, at Leawood City Hall, 4800 Town Center Drive, for the express purpose of considering the Planning Commission recommendations on Planning Case Nos. 70-20 and 81-20, and no other business shall be transacted.

SECTION TWO: That this Resolution shall take effect from and after its passage and approval by the Mayor.
PASSED by the City Council this 21st day of September, 2020.

APPROVED by the Mayor this 21st day of September, 2020.

[SEAL]

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
RESOLUTION AMENDING RESOLUTION 5405 AND PROVIDING FOR A SPECIAL CALL FOR A SPECIAL GOVERNING BODY MEETING FOR OCTOBER 12, 2020, FOR THE PURPOSE OF CONSIDERING PLANNING CASE NOS. 70-20 AND 81-20, PERTAINING TO THE VILLA DE FONTANA DEVELOPMENT AND REQUEST FOR PUBLIC FINANCING

WHEREAS, Section 1-203 of the Leawood City Code provides that special sessions may be called by the Mayor in accordance with Kansas Statute, by specifying the object and purpose of the meeting, which request shall be read at the meeting and entered at length on the journal;

WHEREAS, K.S.A. 13-510 allows the Mayor to call a special meeting, the object of which is to be submitted to the council in writing;

WHEREAS, Case No. 70-20 was scheduled to be heard by the Planning Commission on August 25, 2020, but was continued to the September 9, 2020, Planning Commission meeting and then continued to September 22, 2020 meeting due to the length of the Planning Commission agendas;

WHEREAS, Case No. 81-20 pertaining to the Villa De Fontana Final Plan and Plat is also scheduled to be heard on September 22, 2020;

WHEREAS, the fourteen day protest period must lapse before the Planning Commission recommendation on the rezoning and preliminary plan can be heard by the Governing Body;

WHEREAS, the Applicant for Case Nos. 70-20 and 81-20 has requested an expedited hearing by the Governing Body along with making a request for public financing; and

WHEREAS, the Mayor desires to call a special meeting to consider items of regular business in order to limit the delay in consideration of these cases as much as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body of the City of Leawood, Kansas hereby calls a special meeting to be held at 6:00 p.m. on October 12, 2020, at Leawood City Hall, 4800 Town Center Drive, for the express purpose of considering the Planning Commission recommendations on Planning Case Nos. 70-20 and 81-20, and the Applicant’s requests for public financing, and no other business shall be transacted.

SECTION TWO: Resolution 5405 is hereby amended.

SECTION THREE: this Resolution shall take effect from and after its passage and approval by the Mayor.
PASSED by the City Council this 5th day of October, 2020.

APPROVED by the Mayor this 5th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, CMC, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
RESOLUTION NO. __________________

RESOLUTION APPROVING THE PLANNING COMMISSION’S RECOMMENDATION OF DENIAL OF A FINAL PLAN AND FINAL PLAT FOR VILLA DE FONTANA, LOCATED SOUTH OF 135TH STREET AND EAST OF ROE AVENUE. (PC CASE 81-20)

WHEREAS, the applicant submitted a request for approval of a Final Plan and Final Plat for Villa De Fontana;

WHEREAS, such request for approval was presented to the Planning Commission on September 22, 2020; and

WHEREAS, the Planning Commission reviewed the application and recommended denial.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body hereby approves the Planning Commission’s recommendation of denial for said Final Plat and Final Plan for property located south of 135th Street and East of Roe Avenue.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 12th day of October, 2020.

APPROVED by the Mayor this 12th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Marcia L. Knight, City Attorney
Memo

To: Mayor Dunn and City Council Members

From: Patricia Bennett

Date: October 9, 2020

Re: Fontana Development Agreement

Mayor Dunn and Members of the Council,

Staff is working with the Developer's counsel on the terms of the Development Agreement. There are some areas where we have differences and there are some items which need to be clarified with the County Treasurer's office. We will send you this packet item as soon as possible.
RESOLUTION NO. ____________

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT PERTAINING TO CREATION OF A COMMUNITY IMPROVEMENT DISTRICT FOR THE VILLA DE FONTANA DEVELOPMENT

WHEREAS, the City has reviewed a request by the Developer of the Villa De Fontana Development for the creation of a Community Improvement District; and

WHEREAS, the Governing Body has reviewed, discussed and decided upon a number of terms for that Development Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby approves and authorizes the Mayor to execute a Development Agreement containing the terms accepted by the Governing Body as set forth in the official record of the meeting.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 12th day of October, 2020.

APPROVED by the Mayor this 12th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, CMC, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney