

MEMORANDUM

TO: Prairie Village Planning Commission
FROM: Ron Williamson, Lochner, Planning Consultant
SUBJECT: PC 2013-05 Mission Chateau Supplemental Drawings
DATE: June 4, 2013

Project # 000005977

As you recall, Staff had concerns about the size, scale, bulk and mass of the proposed buildings in relationship to the surrounding development. Staff requested the applicant submit additional perspective drawings that would more accurately depict how this proposed development would fit into the existing developed area. The applicant has prepared perspective drawings and copies of those drawings are attached. Staff is evaluating them, but the initial reaction is that concerns still exist regarding the size, scale, bulk and mass of the buildings in relationship to existing buildings in the surrounding area.

Attachments: Perspective Drawings



MISSION ROAD -LOOKING SOUTHEAST



MISSION ROAD -LOOKING NORTHEAST



AERIAL -LOOKING WEST



AERIAL -LOOKING NORTH



AERIAL -LOOKING EAST



AERIAL -LOOKING SOUTH

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, Lochner, Planning Consultant
DATE: May 7, 2013 Planning Commission Meeting

Project # 000005977

Application: PC 2013-05

Request: Special Use Permit for Adult Senior Dwellings

Property Address: 8500 Mission Road

Applicant: The Tutera Group

Current Zoning and Land Use: R-1A Single-Family District – Vacant Middle School

Surrounding Zoning and Land Use: **North:** R-3 Garden Apartment District - Apartments
West: R-3 Garden Apartment District – Apartments
South: R-1A Single-Family Residential District – Single Family Dwellings
East: R-1A Single-Family Residential District – Single Family Dwellings
(Leawood) R-1 Single-Family Residential – Single Family Dwellings

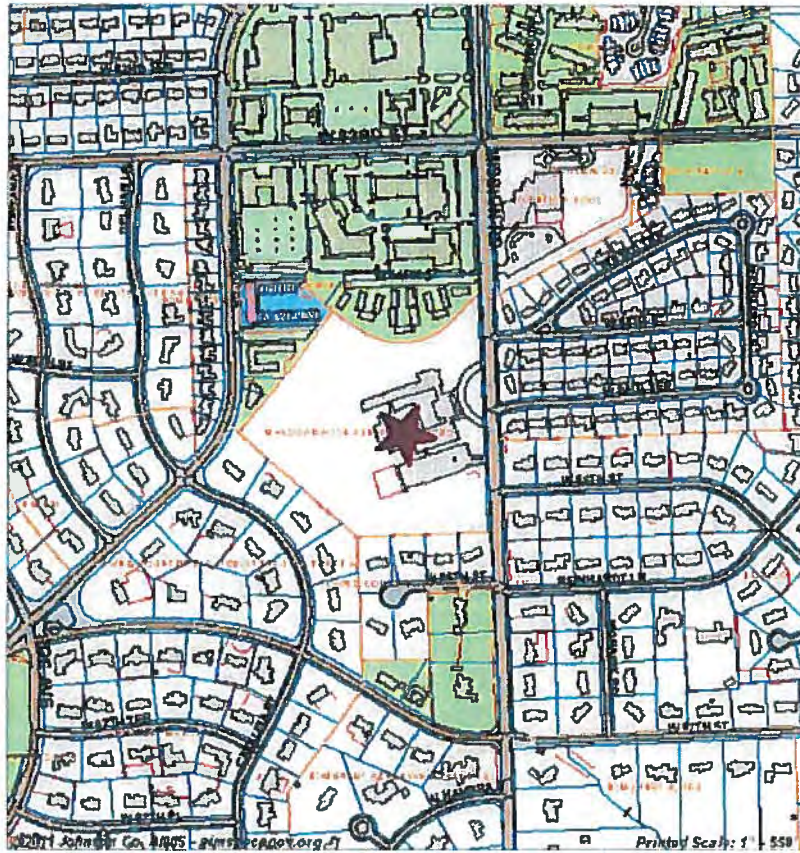
Legal Description: Unplatted – Metes and Bounds

Property Area: 18.43 Acres

Related Case Files: PC 2013-05 Site Plan Approval for Adult Senior Dwellings
PC 2004 Monument Sign
PC 1995-104 Site Plan Approval for Expansion of Mission Valley Middle School

Attachments: Application, Photos, Plans

General Location Map



Aerial Map



It should be noted that this is a preliminary staff report with comments based on the initial documents submitted with the application. This staff report will be revised and finalized for the June 2, 2013 Planning Commission meeting.

COMMENTS:

The Tutera Group has purchased the former Mission Valley Middle School site and is proposing to construct and operate a mixed use senior residential community, named Mission Chateau. Mission Chateau will provide five residential options for seniors as follows: 160 independent living apartments; 60 assisted living apartments; 11 independent living villas; 36 memory care units; and 84 skilled nursing and rehabilitation units. This is a total of 351 units which could, at maximum occupancy, accommodate 450 people. The site is 18.4 acres (801,504 sq. ft.) and the proposed buildings cover 22.9% of the site. The combined footprint of all the structures is 134,007 sq. ft. or 4.22 acres. The total square footage of all the buildings is 387,244 sq. ft. The parking areas, drives and sidewalks total 173,038 sq. ft. The amount of the site devoted to green space is 444,459 sq. ft. or 10.2 acres. The majority of the development is within two large buildings. The villas are in six residential style buildings. The project is proposed to be developed in three phases.

Phase One will be the Skilled Nursing/Memory Care building which is located on the northwest end of the property. The footprint of the building is 58,268 sq. ft. The south wing is one-story and the north wing is two-stories for a total building area of 91,189 sq. ft. The peak height of the one-story portion is 26' 3" and the peak height of the two-story portion is 34' 6". The first floor elevation is 951.5 feet. The northwest corner of the site is low and the site will be filled approximately 9.5 feet to meet the first floor elevation of 951.5 feet. The first floor elevations of the properties adjacent to the northwest property line are: the duplex 955.50 ft.; the apartments 952.0 ft. and the condominiums 948.0 ft. Therefore, the first floor elevation of the proposed building appears to be reasonable compared to the existing buildings. The building sets back 131.5 ft. from the southwest property line. The closest residence is 48 ft. from the property line and the first floor elevation is 960.5 ft. which means it is 9 feet above the first floor of the Memory Care wing. With this elevation change and distance between the buildings, the impact of the facade of the building can be alleviated by landscape.

Phase Two will be the Independent Living/Assisted Living building which is the largest building in the proposed project. It is three stories tall; has a ground floor footprint of 100,824 sq. ft. and a total of 271,140 sq. ft. for the building. The second floor is 100,824 sq. ft. and the third floor is 69,942 sq. ft. The height of the two-story peak is 32' 4" and the height of the three-story peak is 40' 10".

Phase Three will be the six Villa buildings that back up to the south and southwest property lines and are conventional duplex or single-family attached residential design and construction. Each unit including the two-car garage is 2,265 sq. ft. and the peak height is 21' 4". These buildings set a minimum of 35 feet from the south and southwest property lines.

Mission Chateau will provide 351 units on 18.4 acres for a density of 19.1 units per acre. In comparison, Brighton Gardens has 164 units on 4.42 acres for a density of 37.1 units

per acre; Claridge Court has 166 units on 4.74 acres for a density of 35.0 units per acre and Benton House which was approved for 71 units on 6.79 acres for a density of 10.46 units per acre (only 59 units were built initially).

The applicant submitted phases for developing the project but did not include a schedule or timeline indicating when each phase would be constructed.

The applicant held a neighborhood meeting on April 25, 2013 and approximately 30 people were in attendance. The concerns expressed were the height of the buildings, the size, traffic, flooding, screen space, compatibility with the neighborhood, density, public safety and crime.

There has been a court decision that Special Use Permits are in reality a change in use and should be considered in the same manner as a zoning change is considered using the "Golden Factors." The Special Use Permit ordinance has factors for consideration similar but not identical to the "Golden Factors" and therefore, both sets of factors will be presented.

The Planning Commission shall make findings of fact on both sets of factors to support its recommendation to approve, conditionally approve, or disapprove this Special Use Permit. No one factor is controlling and not all factors are equally significant, but the Commission should identify the evidence and factors if considered in making its recommendation. In making its decision, consideration should be given to any of the following factors that are relevant to the request:

FACTORS AS SET OUT IN THE ORDINANCE FOR CONSIDERATION SPECIFIC TO SPECIAL USE PERMITS:

- 1. The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations and use limitations.**

For senior adult housing the ordinance requires 700 sq. ft. of land area per occupant for apartments or congregate quarters and 500 sq. ft. per bed for nursing or continuous care. The Skilled Nursing/Memory Care building has 136 beds which would require 68,000 square feet of land area. The Independent Living/Assisted Living building has 220 units with the potential occupancy of 292 people and at 700 sq. ft. per occupant the land area required is 204,400 sq. ft. The Villas have a potential of 22 occupants and at 700 sq. ft. per occupant the land area required is 15,400 sq. ft. The total land area required for the proposed use is 68,000 sq. ft. + 204,400 sq. ft. + 15,400 sq. ft. for a total of 287,800 sq. ft. The site is 801,504 sq. ft. and therefore the proposed development is well within the intensity of use requirements of the zoning ordinance.

The property is zoned R-1A which requires a 30' front yard setback. The front yard is adjacent to Mission Road and the Independent Listing/Assisted Living building sets back 111' 2" at its closest point which exceeds the minimum requirements of the zoning ordinance. The side yard requirement is 5' or 14' between buildings. The north and south property lines are side yards and the Villas set back 35' from the south property line and the Skilled Nursing/Memory Care building sets back approximately 180 feet from the north property line. The rear yard setback requirement is 25 feet and the

northwest and southwest property lines are the rear yards. The Villas set back a minimum of 35' and the Skilled Nursing/Memory Care building sets back 131.5' from the southwest property line. The Skilled Nursing/Memory Care building sets back 91.5' at its closest point to the northwest property line. The proposed project exceeds all the setback requirements of the zoning ordinance.

The maximum permitted height is 35 feet, however, in the R-1A district an additional 10 feet of height is permitted if the proposed buildings set back from the side property line a minimum of 35 feet. The project does meet the 35 foot setback requirement and therefore is permitted to build to a 45 foot height. The maximum height of the buildings is 40' 10" to the roof peak which is well within the height maximum. By ordinance, building height is measured at the midpoint between the eave and the highest ridge and therefore, the maximum building height by ordinance is approximately 35 feet.

The lot coverage in the R-1A district is 30%. The first floor footprint of the buildings is 184,007 sq. ft., but it does not appear that the carports were included. The 51 carports add 8,262 sq. ft. for a total of 192,269 sq. ft. or 23.9%. Therefore, the proposed project is within the maximum requirement of the zoning ordinance.

Off-street parking is required to setback 15 feet from a street and eight feet from all other property lines. Parking sets back a minimum of 35 feet from all property lines and meets the requirements of the ordinance.

2. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.

The Traffic Impact Study indicates that the AM peak traffic will generate 169 less trips than the middle school, but the PM trips would increase by 22 trips. The traffic impact would be significantly better in the AM peak and slightly worse in the PM peak. The two access drives have been designed to align with 84th Terrace and 85th Street. The convenience to the public should be minimally impacted and the impact should be less than the school.

A Stormwater Management Study has been prepared for the proposed project. The project will increase the amount of impervious surface from what exists, but peak flows will not be increased. A detention basin will be constructed in the northeast corner of the site that will release stormwater at a designed rate. The Stormwater Management Study has been reviewed by the City and the proposed improvements will handle the stormwater runoff.

The applicant has proposed a 35 foot wide landscape buffer along Mission Road and along the south and southwest property lines. The applicant also intends to retain the existing landscaping along the adjacent property lines.

The Mission Valley Middle School was originally built in 1958. For over 50 years this site was a public use and residents of the area were able to use it for recreational purposes. This opportunity will be diminished when it redevelops.

It does not appear that the proposed project will adversely affect the welfare of the public. It will, however, provide a senior housing community for area residents that are

not currently being provided for in Prairie Village. The population is aging in northeast Johnson County and developments such as this provide accommodations for senior citizens to allow them to live near their former neighborhoods. It is anticipated that by providing senior housing, single family dwellings will become available for occupancy by young families. This will help rebuild the community and make a more sustainable area.

3. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

The property to the north and northwest is high density development. Corinth Garden Apartments are adjacent to the north and there are 52 units on 3.27 acres for a density of 15.9 units per acre. To the northwest is Somerset Inn Apartments and there are 31 units on 1.29 acres for a density of 24.0 units per acres. Also to the northwest is the Chateau Condominium and there are 39 units on 1.7 acres for a density of 22.9 units per acre. The proposed project has 351 units on 18.4 acres for a density of 19.1 units per acre. The density of the proposed project reasonably compared to the developed projects to the north and northwest. If this project built out at 24 units per acre, it would have 441 units or 90 more than proposed.

While there is high density to the north and northwest the development to the south and southwest is low density single-family development. Only eight single family residences abut the south and southwest property lines. They range in size from 28,248 sq. ft. to 52,272 sq. ft. in size and the density is one unit per .86 acres. The 11 Villas along the south and southwest property line are approximately one unit per 7,200 sq. ft. or 0.17 acres.

Because the project sets back over 100 feet from Mission Road with a 35 foot wide landscape buffer and Mission Road is a five lane wide major street, the project will have little affect on the property value of the residences on the east side of Mission Road. The higher density apartments and condominiums to the north and northwest were built in the early to mid-1960s and are nearly 50 years old. This new project built with quality design and materials should enhance the value of these properties.

The residences adjacent to the south and southwest property lines would be the most impacted. The two unit Villas that back into their properties are on what would be 14,400 sq. ft. lots. The minimum lot area for conventional single-family dwellings in the R-1A district is 10,000 sq. ft. per dwelling.

Most of the senior living projects in Johnson County are located adjacent to or near single-family developments. The key to protecting the values of property in the neighborhood is to insure that the quality of design and construction is compatible with the neighborhood and that the completed project is visually attractive. Landscaping is also a major factor and it is important that the project be landscaped to the same level as adjacent residential properties.

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district

regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to:

a) the location, size and nature of the height of the building, structures, walls and fences on the site; and

The proposed Mission Chateau has access from Mission Road which is a major street. The traffic impact will be less for this project than it was for the school.

The size of the project is 387,244 sq. ft. which will make it one of the largest, if not the largest, development in Prairie Village. The height and mass of the buildings may be an issue. It also will be similar to Claridge Court and Brighton Gardens in height. According to the Johnson County appraisers office Claridge Court has 241,073 sq. ft. This is also a large building, but it most likely includes the parking garage in the total area. Shawnee Mission East High School has 374,175 sq. ft. on 36.93 acres.

The taller buildings will be on the northern portion of the property, closer to the two and three story apartment buildings on Somerset Drive. The buildings adjacent to the south and southwest property lines will be a size, design and height of conventional single-family construction.

The height of the proposed Independent Living/Assisted Living building will be approximately the same height as the school gymnasium.

From the drawings presented it is difficult to compare the size and height of the proposed project with the existing adjacent development. It is recommended that the applicant submit perspective drawings that show the proposed buildings, as well as, the existing adjacent structures so that a comparison can be made between the proposed and existing development.

b) the nature and extent of landscaping and screening on the site.

The applicant has submitted a detailed landscape plan that provides screening for the low density projects to the south. The applicant proposes to retain the existing plant materials along the south, southwest and northwest property lines in order to retain as many mature trees as possible. Staff will provide a detailed review of the landscape plan with the site and the Tree Board will also need to review and approve it. The applicant has offered to construct a fence or wall along the south and southwest property lines, but the adjacent residents have not accepted the offer.

In summary, property around the proposed project is already developed. The mass of this project will dominate the area but through greater setbacks and landscaping, the use will not dominate the immediate neighborhood so as to hinder development or use of property.

5. Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.

The parking requirements for this use are three spaces for four apartments; one space for every five beds in a nursing home and one space per employee during the maximum

shift. The Independent Living/Assisted Living facility has 220 beds which requires 165 spaces. The Skilled Nursing/Memory Care facility has 136 beds which requires 27 spaces. The 11 Villas would require 8 spaces. The applicant projects the maximum shift would have 85 employees. The total parking requirement would be 285 spaces. Staff is concerned that parking may be a problem at the afternoon shift change. This occurs at 3:00 pm when the first shift leaves and the new shift arrives for work about 2:45. The first shift has 85 staff of which 60 will be leaving at that time and 50 new employees will come in for the second shift. The total need for employee parking at that time will be 135 spaces. The applicant is providing 350 spaces on the site which is 65 spaces more than the ordinance requires and based on experience at other projects the applicant feels the number of spaces will be adequate. It should be noted, however, that 51 spaces will be in carports and will not be available for staff or visitor parking.

The parking along Mission Road will be screened from view with a combination of a wall, a berm, and landscaping. Parking along the south and southwest property lines will be screened with the Villas and landscaping. Parking along the northwest property line is screened by the existing vegetation along the property line. This will need to be verified in the field and additional plant materials may be needed to supplement the existing vegetation.

6. Adequate utility, drainage and other necessary utilities have been or will be provided.

The applicant has prepared a Stormwater Management Plan in accordance with the City's Stormwater Management Code. The amount of impervious area will increase from what currently exists on the site but peak flows will not increase. The stormwater will be managed by a variety of improvements. A storm drainage line currently exists along the south property line. The drainage area will be reduced from 5.4 acres to 0.80 acres and the line will be replaced. This area will drain to Mission Road and connect to an existing storm sewer line. Two raingardens will be built on the west side of the Independent Living/Assisted Living building. Inlets will be installed and excess runoff will be piped to a detention pond on the northeast corner of the site.

The Stormwater Management Plan has been reviewed by Public Works and its consultant and it is consistent with the APWA and City of Prairie Village requirements.

The site has access to other utilities which are adequate to accommodate the proposed use. The water line and location of fire hydrants will need to be coordinated with the Fire Department to be certain that adequate fire protection is in place.

7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.

Currently there are three access points to the site from Mission Road. The three will be reduced to two access points and they will be relocated to be in alignment with 84th Terrace and 85th Street on the east side of Mission Road. Both access points will have an entrance and two exit lanes. The 84th Terrace access will be the main entrance to the project.

The applicant has prepared a Traffic Impact Study and it indicates that after development an acceptable level of service will be available during the AM and PM peak hours. The number of trips will actually decrease by 169 trips during the AM peak and the PM peak will increase 22 trips compared to what existed with the school.

There is an existing pedestrian crossing signal on Mission Road just south of 84th Street. This signal was installed to serve school traffic. The applicant has agreed to retain or move the signal if requested. The City is still evaluating the need.

Public Works and the City's Traffic Engineer have reviewed the Traffic Impact Study and resolved any issues they discovered.

8. Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.

This particular use does not have any hazardous materials, processes, odors or intrusive noises that accompany it.

9. Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.

The materials used on the project are compatible with those used in the neighborhood which are wood, stone, brick and stucco. There will be a substantial amount of stone and traditional stucco used on the building facades. The elevation drawings are inconsistent in labeling the stucco material. The legend lists only traditional stucco, but some of the elevations note synthetic stucco. The roof will primarily be asphalt shingles with standing seam metal roof accents.

In general the overall design is compatible with the area; however, the details of the design will be addressed on the Site Plan Approval.

GOLDEN FACTORS FOR CONSIDERATION:

1. The character of the neighborhood;

The neighborhood is a mixture of uses. Immediately to the north are apartments with a density of 15.9 units per acre. North of that is the south portion of Corinth Square Center that includes offices, restaurants and other retail uses. To the northwest are condominiums at 22.9 units per acre; apartments at 24.0 units per acre and a duplex. To the south and southwest are high end single-family dwellings. On 84th Terrace and to the north the lots are 12,000 to 15,000 sq. ft. On 85th Street and to the south the lots are 30,000 sq. ft. lots.

In summary the properties adjacent to the proposed project range from high density apartments to high-end large lot single-family dwellings. The Mission Valley School site has served as a buffer between the high density and low density residential uses.

2. The zoning and uses of property nearby;

North: R-3 Garden Apartment District - Apartments
West: R-3 Garden Apartment District - Apartments
South: R-1A Single-Family Residential District - Single Family Dwellings
East: R-1A Single-Family Residential District - Single Family Dwellings
(Leawood) R-1 Single-Family Residential - Single Family Dwellings

3. The suitability of the property for the uses to which it has been restricted under its existing zoning;

The property is zoned R-1A which permits single-family dwellings, public parks, churches, public buildings, schools and conditional and special use permits. Most of the uses listed in the Conditional Use Chapter are uses that are accessory or supplemental to a primary use. The Special Use Permit list contains principal uses such as: country clubs, hospitals, nursing homes, assembly halls, senior housing, private schools, etc. Between the list of specific uses, the Conditional Use Permits, and the Special Use Permits, there are an adequate number of uses that could be economically viable for this property. Both Brighton Gardens and Benton House were approved as Special Use Permits in R-1A Residential Districts.

The Special Use Permit for a private school is an obvious good use of an abandoned school building; however, that is a very limited market.

4. The extent that a change will detrimentally affect neighboring property;

Traffic and storm drainage are issues with which neighbors have expressed concerns, however, the impact of those has been addressed by the technical reports that were prepared by the applicant and reviewed by the City. The mass and height of the buildings and the loss of open space have also been concerns of the neighbors.

The primary detriment will be to the single-family dwellings on the south and southwest and the multi-family on the northwest. The existing school is approximately 365 feet from the south property, 370 feet from the southwest property line and 340 feet from the northwest property line. They will lose the open green space they have enjoyed for many years. Also, the height and mass of the building are concerns. The existing school building is approximately 100,000 sq. ft. The Skilled Nursing/Memory Care building is 91,000 sq. ft. and the Independent Living/Assisted Living building is 271,000 sq. ft.; almost three times the size of the existing school. The height of the proposed Independent Living/Assisted Living building is about the same as the school gymnasium, but it is a much larger building and has a significantly greater impact because of its mass.

The drawings submitted make it difficult to visualize the size of the proposed development compared to the adjacent development. Perspective drawings need to be submitted in order to better assess the impact on neighboring property.

5. The length of time of any vacancy of the property;

The Mission Valley Middle School closed in the spring of 2011 so the property has been vacant for approximately two years.

6. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;

This is one of the largest tracts of land in Prairie Village available for redevelopment. There is no gain to the public health, safety and welfare by not allowing the property to be redeveloped. It is located in the middle of a residentially developed area and its depreciation in value would have a depreciating effect on surrounding property. The hardship created for other individual landowners is the loss of open space and use of the area for recreational purposes. This was a benefit as a result of public ownership which changed when the property was sold for private development.

7. City staff recommendations;

The plan has evolved over several months that included community meetings, meetings with City Staff and many modifications to the original plan. The plan proposed is consistent with Amended Village Vision and in the opinion of Staff it is a workable plan. Some specific comments are as follows:

- a) A Traffic Impact Study has been prepared by the applicant and reviewed by Public Works and the City's Traffic Engineer and the issues have been resolved.
 - b) A Stormwater Management Plan has been prepared by the applicant and reviewed by Public Works and the City's Stormwater Consultant and has been approved.
 - c) The density of development is 19.1 units per acre which is on the lower end of other senior housing projects in the area that range in density from 10.5 units per acre to 37.1 units per acre. Two multi-family projects adjacent to this project have a density of 22.9 and 24 units per acre.
 - d) The proposed plan has low density Villas on the south and southwest property lines adjacent to the low density single-family residences and has higher density development further north on the site.
 - e) The major buildings set back a minimum of 131 feet from the southeast property line, 147 feet from the south property line and 111 feet from Mission Road.
 - f) The design of the buildings for the Special Use Permit is primarily conceptual. The detail design of the buildings will need to be addressed as part of the approval of the Site Plan.
 - g) There will be a loss of open space compared to what currently exists; however, over 10 acres of the 18.4 acres will be green space when the project is completed, however only 5.3 acres will be useable open space.
 - h) The bulk of the buildings will be more than three times the bulk of the existing school, but the floor area ration (FAR) will be 0.48 which is low for urban development.
 - i) The maximum peak height of the buildings will be 40' 10" which is approximately the same height as the gymnasium. Only the Independent
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Living/Assisted Living building will be of this height, but it will appear to be a very large building given its overall massing and scale. The density of the project is reasonable for the size of the land area. If the mass and scale of the buildings are reduced, the buildings will cover more land area and more green space will be lost.

- j) The size and mass of the two large buildings is a concern and from the drawings submitted cannot be adequately evaluated. The applicant needs to provide perspective drawings of the site that include both the proposed buildings as well as existing buildings adjacent to the site so that a reasonable comparison can be made.
- k) The applicant needs to submit a time schedule indicating when each phase of the development will be constructed and this schedule will be a condition attached to the Special Use Permit if it is approved.

8. Conformance with the Comprehensive Plan.

It was not anticipated when Village Vision was proposed in 2006 that Mission Valley Middle School would be closed. As a result an amendment was prepared in 2012 to specifically address this site. The property owner, the neighbors and the community at large provided input in the development of the amendment to Village Vision. The Planning Commission held a public meeting on May 1, 2012 and recommended adoption to the Governing Body who adopted the amendment on May 21, 2012.

The recommendations of the Plan Amendment included two sections as follows:

1. Encourage developers to obtain community input.

The proposed developer has held a number of meetings with area neighbors as well as meetings open to all residents of Prairie Village. The neighbors and the applicant have not reached consensus on many issues. The neighbors countered that it is not compatible with the existing development in that it is too large and too tall and will create traffic and flooding problems. The applicant has submitted a Stormwater Management Plan and a Traffic Impact Study and has resolved these issues from a technical perspective. Both studies have been reviewed by the City's Traffic and Stormwater Management Consultants and are acceptable. The applicant has obtained input, made plan revisions, but still has not received endorsement from the neighbors. The use proposed is a senior housing development which is one of the uses identified in the plan.

2. Limit the uses to those allowed in the R-1A Single-Family District.

The plan restricted the uses to those listed in the R-1A district plus those included as Conditional Use Permits and Special Use Permits. The proposal is for a senior living development which is allowed is approval as a Special Use Permit.

One of the issues the Plan listed was density. The proposed project has 351 units on 18.4 acres of land for a density of 19.1 units per acre which is less than the apartments and condominiums on the northwest but much greater than the single-family dwellings on the south and southwest property lines. The applicant has proposed low density on

the south and increased the density on the north. Major buildings have been set back 131 feet from the southwest property line and 147 feet from the south property line to provide a distance buffer for the adjacent single family residences. Also, Villas are proposed along the south and southwest property lines and will act as a buffer.

The proposed developer has met with the surrounding neighbors and has addressed density, access, traffic, and stormwater runoff. Although agreement has not been reached by both parties, it appears that the applicant has addressed the issues and proposed a use that is in conformance with the Comprehensive Plan Amendment, Chapter 8 Potential Redevelopment D. Mission Valley Middle School.

Village Vision also has pointed out in several areas of the plan that more housing choices should be available to the residents, particularly in the area of senior living.

Village Vision also addresses the fiscal condition of the City and pointed out that redevelopment needs to stabilize if not enhance the economic base of the community. The applicant has stated that this will be a \$50 million development. It is estimated, based on that value that the property would generate approximately \$112,000 in City property tax plus \$14,235 in Stormwater Utility revenues.

RECOMMENDATIONS:

It is the recommendation of Staff that the Planning Commission continue this application and the Public Hearing until its June 4, 2013 meeting to give the applicant an opportunity to prepare and submit perspective drawings that adequately depict the size and mass of the proposed development compared to the existing adjacent developments as well as to address other matters that may have been discovered during the public hearing.

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, Lochner, Planning Consultant
DATE: May 7, 2013 Planning Commission Meeting

Project # 000005977

Application: PC 2013-114

Request: Site Plan Approval for Adult Senior Dwellings

Property Address: 8500 Mission Road

Applicant: The Tutera Group

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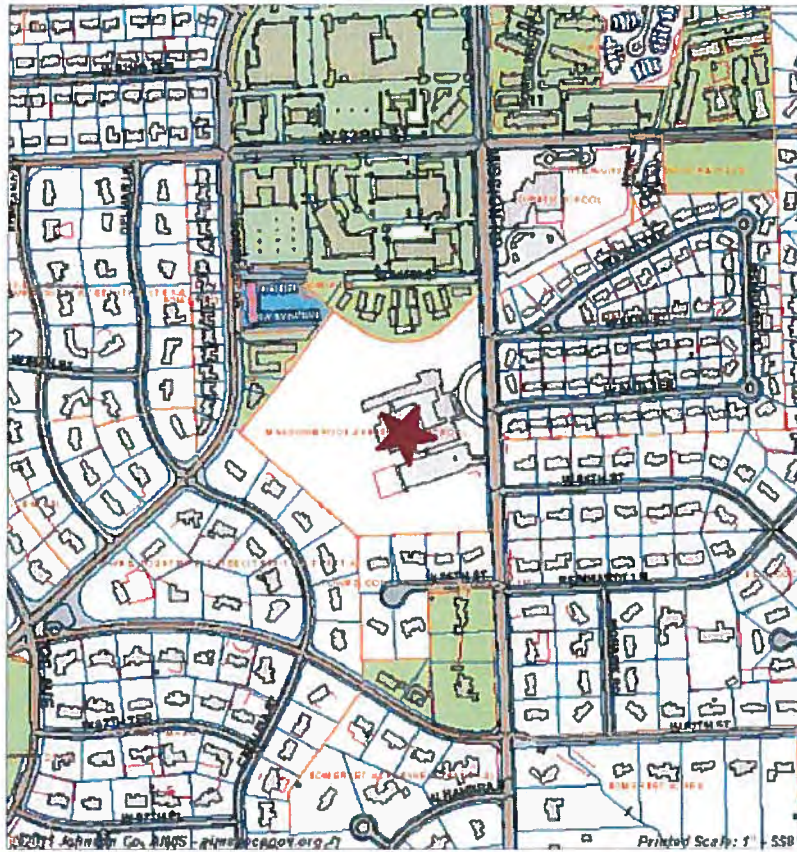
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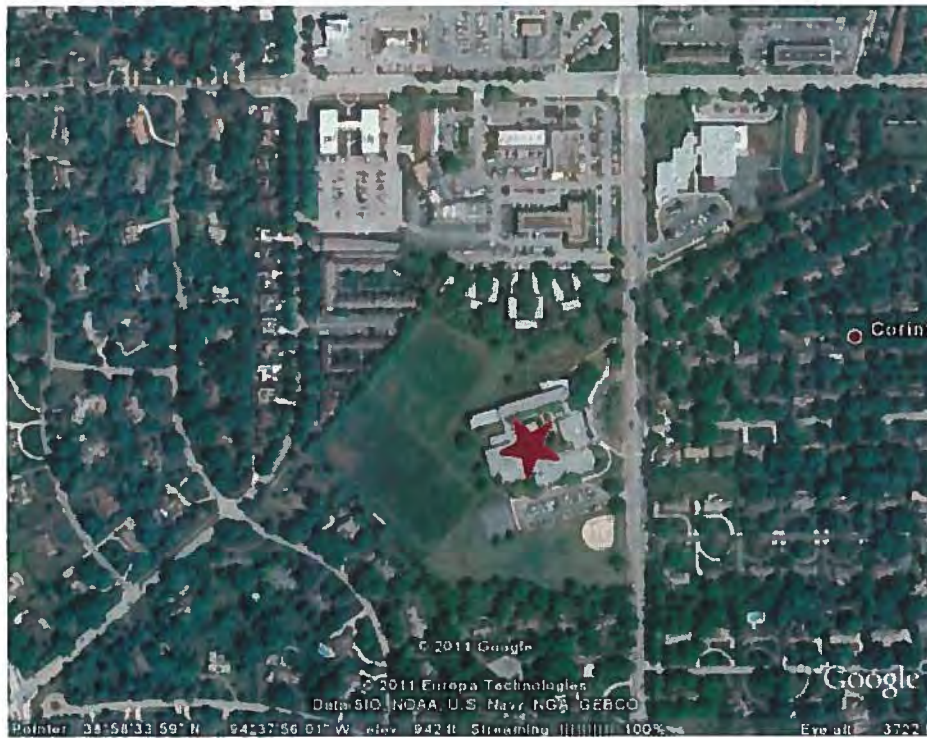
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It should be noted that this is a preliminary staff report with comments based on the initial documents submitted with the application. This staff report will be revised and finalized for the June 2, 2013 Planning Commission meeting.

COMMENTS:

The Tutera Group has purchased the former Mission Valley Middle School site and is proposing to construct and operate a mixed use senior residential community, named Mission Chateau. Mission Chateau will provide five residential options for seniors as follows: 160 independent living apartments; 60 assisted living apartments; 11 independent living villas; 36 memory care units; and 84 skilled nursing and rehabilitation units. This is a total of 351 units which could, at maximum occupancy, accommodate 450 people. The site is 18.4 acres (801,504 sq. ft.) and the proposed buildings cover 22.9% of the site. The combined footprint of all the structures is 134,007 sq. ft. or 4.22 acres. The total square footage of all the buildings is 387,244 sq. ft. The parking areas, drives and sidewalks total 173,038 sq. ft. The amount of the site devoted to green space is 444,459 sq. ft. or 10.2 acres. The majority of the development is within two large buildings. The villas are in six residential style buildings. The project is proposed to be developed in three phases.

Phase One will be the Skilled Nursing/Memory Care building which is located on the northwest end of the property. The footprint of the building is 58,268 sq. ft. The south wing is one-story and the north wing is two-stories for a total building area of 91,189 sq. ft. The peak height of the one-story portion is 26' 3" and the peak height of the two-story portion is 34' 6". The first floor elevation is 951.5 feet. The northwest corner of the site is low and the site will be filled approximately 9.5 feet to meet the first floor elevation of 951.5 feet. The first floor elevations of the properties adjacent to the northwest property line are: the duplex 955.50 ft.; the apartments 952.0 ft. and the condominiums 948.0 ft. Therefore, the first floor elevation of the proposed building appears to be reasonable compared to the existing buildings. The building sets back 131.5 ft. from the southwest property line. The closest residence is 48 ft. from the property line and the first floor elevation is 960.5 ft. which means it is 9 feet above the first floor of the Memory Care wing. With this elevation change and distance between the buildings, the impact of the facade of the building can be alleviated by landscape.

Phase Two will be the Independent Living/Assisted Living building which is the largest building in the proposed project. It is three stories tall; has a ground floor footprint of 100,824 sq. ft. and a total of 271,140 sq. ft. for the building. The second floor is 100,824 sq. ft. and the third floor is 69,942 sq. ft. The height of the two-story peak is 32' 4" and the height of the three-story peak is 40' 10".

Phase Three will be the six Villa buildings that back up to the south and southwest property lines and are conventional duplex or single-family attached residential design and construction. Each unit including the two-car garage is 2,265 sq. ft. and the peak height is 21' 4". These buildings set a minimum of 35 feet from the south and southwest property lines.

Mission Chateau will provide 351 units on 18.4 acres for a density of 19.1 units per acre. In comparison, Brighton Gardens has 164 units on 4.42 acres for a density of 37.1 units per acre; Claridge Court has 166 units on 4.74 acres for a density of 35.0 units per acre and Benton House which was approved for 71 units on 6.79 acres for a density of 10.46 units per acre (only 59 units were built initially).

The applicant submitted phases for developing the project but did not include a schedule or timeline indicating when each phase would be constructed.

The applicant held a neighborhood meeting on April 25, 2013 and approximately 30 people were in attendance. The concerns expressed were the height of the buildings, the size, traffic, flooding, screen space, compatibility with the neighborhood, density, public safety and crime.

The Planning Commission shall give consideration to the following criteria in approving or disapproving a Site Plan:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The site is 18.4 acres with a total footprint of 192,269 sq. ft. for all the buildings which is 23.99% of lot coverage. Approximately 10.2 acres of the 18.4 acres will be open space and landscape. The open space calculation does not include sidewalks, drives and parking areas. Some of the open space will be used for rain gardens and a detention basin, but it still will be undeveloped area. The site is more than adequate in size to accommodate the proposed development.

B. Utilities are available with adequate capacity to serve the proposed development.

Since the site was developed as a middle school utilities are available at the site. The applicant has worked with the various utilities and adequate capacity is available to serve the development. The applicant will need to work with the Fire Department to ensure that five hydrants are properly located.

C. The plan provides for adequate management of stormwater runoff.

The applicant has prepared a Stormwater Management Plan which has been reviewed by the City's Consultant and Public Works and is consistent with the requirements of the City's Stormwater Management code. The applicant will need to work with Public Works in the final design of the system.

D. The plan provides for safe and easy ingress, egress and internal traffic circulation.

The proposed development will reduce the number of drives on Mission Road from three to two. The new drives will be in alignment with 84th Terrace and 85th Street. A Traffic Impact Study has been submitted and reviewed by the City's Traffic Consultant and Public Works. Traffic issues have been resolved. The applicant will need to work with Public Works on the final design of the driveways on Mission Road.

There is an existing pedestrian crossing signal on Mission Road just south of 84th Street. This signal was installed to serve school traffic. The applicant has agreed to retain or move the signal if requested. The City is still evaluating the need.

The Site Vehicle Mobility Plan, Sheet C-5, shows how the buildings will be served with emergency and delivery vehicles. The emergency vehicles appear to be adequately accommodated, but the delivery semi-trucks have a problem in serving the Skilled Nursing/Memory Care facility. Several parking spaces must be used in order to back the trucks into the unloading area. This area is primarily for employee parking and at least eight of these spaces are not usable. The applicant will need to find another solution to deliveries or provide some additional parking spaces.

E. The plan is consistent with good land planning and good site engineering design principles.

The applicant has located the lower density housing, the Villas, along the south and southwest property lines and they back up to existing single family dwellings. The size of the Villas is significantly less than the existing residences but they do serve as a transition between the single-family dwellings and the larger buildings. The design has also tried to locate the two large buildings away from Mission Road and the south and southwest property lines. The Skilled Nursing/Memory Care facility is located 131.5 ft. from the southwest property line and 91.5 ft. from the northwest property line. A parking lot is proposed along the northwest property line and there are some steep slopes that will be created in that area. No landscaping is proposed in that area because of existing vegetation. This will need to be looked at in more detail as final plans are prepared. There needs to be adequate screening between this project and the apartments and condominiums to the northwest.

There are some retaining walls proposed along the north drive and the detailed design will need to be submitted for review and approval.

The first floor elevation of all the proposed buildings has been set at 951.50 feet. The floor elevation of the existing gymnasium is 954.50 feet so these buildings are three feet lower. The buildings will set below the grade of Mission Road for the most part.

The applicant has proposed a 35 foot wide buffer along Mission Road which will have a berm, screening wall and landscaping. This should screen the parking along Mission Road and provide screening for the buildings as well.

As previously pointed out, the service vehicle access to the Skilled Nursing/Memory Care facility does not work. Consideration should be given to extending that parking lot further south to add the number of spaces that will be unavailable for parking during deliveries. There also needs to be screening along the northwest property line to prevent car lights from shining on other properties.

There are some connectivity issues with the sidewalk/trail system that need to be resolved.

In general the Site Plan works; however, there are a number of details that will need to be worked out as final plans are prepared.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

The applicant has presented elevations of all facades of the buildings to indicate the general concept of the appearance of the buildings. The proposed materials are traditional stucco, hardie board, cultured stone veneer and wood trim on the building facades. The roofs will be asphalt shingles with standing seam metal roof at certain locations. The combination of materials and quality is good, and the ratio of stone to stucco seems appropriate. Staff had requested that the applicant provide more stone of the buildings which has been done. These are large buildings and at the scale presented are difficult to show detail. There are many design details that will need to be worked out and Staff will do that with the architect and owner.

These buildings are very large and in plan view they appear to have a variety of depth, but that is not conveyed in the elevation drawings. Also, Staff is still concerned about the overall massing and scale of the buildings. The applicant needs to prepare perspectives that show the buildings in three dimension in order to get a true feeling of the buildings' design, scale and massing and how they relate to the surrounding development. Perspectives need to be submitted from all sides so that a better picture is available regarding how this development fits within the existing developed area. Staff will have additional comments on design after reviewing the additional drawings.

The drawings are at a scale that can only show the concept of the design. It will be necessary for Staff to work with the developer on the details as final plans are prepared.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan and other adopted planning policies.

It was not anticipated when Village Vision was proposed in 2006 that Mission Valley Middle School would be closed. As a result an amendment was prepared in 2012 to specifically address this site. The property owner, the neighbors and the community at large provided input in the development of the amendment to Village Vision. The Planning Commission held a public meeting on May 1, 2012 and recommended adoption to the Governing Body who adopted the amendment on May 21, 2012.

The recommendations of the Plan Amendment included two sections as follows:

1. Encourage developers to obtain community input.

The proposed developer has held a number of meetings with area neighbors as well as meetings open to all residents of Prairie Village. The neighbors and the applicant have not reached consensus on many issues. The neighbors countered that it is not compatible with the existing development in that it is too large and too tall and will create traffic and flooding problems. The applicant has submitted a Stormwater Management Plan and a Traffic Impact Study and has resolved these issues from a technical perspective. Both studies have been reviewed by the City's Traffic and Stormwater Management Consultants and are acceptable. The applicant has obtained input, made plan revisions, but still has not received endorsement from the neighbors. The use proposed is a senior housing development which is one of the uses identified in the plan.

2. Limit the uses to those allowed in the R-1A Single-Family District.

The plan restricted the uses to those listed in the R-1A district plus those included as Conditional Use Permits and Special Use Permits. The proposal is for a senior living development which is allowed is approval as a Special Use Permit.

One of the issues the Plan listed was density. The proposed project has 351 units on 18.4 acres of land for a density of 19.1 units per acre which is less than the apartments and condominiums on the northwest but much greater than the single-family dwellings on the south and southwest property lines. The applicant has proposed low density on the south and increased the density on the north. Major buildings have been set back 131 feet from the southwest property line and 147 feet from the south property line to provide a distance buffer for the adjacent single family residences. Also, Villas are proposed along the south and southwest property lines and will act as a buffer.

The proposed developer has met with the surrounding neighbors and has addressed density, access, traffic, and stormwater runoff. Although agreement has not been reached by both parties, it appears that the applicant has addressed the issues and proposed a use that is in conformance with the Comprehensive Plan Amendment, Chapter 8 Potential Redevelopment D. Mission Valley Middle School.

Village Vision also has pointed out in several areas of the plan that more housing choices should be available to the residents, particularly in the area of senior living.

Village Vision also addresses the fiscal condition of the City and pointed out that redevelopment needs to stabilize if not enhance the economic base of the community. The applicant has stated that this will be a \$50 million development. It is estimated, based on that value that the property would generate approximately \$112,000 in City property tax plus \$14,235 in Stormwater Utility revenues.

RECOMMENDATION:

It is the recommendation of Staff that the Planning Commission continue consideration of the Site Plan until such time as the applicant can prepare and submit perspective drawings that can show how the proposed development fits in the existing area considering the mass, bulk and design of the buildings. The perspectives need to be from all sides and include the existing buildings that abut the proposed development. It also should be pointed out that consideration of the Site Plan should only occur if the Planning Commission recommends approval of the Special Use Permit.

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PLANNING COMMISSION AGENDA

City of Prairie Village

TRANSCRIPT
OF
PROCEEDINGS

Taken on May 7, 2013, beginning at 7:00 p.m., at the Village Presbyterian Church, 6641 Mission Road, in the City of Prairie Village, County of Johnson, and State Kansas.

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1 APPEARANCES

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3 .

4 ON BEHALF OF THE APPLICANT:

5 .

6 Mr. John D. Peterson

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11 jpeterson@polsinelli.com

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14 ON BEHALF OF THE CITY OF PRAIRIE VILLAGE:

15 .

16 Mr. David E. Waters

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1 PLANNING COMMISSION:

2 .

3 Keith Bredehoeft

4 Ron Williamson

5 Dennis Enslinger

6 Gregory Wolf

7 Nancy Vennard

8 Randy Kronblad

9 Ken Vaughn, Chairman

10 Nancy Wallerstein

11 Bob Lindeblad

12 Dirk Schafer

13 Andrew Wang

14 Joyce Hagen Mundy - Secretary

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1 CHAIRMAN VAUGHN: Thank you very much.
2 When people are ready to talk, there will be a
3 sign-up sheet also in addition to announcing your
4 name and address when you come up to speak.
5 Starting off, Dennis, do you have something that
6 you'd like to lead with?

7 MR. ENSLINGER: Yes. I just wanted to
8 note that the Mission Valley Neighborhood
9 Association has raised some legal issues with
10 regard to the application process for the special
11 use permit. And David Waters is going to start
12 off with that and address the memo that was
13 drafted by legal counsel.

14 MR. WATERS: Good evening, everyone.
15 Yes, we know that a concern was raised by
16 opponents of this project and there's some
17 concerns been raised by the planning commission
18 members as to whether there is a -- a concern as
19 to whether this body had the actual authority to
20 hold this hearing because of an objection that
21 either the wrong SUP had been applied for or
22 perhaps that special use permit, as a matter of
23 law, is not permitted because of -- and I'm
24 shorthanding some of the comments here -- but that
25 the nursing care, which is an accessory use, must

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1 be in the same building as the -- as the dwelling
2 facilities, or that the nursing care accessory use
3 could not be constructed prior to the -- the --
4 the primary use. And I believe you've received
5 some legal memoranda from -- from people
6 interested in this project on the -- and as a
7 threshold matter, not -- certainly not reaching
8 the merits one way or the other of the decision,
9 but I wanted to -- to address those threshold
10 legal issues for you before we began tonight.

11 We -- we take the position, and Kansas courts
12 do as well, that -- that the zoning ordinance is
13 the city's ordinance, and that great deference is
14 given to the interpretation of that ordinance by
15 staff, by the planning commission, and the city
16 council here. It is our opinion that a reasonable
17 interpretation of the zoning code is that
18 subordinate accessory use of a nursing or health
19 care facility may be provided in a separate
20 building. But as Katie Logan has that advised you
21 in that regard and given you examples of other
22 areas in the code where the premises is used
23 whereas the building is not, to show that, for
24 example, that -- that the parking is on premises
25 and the premises does not necessarily mean same

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1 building.

2 We also believe it is reasonable for -- for
3 this city to interpret its zoning code to allow
4 construction of an accessory use prior to the
5 completion of a primary senior use if the use --
6 the special use permit is conditioned upon
7 completion within a reasonable time of the primary
8 dwelling facility. We did some research on this,
9 and again, you have that information that there is
10 legal authority that it's reasonable to consider
11 the anticipated primary use when approving an
12 accessory use. Again, but the city would likely
13 need to have reasonable expectation that the
14 primary use will be constructed within a
15 reasonable time and that any special use permits
16 should be so conditioned on that requirement.

17 So their memoranda, the comments, those are
18 part of the record, those will be part of the
19 record moving forward. Of course, if -- if either
20 party at the end of the day is not satisfied
21 either way with how the planning commission or the
22 city council ends up deciding on this matter,
23 state statutes do grant -- do grant rights to
24 appeal both the reasonableness of the decision and
25 the lawfulness of -- of your consideration to the

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1 district courts. So this, you know, could be a
2 matter that -- that could be appealed; but at this
3 time, it is our opinion that it is appropriate for
4 this body to -- to take the public comments and to
5 continue with the public hearing tonight.

6 And I'm happy to answer any questions any of
7 you may have on that regard.

8 CHAIRMAN VAUGHN: Are there any
9 questions? There appear to be none. Thank you
10 very much.

11 MR. WATERS: Sure.

12 CHAIRMAN VAUGHN: The planning commission
13 meeting is back in -- in order and in session.
14 And the item on the agenda at this point is a
15 public hearing PC 2013-05, a -- a request for a
16 special use permit for adult senior dwellings
17 at 8500 Mission Road. Would the applicant like to
18 come forward, please?

19 MR. PETERSON: Thank you, Mr. Chairman
20 and members of the commission. John Peterson,
21 with the Polsinelli law firm, appearing this
22 evening on behalf MVS, LLC, who is the proposed --
23 is the owner and the proposed developer of the
24 property which is the subject of tonight's
25 consideration. Also present is part of the

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1 development team: We have Mr. Joe Tutera,
2 principal of MVS; Randy Bloom, director of the
3 operation for Tutera Investments, operation in
4 terms of the types of facilities we're going to be
5 discussing this evening; Sterling Kramer and Brent
6 Westein with Olsson & Associates, who served as
7 our civil engineering, traffic engineering
8 consultants as we've moved this matter through the
9 process; and Mitch Hoefer of Hoefer Wysocki
10 Associates, that is the one that came up with the
11 architectural building design that took the
12 concept that Mr. Tutera has created in terms of
13 serving the community and turning it into brick
14 and mortar and doing it in a way that we hope,
15 members of the commission, you'll find serves the
16 need which has been identified, but does it in an
17 appropriate matter from a land use standpoint.

18 At the outset, two things I'd like to talk
19 about. First, you'll note there is a -- what we
20 refer to as a court reporter here this evening.
21 We have hired this court reporter to create a
22 verbatim transcript, to the extent I talk slow
23 enough and always talk into the mic, for the
24 purpose of making sure that we have a good solid
25 record. I wanted to explain why we did that.

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1 This is an application that has a lot of parts to
2 it, there is a lot of information that will be
3 presented by the developer, as well as those
4 interested from the community. We're doing a
5 public hearing process really in two parts, as you
6 know. Tonight, it will be continued to a June
7 meeting to continue the public hearing. And we
8 thought it was in everyone's best interest, given
9 the fact that the City of Prairie Village does not
10 electronically transcribe its meetings, that it
11 would be a benefit to do the best we could to have
12 a good solid record, obviously, what's put in the
13 record this evening in terms of written testimony,
14 but also what is put into the record either by
15 myself, by other members of the development team
16 or those that may be in opposition to the project,
17 and that we have a good solid record for us, for
18 you, and, yes, even the public to refer back to as
19 we move this on toward a final decision by the
20 governing body. Once it's transcribed, we will
21 present it to the city for your use, and we
22 understand at that point it becomes a public
23 document. I wanted to explain that.

24 Secondly, I'm going to give you a quick
25 outline of what our presentation will entail this

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1 evening. And I promise, to the best of my ability
2 -- and I know some will say that when I say we're
3 going to be as brief as we can, it's an oxymoron
4 for me -- but we are going to attempt to move
5 through a lot of information relatively quickly.
6 That does not mean if you see something as we move
7 through our case in chief, so to speak, and you
8 want us to go back and drill down on it, spend a
9 little more time, we will do so. If a question
10 arises during any part of the process, we can
11 refer back to it. But again, we don't want to
12 take up a bunch of time and then not give others
13 in the room the time to speak within a reasonable
14 time frame or hour of the night. And we know that
15 we're going to present all this information into
16 the public record, both oral and written.
17 Everybody will have a chance for 30 days to look
18 at it, and there'll be an opportunity maybe to
19 drill down in more detail from any perspective at
20 the June continuation of the public hearing.

21 So here's the quick outline, just so you can
22 sort of keep a running tab of where we are. We
23 started out during our work session, starting from
24 the premise in terms of the theme of our
25 presentation, to set the factual base. We're

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1 going to run back through that factual base, many
2 of the items that we presented during the work
3 session. Because as you know, this is the public
4 record that we will now build upon as we move
5 toward a final decision by the governing body. We
6 will use that factual base to supplement the facts
7 we have developed, both facts that were requested
8 for additional information from commissioners
9 themselves, also facts that we felt would be
10 relevant, and quite honestly, facts that were
11 generated through, yet again, another public
12 meeting, neighborhood meeting we had even after
13 the planning commission work session.

14 Many of these facts, some are new to them,
15 because in the staff report, they asked for a bit
16 of additional information. And we're going to be
17 prepared to present that tonight, as well. But
18 the facts that are in the record today -- and this
19 is why we think the facts are so important -- is
20 regardless of what the opinion might be about the
21 ultimate outcome of putting those facts into the
22 process in terms of creating a design and a
23 project, the facts are the basis upon which then
24 we take design criteria. Design criteria that
25 have been developed by the City of Prairie

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1 Village, and we start applying those facts to that
2 design criteria.

3 And why is that important? Because it's both
4 sides of the equation, it's our development team,
5 it's our supporters from the community, it's our
6 folks that do not support us from the community.
7 What the air has been filled with -- and I think
8 if there is anything we may not or we can't agree
9 on this evening, the air is field -- filled with
10 many, many subjective adjectives from both sides
11 of the equation, massive. Right size, atrocious,
12 first class, too intense, appropriate density --
13 density, compatibility. Both sides.

14 What do those words mean? Those words start
15 taking on meaning when you take facts, you filter
16 those facts through design criteria, because
17 that's what the design criteria of a city does.
18 They take situations, setbacks, heights, mass,
19 open space, and they start taking facts and they
20 start bringing subjective conclusions into a
21 objective standard. Doesn't mean everybody's
22 going to agree with the conclusion, but it starts
23 providing a planning commission and a governing
24 body to start bringing -- regardless of whose
25 opinion it is, and regardless of whether that

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1 person thinks the opinion of his or the other one
2 is right or wrong, it starts bringing it into a
3 objective set of criteria. And that's what staff
4 has done today. And part of that filter has been
5 a staff report that has been submitted today.
6 It's not complete, I acknowledge that, but we
7 stand proud that we have gotten a staff that has
8 acknowledged the appropriateness of this project
9 to this state of the -- state of the process, and
10 we're going to continue to work to finish off the
11 questions they have and to earn not only their
12 preliminary support, but their final support.

13 I will then finish with some presentations
14 that will take these facts and our project that
15 has been laid into the design criteria and attempt
16 to give you some perspectives. And these
17 perspectives are to scale. They're based on fact
18 and they're based on design, and they're going to
19 start giving the planning commission an idea, when
20 we start moving past the words and the drawings on
21 paper, what will this project feel like. And we
22 have some great technology in this day and age
23 that enables us to paint that picture. I'm going
24 to focus on the Mission corridor and I'm going to
25 focus on some outside visual impact.

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1 Then we get to a really, really important
2 part, and that's Mitch Hoefer. He's the one that
3 designed the buildings, that knew what he was
4 dealing with in terms of the surrounding
5 properties, the one that will address one of the
6 open issues, the staff has said they want more
7 information about the bulk, the form, the
8 interrelation between buildings on our site and in
9 relation to buildings that are in existence at our
10 perimeter.

11 I will then return to cover a couple of
12 ancillary issues. I really can take one off the
13 list, so that'll save some time with the legal
14 opinion that has been referenced by your city
15 attorney. I agree with it wholeheartedly. And
16 that will really take it off because I think
17 you're going to listen to your attorney much more
18 than you're going to listen to this one. But I
19 will close with, at least in terms of my part,
20 with a brief overview of the so-called Gordon --
21 Golden criteria, which as we know, is the standard
22 set forth by the Kansas Supreme Court about the
23 legal framework in which matters like this are
24 reviewed. Mr. Tutera will then close with a brief
25 overview of his perception of the project. So

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1 let's get to a couple of -- reviewing some facts
2 and I will do -- try to do it very quickly. Slow
3 me down in the middle or ask me to go back a
4 little.

5 THE SPEAKER: Excuse me. Mr. Peterson,
6 could you speak up, please?

7 MR. PETERSON: I'd be happy to. And I've
8 never been accused of needing to speak up. Is
9 that better?

10 THE SPEAKER: Speak into the mic.

11 MR. PETERSON: Okay. Is that better?

12 THE SPEAKER: Yes, it is.

13 MR. PETERSON: Thank you for pointing
14 that out. And commissioners, I apologize given
15 that I'm turning my back, but I want to make
16 sure --

17 MS. VENNARD: You need to hold the --
18 use it as a hand mic.

19 MR. PETERSON: How's that?

20 MS. VENNARD: Much better.

21 MR. PETERSON: The -- what we're going to
22 do here is just very quickly walk through -- this
23 is the site plan I think everybody by this time
24 has a pretty good feel. Independent living with
25 our assisted living is part of this structure here

1 that interfaces with Mission Road. We move around
2 to our memory care unit, our skilled nursing and
3 our villa concepts as part of the independent
4 living. 18 -- just a hair over 18 acres. Over
5 ten acres, we're pleased to have come up with a
6 project that leaves it as open space. Go to the
7 next one.

8 One of the questions that we wanted to get
9 out on the table is what the finished grades were
10 going to look like for the site. And the
11 commissioners during our work session said, that's
12 good, but let's keep drilling down on that. So
13 let's real quickly go through this, just for the
14 record. This is the current site today and that's
15 the existing school site. And, obviously, we've
16 got vacant ground surrounding it in its present
17 utilization. What this shows you is, at the
18 property line today, these are the elevations, 900
19 feet above sea level. As you can see as we move
20 from the east along the property line, 950, 951,
21 952, 952, we start trailing off currently today as
22 we move just a little farther to the north and
23 northwest where we start getting -- that starts
24 sloping towards that creek. And actually, it
25 created some storm situations moving through.

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1 This building as it sits here today sits at -- at
2 954, just a little bit over 954.

3 Let's go to where we were before. What we're
4 going to do, as you can see, in essence, we're
5 holding the elevation where the ground is as --
6 with the finished product as we move again from
7 east to west. And you can see we're holding that
8 very comparable to here. The difference is, we
9 start leveling the site out. So where it started
10 at 952, 951 and a half here and starts sloping
11 down in its current configuration, we basically
12 flatten this site out.

13 And another good feature, both in terms of
14 stormwater and, I think, in terms of the
15 orientation and the resulting heights of buildings
16 is, we bring -- where the school presently sits,
17 as I indicated, at about 954, we actually drop
18 that finished floor down to 951. You can see we
19 start getting a relatively flat site here.

20 The other thing we did -- let's go back real
21 quick. Commissioners, you asked us to lay in what
22 are the finished floor elevations of all of our
23 surrounding buildings. Our neighbors to the south
24 and southwest are multi-family projects, to the
25 northwest and the north, where they sit grade

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1 wise. And again, I won't walk through all those
2 comparisons, but you can see that we match up
3 pretty good along the south and southwest, in the
4 finished area, we start getting close. And we
5 pretty much -- other than the dropoff to the
6 apartments to the north, we start having a pretty
7 good interrelation between finish grades between
8 us and our surrounding properties.

9 Let's go to the next step. Let's lay those
10 buildings -- you've seen this before. Our
11 buildings on that finished grade, and as you know
12 -- and Mitch is going to get into this in a lot of
13 detail -- we have varying heights, depending on
14 the use of the building and depending on where the
15 building sits on the site. It's a utilitarian
16 purpose for the senior living community, but at
17 the same time, we're using height as a transition
18 element as we move from our higher building
19 neighbors to the north and northwest and we
20 transition to the south towards our neighbors that
21 are in structures that do not have as much height.

22 And you can see that picked up in this color
23 code here, yellow being the end of our memory care
24 here on the southwest corner, our villas that wrap
25 completely around the south moving to the

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1 southwest here. You can see they sit right in the
2 same height as a typical single-family house. You
3 can see that as we interface with the apartment
4 living folks in the northwest and to the north, we
5 go to two stories, but we're matching up very
6 closely, in fact, really lower heights -- lower
7 heights than some of our neighbors to the
8 northwest and north. And then we put our three-
9 story components 40 feet to the peak, by the way.
10 And I want to emphasize that because there's some
11 confusion about code requirements. We're giving
12 you the most -- the most excessive impact. If we
13 measured this pursuant to code, we'd be at about
14 35 feet on our highest building. But to the top
15 of the peak, it's 40 feet. And you can see we've
16 centered those to the north and centered those so
17 it's not all the same height along Mission Road.
18 Those go -- yeah, that's it.

19 Now, one of the other things the
20 commissioners wanted to know, which I thought was
21 a great idea and very relevant is, now let's get
22 the finished product and how this relationship
23 starts feeling. Let's put finished floor area of
24 your project when it's done, our neighbors on all
25 the perimeters, and then lay the heights of our

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1 building and the heights of the existing building
2 as neighbors are on top. And what this shows you
3 here is where we are in terms of finished grade,
4 what the height of the building is at that
5 location.

6 MR. WOLF: Counsel, do we have a copy of
7 that?

8 MR. PETERSON: Again, you will. This
9 will all be part of the record. But --

10 MR. WOLF: Okay. You give us a lot of
11 stuff. I just wanted to see if you had --

12 MS. VENNARD: This is new.

13 MR. PETERSON: Everything we talk about
14 tonight will be submitted as part of the record.
15 And so you can see, it's really finished grade,
16 the height of the building, we move that around.
17 We do the same thing -- we know what the finished
18 grade and width, not just a guess, but there are
19 devices where you can stand off property and do
20 not have to get on people's property, and you can
21 measure heights of existing buildings. And that's
22 what we've done. And you can start to see -- I
23 will just make a conclusionary comment and we can
24 drill down on it and analyze it further. We start
25 matching up very nicely building to building in

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1 terms of heights. But even when we start getting
2 to our neighbors that are actually a little bit
3 higher than us as we interface with multi-family
4 in the northwest corner, obviously, a -- a little
5 bit of differential the other way when we drop the
6 apartments that drop down the hill.

7 Setbacks, again, a factual basis. What we've
8 attempted to do here and put in the record, we've
9 shown you before. The setback of our buildings
10 from our property line, 115 for our closest wings
11 along Mission. A -- a whopping 233 -- there's one
12 of those words again -- 233 feet back to the
13 middle of the building from the north. What we
14 then did -- because it was a point of inquiry from
15 the commission so that you can get a full analysis
16 -- show me where we are from the property line to
17 existing structures off site, which is, in
18 essence, what we've done here. So 31 feet to the
19 apartments, 24 feet -- they're very tight over
20 there, by the way. 35 feet, and you can see it's
21 kind of a varying rear yard for our neighbors to
22 the south as we go through this. Okay.

23 Stormwater, real quick on this one just to
24 make the point it's in the record. Currently, we
25 have 151 cubic feet per second running off the

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1 site in two different directions. It is a problem
2 today pursuant to the standards we must meet for
3 the City of Prairie Village. We will reduce the
4 runoff by over half. We will direct it and
5 discipline that water where we will eliminate any
6 off stream problems downstream to the south for
7 sure and greatly diminish any concerns there are
8 downstream to the north and northeast.

9 Next. Traffic. Now, we went through this
10 one before, and we've got a little bit of
11 different information to this tonight. This is
12 what we showed you before. This is -- reflects
13 the conclusions of the study that we were required
14 to do by the City of Prairie Village. And that
15 is, we come in, our traffic consultant sits down
16 with your public works folks, the ITE manual, so
17 to speak, or the ITE standards are what both work
18 towards to say, let's evaluate traffic. What was
19 the traffic like before as it operated as a
20 school? What's the traffic going to be? What's
21 the manual -- because they studied this. What's
22 the traffic going to be for the facility of the
23 type you're proposing? Let's compare those two,
24 and then let's -- as part of that study, make sure
25 that we're not overtaxing the public road system

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1 with your traffic.

2 Well, we know exactly the -- we experienced
3 what we knew would happen when the middle school
4 was operational, and we have good data. This is
5 good data that the industry of traffic engineers
6 rely upon, as does the city experts in this
7 regard. And the conclusion was that in the a.m.
8 peak, which is the commute peak under the manual -
9 - and this is going to be a point of the
10 difference. Under the commute peak of 7:30 to
11 8:30 in the morning, our facility will actually
12 produce 169 less trips. In the p.m. peak, which
13 under the manual is 5:30 to 6:30, it's commute
14 time, it's the background traffic plus that going
15 home traffic, that's what they tell you to study.
16 So we laid our trips in to the -- it's 5:30 to
17 6:30, 5 -- well, 5 to 6, and we show that we
18 produced about 22 more trips, which statistically
19 in the world of engineers, is a wash.

20 But we're a neighborhood meeting and they
21 said, that's misleading. Well, the city -- that's
22 the way we're supposed to do it. It's misleading.
23 Your peak based on what you told us about your
24 shift changes and your employees is really 2:30
25 to 3:30. Yeah, it is, actually, that's when we've

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1 got our largest shift is coming off and the next
2 shift is coming on, good point. And what about
3 Corinth? Good point, let's look at it. We sent
4 our engineers back to the field.

5 Go to the next slide. When we did what the
6 city asked us to do, here's what it showed. 102
7 trips being generated by our site for a total
8 against the background of 460 trips. Okay. That
9 means based on studies, based on counts during the
10 commute -- that peak commute period along Mission
11 Road, you've got 460 trips, and we're going to add
12 102 for 562, 5 to 6, and the conclusion was, it's
13 okay. Conclusion by the city based on the report
14 that you've seen from staff today, it will not
15 overtax, it will not create unsafe conditions on
16 the public street. But let's go to 2:30. We went
17 out and counted on Mission Road, 2:30 to 3:30,
18 right in the area where you would also be
19 producing -- you wouldn't have commute traffic
20 then, but you would have schools in session, you
21 would have the -- the parents picking up and take
22 -- going home with their kids at Corinth, and we
23 found there were 395 trips in the system. Adding
24 our 102, I think the conclusion is itself, the
25 system -- the street system at its current

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1 capacity will operate well and safely with our
2 additional trips, either in a traditional p.m.
3 peak or the -- we'll call it the local p.m. peak,
4 which factors in Corinth School.

5 Go to the next one. This is, again, just
6 very quickly, parking, as you recall, staff
7 parking, red, we're going to designate and control
8 where the parking is. Blue is for our residents.
9 The -- the greenish color is for our visitors. We
10 lay those out so they make sense in terms of
11 convenience for the residents of our community,
12 whether they be residents or visitors. Staff,
13 because we heard as part of our public dialogue,
14 let's make sure staff is really as far away from -
15 - we were focusing on this area in here
16 (indicating), which that's exactly what we've done
17 designating, and we'll control those as staff
18 parking in this area.

19 One question that the staff raised was, part
20 of your count -- because you're showing in your
21 count that you're per -- that's you're going to
22 have 200 -- 285 spaces are required and you have
23 350, but 51 of those are carports. And what if
24 all your residents don't rent carports? You've
25 got those spaces, but they can't be used, do we

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1 still make code? Yes, we do. 350, 285 required,
2 we take the 51 out and we'll gauge -- maybe we
3 won't do all 51 carports, but we still meet code
4 with some to -- to spare.

5 All right. Let's go to the next one. This
6 really just is that kind of summary sheet, Mr.
7 Chairman and members of the commission. Remember,
8 we gave ourselves a -- a goal to not just say,
9 well, this is a special use permit, maybe we can
10 argue we don't have to meet the underlying zoning
11 design criteria and development goals. Well --
12 well, let's see what we can do. Lot coverage per
13 building R-1a design standard is no more than 30
14 percent, we're at 22.9. Height in mid pitch of
15 roof, 35 feet. That's the height you can go to in
16 an R-1a district or a R-1a single-family home. We
17 range from 16 to 35. Remember, I showed you
18 Building 40, I was showing you that's the top of
19 the peak. This is measured mid peak, this is
20 measured mid -- mid peak. That's how you measure
21 under the Prairie Village code.

22 Concentrated active open space, not required
23 in an R-1a. One of the areas we are the most
24 proud about, 18 acres, over ten acres of that
25 won't have buildings, parking, drives, anything on

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1 it, it'll have open space, it'll have grass, 55
2 percent of the entire project. Some of it's
3 floodplain, some of it's going down the hill. So
4 of that ten, what did we actually turn in going to
5 the next step towards an amenity for our residents
6 and a positive for the community if they choose to
7 visit our neighborhood or pass by? How much
8 active open space can we develop? And what we --
9 the result of that is, as you can see, and we had
10 some questions at the last hearing to quantify
11 those, the north green space, which is this here
12 and we've extracted out the retention area and
13 areas that will be inaccessible to, both very,
14 very steep grades, we have about 2.5 acres.
15 That's the portion of our walking trail we'll talk
16 about in a minute, which is over one mile of -- of
17 parking -- of walking trail.

18 South green space, another one we think is a
19 great asset in trying to drive off what we heard,
20 I looked out my window, I came through that back
21 fence, I went and walked my dog back there, I saw
22 some wildlife back there. So we used it as a
23 transitional element, backing our buildings off,
24 but at the same time, a active space where our
25 residents can use it. And we say this, and it's

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1 not meant to be obligatory, we invite our
2 neighbors to come in and use it, as well. Because
3 that is 1.63 acres of active space, also will be a
4 -- a part of the 1.1 miles Of trail system that
5 will be through here open to anybody that would
6 like to use it.

7 And then we have 1.1 acres -- and this is
8 going to get to a point we're going to emphasize
9 in just a minute -- 1.1 acres of green landscaped
10 space along our Mission Road frontage. It's our
11 front door, we want it to be spectacular. And we
12 think by dedicating this type of area -- I'm going
13 to show you what we're doing with that in just a
14 minute -- will really change what the perception
15 is as you come down Mission Road today.

16 Next. Now, let's talk about Mission Road.
17 And I'm going to go through these very, very
18 quickly because, again, you can study them further
19 as you get this information and we can look at it.
20 But we've heard -- and I'm talking about Mission
21 Road. This structure as it's on Mission Road,
22 because it's a building of some size, this
23 building is so out of character with Prairie
24 Village in terms of where it is with the street
25 and the height, that it's a nonstarter. And I

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1 just -- I want to address that for just a minute.
2 I'm starting here at 71st and Mission Road with
3 the Macy's. And if we walk through this, it's 48
4 feet tall, so it's actually taller than the
5 buildings we're proposing and it sits at a 21-foot
6 setback off the street.

7 Moving to the church across the street, 41
8 feet in height, with a 34-foot setback. Moving
9 down to one of our competitors, Brighton, 42 feet
10 height with 108-foot setback. Next. As we're
11 moving south, we're moving down 72nd to 75th
12 Street and Mission. 72nd and Mission, 38 feet in
13 height with a 30-foot setback. Shawnee Mission
14 East, 36 feet in height with a -- I wanted to make
15 sure I've got this right -- with a 88-foot
16 setback. And then we move to the office building
17 on the east side of the street and we have 30 feet
18 in height with a 31-foot setback.

19 Moving farther south as we get to the 81st
20 and 82nd Street area, we are not the tallest
21 building in the City of Prairie Village, 52 feet
22 here. Let's move over to the office building on
23 the southeast corner, a 30-foot high building
24 sitting at a 25-foot setback. And then moving
25 farther down -- just a little bit farther to the

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1 north is a 38-foot building at a 21-foot setback.

2 Now, as we start moving closer to our
3 property, you can see the office building on the
4 west side closer to us, 8340 Mission, 33 feet in
5 height, 105-foot setback. Start picking up some
6 more of our immediate neighbors along Somerset, 29
7 feet in height with a 52-foot setback, the 24 feet
8 height here with a 41-foot setback. And as we
9 approach our site, again, kind of the Somerset
10 neighborhood, here's our immediate neighbors, 42
11 feet in height, 32-foot setback. We have a 42-
12 foot-high building here with a 32-foot setback.
13 And today, the building sits at 115 feet, matter
14 of fact, it's probably 137 feet.

15 Now, am I saying, well, all those buildings
16 are there, so we ought to be able to do just
17 anything that we want to do? Of course not. But
18 the idea of structure and mass in close proximity
19 -- I'm speaking only now about the Mission Street
20 corridor -- is not out of character. It's a
21 design style, it's a feel and it's a flavor of
22 Mission Road that we are incorporating, but we do
23 recognize we have a bit of a bigger building than
24 some of these, we're moving down towards a more
25 predominantly residential, and thus -- we go to

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1 the next slide -- we start doing what I'd
2 referenced before -- and Mitch will pick up a
3 little bit more of this -- we start picking up a
4 one-acre green space, moving the sidewalk off of
5 Mission Road where it's currently back of curb
6 five feet, so it's inviting and safe for
7 pedestrian and bicyclists, and putting green
8 space, a combination of a wall system and berming
9 and landscaping so we start creating a spectacular
10 roadway, which is a spectacular front door to our
11 neighborhood that can be enjoyed by all, and as
12 Mitch has designed this project, he's met
13 excessive setbacks, holding only the small --
14 smallest part of the buildings and almost exactly
15 where the school sits today and pushing the taller
16 part of the buildings almost double that over 200
17 feet.

18 Next slide. Now, we're going to walk through
19 these very, very quickly, I promise. Here's what
20 we've done. I'm going to try to give you an idea,
21 again, I want you to go back and if you could for
22 just a minute, remember: We know what the
23 finished floor elevations are of our finished
24 buildings and our neighbor. We know the heights
25 of our building to scale. We know the heights of

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1 our neighbors' building. We know and we've
2 committed in terms of our perimeter landscaping --
3 right here, I'm showing you the north hedge -- I'm
4 -- I know what's on our perimeter.

5 We have committed to date and we stand on
6 that commitment that we will not impact any
7 vegetation along our property line. We can grade
8 it, we could hold it on the south, southwest, the
9 west and the north. We want to embellish it. We
10 want to expand upon that, and we have an offer out
11 and we continue to have an offer -- thank you --
12 that we will work with the neighbors as we move to
13 the landscaping portion, our final planned
14 portion, to do that.

15 But here's what I want to do. This is the
16 next fact. Because a picture is a fact. This is
17 looking north to northwest. And I want to be
18 totally accurate and transparent, so we're giving
19 you the best in terms of buffer and the worst,
20 summer and winter, and this is what we've got.
21 This is your summer view, this is your winter
22 view.

23 Next. When you look at the south -- and
24 we're now looking to the southwest and moving to
25 the south back to Mission Road, that's what it is

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1 in the summer. And, obviously, a bit less of --
2 more sparse in the winter when some of the
3 deciduous trees leave -- lose their leaves, but
4 still fairly significant.

5 Next. Now, let's take those facts with our
6 elevations and our perspectives, and let's start
7 looking at our perimeter impact. Now, in terms of
8 what they look like from ground level looking
9 through, we couldn't get on our neighbors'
10 property, wouldn't ask, obviously, would not
11 trespass. So these views are from our site, I
12 think close enough that in terms of the
13 transparency of looking through, whether it's a
14 winter or a summer foliage, it's going to be the
15 same one side or the other. So here's what we
16 get. We're looking at this point here
17 (indicating), this is the villa along Mission
18 Road, a separate part of our property, and we're
19 evaluating the impact of this area here as they
20 look back. We're looking towards that house,
21 that's why the arrow is pointing south. This is
22 what it looks like in the summer. I'm sorry for
23 the shading. Here's what it looks like in the
24 dead of winter.

25 Next. Now, when you're standing in that

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1 first neighbor's home, that house that sits right
2 there on Mission Road to the south of our
3 property, I want to show -- I don't want to play
4 games with landscaping. This is eye level based
5 on what we know their grade is, what our grade is
6 and distance, because we know what the distance
7 is. This is standing right outside your house in
8 your back yard. This is the structure if there
9 was nothing there, existing vegetation or ours.

10 Next. This is laying in pictorial, by
11 computer, the existing landscaping with our
12 additional landscaping with the offer that -- what
13 a tool this could be. And one other point I want
14 to make. We didn't take winter, we didn't take
15 summer, this is a picture, I think, of just a few
16 weeks ago, right about the time that the foliage
17 starting coming up. So it's kind of the middle
18 position. And we can give a date for the record
19 of when the pictures were taken. This is what our
20 neighbor will see when they look at our one-story
21 villas. And again, if -- if we have the
22 opportunity, you can see some of our trees in
23 there. We can put more, we can really use this as
24 a tool to sit down and talk about visual barrier.
25 Now, that's eye level. What about if you're

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1 looking for a neighbor's second story? See the
2 upper level? Interesting. Go back to the other
3 one just a minute. I want to point one other
4 thing out real quick. Nick, the one without the
5 foliage. See, this is here, this is here, there's
6 our two-story. See how that roof line -- this is
7 all to scale -- see how that roof line matches up.

8 Go ahead. Spin it back through. Now we're
9 at the upper level. This is what it looks like.
10 See, you pick up a little bit more when you're up
11 in the second story window, it comes over that
12 villa a little bit. Now put the landscaping in.
13 And you can start seeing again a spring with some
14 additional landscaping. And we will be more than
15 willing to work more -- you start missing any kind
16 of structure behind that.

17 All right. Let's keep going, let's move
18 through these quick. We're moving to the west.
19 You can see, again, I'm giving you the winter shot
20 looking back towards our neighbors. The summer
21 shot. Next. I'm showing you what -- from that
22 vantage point, your villa. Notice how you pick up
23 right here a three-story part of the project. I
24 know people were so concerned from the south about
25 those three-story buildings. But distance without

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1 any screening at all, distance starts reducing
2 size, which has been the point, and you start
3 picking up the same roof line.

4 Next. Here's laying in that existing spring
5 landscaping from that viewpoint. These are villas
6 here is what you're seeing. Let's go to the upper
7 level. You pick up a little bit more of that roof
8 line from the second story. Put the landscaping
9 in. That (indicating) and additional landscaping,
10 and clearly, the summer it starts disappearing in
11 terms of the impact.

12 Let's keep it going quickly now. We just
13 moved down. Here's our two shots again. Let's go
14 to the -- that's the view. You're going to start
15 picking up the -- the end of the villa here. Keep
16 going. That's what it looks like in the spring
17 with the landscaping. Let's keep going. I want
18 to pick this one up. This is the villa looking --
19 let -- let's go -- oh, this is the upper level
20 with the landscaping in. See how we start drawing
21 down.

22 Let's go to the next perspective. And see
23 now we're over here. Those are our views. Keep
24 going. This starts picking up our single story
25 memory care unit. Go ahead. You can start seeing

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1 really with the existing vegetation in there
2 today, it really starts -- Mitch's artistry here
3 starts taking shape, because it has the scale of a
4 single-family home.

5 Go ahead. This is from an upper level of the
6 memory care, again, putting in the vegetation. Go
7 ahead. This is View 5 looking back to our multi-
8 family apartment neighbors. You can see that in
9 the summer -- and there's the winter. Go ahead.
10 That's what they're going to be seeing. Here's
11 their building here in terms of our skilled
12 nursing and starting to pick up some of our two-
13 story. Go ahead. That's the vegetation in the
14 spring; and that's pretty thick, guys, it's not
15 going anywhere. This is directly from the north,
16 the apartments that are down the hill, and that's
17 what it looks like there even when there aren't
18 any leaves, that's their perspective.

19 So again, we'd be happy to keep -- keep going
20 with those, we can run through real quick and
21 we'll come back to this point. I went through it
22 quick. I mean, I think the point is another body
23 of work to scale, not speculative, using the
24 design criteria and the facts we have developed
25 for you to do some further review and maybe some

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1 suggestions. And the offer remains open. And we
2 want to work with our neighbors, whether they be
3 on the south, the west, the northwest to work on
4 that final landscaping plan.

5 So let's go to the next area. So now what
6 we're going to do is I've tried to quickly kind of
7 set the factual, I've tried to take the corridor,
8 I've tried to take the outward appearances; and
9 now we're going to take a ride, so to speak, into
10 the interior of the project and further evaluate
11 how it will feel inside and what the impacts will
12 be outside. Excuse me. And for that, I turn it
13 over to Mitch Hoefer.

14 MR. HOEFER: Bear with me a moment while
15 I move a few things around.

16 Well, I don't want to belabor all the points
17 that John made, but many of those points really,
18 really drove the forming of the building, the
19 siting of our buildings and our uses. The -- the
20 context drove the planning of this campus as much
21 as any healthcare need, any resident need, any
22 outdoor need as anything did. So when you look at
23 our plan -- when you look at our plan and you
24 think about, why am I seeing appendages, why am I
25 seeing these undulations, that's lots of reasons,

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1 that's the scale of the neighborhood.

2 For example, John talked a lot about Mission.
3 Well, we have these two wings that come out to
4 Mission. The width that you see on Mission Road
5 is narrower than some of those houses to our
6 south. Architecturally, it's receding, it's open-
7 armed, it's inviting, it's pulling way, way back.
8 So those wings just really are what -- what come
9 out to the street, the middle of the building that
10 John spoke about is set back 715 feet, a pretty
11 good distance.

12 Can you guys put up -- can I borrow your
13 pointer?

14 MR. PETERSON: Yeah. I put it up there
15 for you, Mitch.

16 MR. HOEFER: Oh, okay. Hold on.

17 So when you look at the -- the mass of
18 this and you look at the shape of it, that's
19 really part of the scale, part of marrying this
20 thing into the -- the overall area, as well as
21 elements like for -- really, driven by
22 neighborhoods. I mean, this is a state of the
23 art, hospitality-driven senior center. That means
24 it's not an institutional facility. It's a very
25 hospitality-oriented environment. It's a --

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1 really a country club for seniors. And all the
2 buildings are designed with living rooms and open
3 spaces and a dining room areas. And we have an
4 indoor swimming pool. And it's -- it's right --
5 really quite a great environment.

6 So when you look at elements like this, you
7 say, well, that's -- what's that doing? Well,
8 that's decreasing the scale, it's also eight
9 residents around the living room and around the
10 grand fireplaces and those kinds of elements. It
11 also breaks down the scale. Because we want our
12 residents to feel very much in a hospitality,
13 home-like environment. That is the goal, that
14 they're -- they're transitioning from other places
15 in Prairie Village and have a great place to go.
16 So that's just a little bit about why the building
17 mass and some of the things that it does, it
18 doesn't drive where things are located yet. And
19 then we'll talk a little bit more about that.

20 The overall character, the inspiration for
21 the building is very much driven by the feeling
22 and the language of many of the houses in Prairie
23 Village. We've kinds of coined it a combination
24 of French and English country, for lack of a
25 better terminology. But we really have taken from

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1 some of the best feelings and the best languages.

2 When you look at our renderings and you see
3 the shutters and the dormers and you see a
4 combination of shingles and standing seam and roof
5 elements and finials and turrets and porte
6 cocheres and cupolas, all those things are taking
7 the scale and breaking it down to a very
8 residential home-like environment. Many of these
9 elements sometimes we can't even afford to put on
10 a lot of houses, and we're putting them in all
11 over the place in all -- the whole facility. So
12 it really helps in the scale and character of the
13 building, as well as do the materials, which I'll
14 elaborate on a little bit more.

15 Go ahead. So with that, I'm going to start
16 specifically in one area and just work my way
17 around. We'll also show some perspectives and a
18 little movie that takes you through the facility
19 so you can kind of see how the buildings all fit
20 in context, as well. But the first building is
21 the memory care and skilled facility. So we've
22 got neighbors that are here that are a couple
23 stories and neighbors here that are one-story. So
24 that's what our building does is one-story and
25 two-story. And John talked a lot about that.

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1 We have interior courtyards. This is our
2 common areas, which have the dining rooms and
3 activity areas and social areas and all kinds of
4 wonderful things, as well as this 130-foot park
5 area that we've created and pulled back our
6 buildings from to really create a great open space
7 for those residents to use, as well. This whole
8 thing steps in very nicely and undulates and
9 pretty much does what the neighbors do, too, in
10 terms of the shapes and profiles.

11 But from a continuum of care, these residents
12 are active. They may have some healthcare needs,
13 but they're very active. And so this is a -- this
14 facility allows for ambulatory movement throughout
15 the entire facility. The stats here speak for
16 themselves, I'm not going to belabor that. You --
17 you have been published the numbers and we've seen
18 those several times.

19 Go ahead to the next one. So here's the
20 detail and character of those facilities. We've
21 blown up a few pieces of it so you can really see
22 the exact character, all those elements I'm
23 talking about. And -- and straight on to the
24 elevation, all the features that are there, the
25 kind of watercolors you can see in the photos

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1 really give you that those are actual renderings
2 of the exact same scale, you get that feel and
3 character. And I know you -- all of you can't see
4 in great deal from all over the room to see this,
5 but these are the real materials, the quality of
6 materials that we're doing, the standing seam, the
7 shingles, the stone, great elements. I mean, this
8 is going to be a dry stacked stone feel. It's
9 really making that English country feel come to
10 life, to a very high quality set of materials, the
11 insulated glazing, beautiful reflective colors,
12 all kinds of great materials. And then you've got
13 all the elements, as I mentioned, the turrets and
14 the hips and the gables and all those things going
15 on and taking it into the same scale as the
16 neighborhoods.

17 Go ahead. This is actually a -- a rendering
18 that you would see from our one-story memory care
19 if you're in the neighborhood. So I'm going to
20 use this board over here to kind of point. If
21 you're in the neighborhood, it's kind of in this
22 area looking back towards the facility there.
23 That's the view (indicating). We had some
24 comments early on about what was the scale of
25 that. Even though it was one-story, it was still

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1 felt to be a little bit large. And so we've
2 broken that facade up a whole lot with all those
3 gabled elements, dormered elements and really
4 taken that scale down as a one-story building.

5 Go ahead. This is the other side of the
6 campus. This is the skilled piece, which is --
7 again, I'm going to use this board to kind of
8 point where it is. It's on that northwest corner
9 of the site as we transition from -- sorry, I've
10 got this also -- one-story to the two-story, but
11 this is really where we're kind of stepping down
12 the hill a little bit, as John talked about the
13 grade. So you see the foundation dropping a
14 little bit here, but it's still all two-story.
15 And again, our neighbors in these areas are -- are
16 two-story, as well. But again, all the same
17 character, all the buildings have same materials,
18 just used in different ways and different feels to
19 create a variety of housing types and feelings for
20 our residents.

21 So this is a really true rendered image of
22 the porte cochere drop-off right at the entry that
23 -- where folks would arrive and visit the -- the
24 first building that I've talked about. So you
25 really get a sense of that character and the green

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1 space, the -- the feeling of the building, all the
2 elements in detail and -- and materials.

3 All right. So the next set of buildings I'm
4 going to talk about is the villas. And we've
5 spent a lot of time designing the villas. The
6 villas were a huge part of our transition and
7 buffering concept. So they're, obviously, all
8 one-story, they're very similar in scale to the
9 houses to the south of us. Very similar in
10 character to some of the homes. Heights, all the
11 things that we heard about earlier in terms of
12 roofs and foundations, we're doing those exact
13 same things. And John walked through all those
14 and how we're marrying up to the -- to the
15 neighborhood with that. And he walked you through
16 all the setbacks, et cetera, that we had. But
17 there's quite a lot of yard and distance across
18 the whole facility.

19 Go ahead. So these are some views, again,
20 from the model John kind of talked about, you
21 know, the non-treed versions. These are just
22 straight from the model. Then you see some of the
23 watercolored views and some of the real character
24 you can start to feel. And this is actually
25 looking from inside our facility to the entries of

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1 the -- the villas.

2 Go to the next one. This is from the -- the
3 neighbors' side, the back yard. And you can see a
4 lot of the elements that we've done, a -- a patio
5 and a little trellis screened porch and fireplaces
6 and dormers and large glass window elements and
7 shutters. And so the character in the steel hips
8 and gables and roof lines, you know, this is --
9 without that garage, you know, 3,500 square feet,
10 that's the total building. That's what all the
11 villas are. So scale wise, square footage wise,
12 it's very compatible to the -- to the neighbors.

13 This is a rendering, really, of our drive as
14 we enter the series of villas. And you see
15 roughly a little bit different character, each one
16 is a little bit different, but all similar
17 materials and some lines -- some roof lines go up
18 a little bit and some drop down a little bit to
19 create a lot of interest for the residents to have
20 an identity in terms of which homes they will live
21 in.

22 All right. Now I'm going to describe for you
23 the assisted living and the independent living.
24 Now, there's some really critical things about
25 this building as we -- as we looked at where it

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1 would go and where the massing would go and where
2 the heights would go. I talked about the wings
3 and how we just let narrow portions of 40 feet
4 kind of stretch out and kept most the mass very
5 centered in the build -- in the site and really
6 pulled back.

7 You know, honestly, I think these elements, I
8 -- as I mentioned, are 40 feet or something and
9 this is way back, you know. I don't think that
10 the homes that are down the street that are
11 probably 180 foot of frontage and, you know, maybe
12 50 or 60 feet back, I don't think they're massive,
13 I really don't. And the character of these are
14 even smaller dimensions and pulled way farther
15 back.

16 So I think it's sympathetic -- it's very
17 sympathetic to the whole Mission street that John
18 presented and walked you through the character of
19 that. But we worked very hard to decide where
20 we'd put what heights. The closest two-story
21 building that we have from any of these is 220
22 feet away from any house. That's that spot right
23 there. The closest three-story portion is 260
24 feet away. And all we have between that is our
25 one-story villas that are very compatible. So we

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1 pulled that scale way back and really put most of
2 our height on the north side of the campus. We
3 even stepped down two-story here to Mission here
4 and here both, just scaling down, again, to the
5 street. And the -- the whole center portion is
6 the two-story height.

7 So this building, without even talking about
8 the language or the French country feel is very
9 sculptured into the whole project, very sculptured
10 into the site, driven by as much outside factors
11 as it is, the design of hospitality, the state of
12 the art continuum here for our residents.

13 At -- this is the detailed character of those
14 pieces of the -- of the independent living and
15 assisted living. Again, you see all the same
16 elements. Stone comes up a little bit higher, a
17 few more standing seam elements, a little bit more
18 turret and porte cochere elements are a little
19 larger scale. But it -- all of that is very much
20 in keeping in, again, bringing down the scale of
21 what is our one three-story building in the whole
22 complex.

23 Go ahead. This is our two-story portion that
24 we're really highlighting, which are the wings of
25 the building as I mentioned, that come out to

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1 Mission. This is the portion that you see coming
2 up to Mission. And we'll show you some
3 perspectives that I think will help you a lot.
4 But this is falling away at 45 degrees and then
5 gets to your entry element. And that's what you
6 see in terms of the character, the skyscape kind
7 of windows, very much that country club feel
8 you'll see all the way through to our outdoor back
9 areas, through the grand areas and social areas
10 and -- and card room areas, et cetera.
11 Now, this is really internal, but I wanted to show
12 you the sense of scale before we actually kind of
13 show you the movement. Here is our one-story
14 villas, here is our two-story components, and
15 here's our three-story that steps to the middle.
16 So we -- we really worked hard -- you can see how
17 these roof lines are climbing that three-story
18 building. Again, another idea of layering this
19 thing and detailing it, building and really
20 marrying to the character of the neighborhood.

21 So this is a -- a early rendition just down
22 Mission. We're really going to show you a model
23 view that shows a lot more green space and berming
24 and height for this. But this is really just
25 minimal. A few trees we're adding in, you can see

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1 the screen effect that has and the inviting
2 feeling that has, as well as the -- some more of
3 the detailed entry elements. And this is the
4 arrival courtyard that you would see from one side
5 coming, say, from the -- from the south driving
6 north into the entry of the facility.

7 So back up one, actually. Sorry. So before
8 I go into some more very specifics of the -- why
9 this building was so sculptured into the site, I
10 just want to use this image to talk a little bit
11 about some of the details and some of the
12 materials. You've heard me talk about porte
13 cochere elements and turret elements and dormers
14 and cupolas. And really the -- we've heavy woods
15 -- wood elements that are tied in as beams and on
16 the stucco and ornamental iron railing that we've
17 got photographs here on our board. Just a
18 wonderful character. And I mentioned all the
19 stone that we've got. The -- the heavy shadowed
20 shingle lines, those are not typical just
21 residential shingles, those are heavy shadowed
22 shingles that really give you a -- a very thick
23 profile, a very elegant profile. And that's on
24 all the buildings, not just on the Mission street
25 frontage.

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1 Okay. So we can't look at every single
2 vantage point of how this project looks from every
3 single corner, but we're going to take through you
4 quite a few areas and we're going to show you some
5 of the things that we tried to do, we -- we think,
6 some very masterful things we tried to do to blend
7 the building in and fit it into the context and
8 scale it in, as John said, to scale, to really
9 give you a good feel for that.

10 All right. So we're coming south on Mission.
11 These are our neighbors in the apartments and you
12 can see scale wise, they're really just about the
13 same, they are set lower, as John talked about.
14 This is where our green space and park element
15 happens that we have our attention area. You
16 really can see across the whole area how far that
17 is.

18 Can you slow it down just a little bit? Back
19 up just a tiny bit. Yeah.

20 Look at that separation. I mean, that's
21 hundreds of feet across that area. So now you're
22 coming up on the sidewalk and walking down
23 Mission. And again, this is a -- a model so
24 you're not getting all the exact berms and height,
25 but we've emulated and simulated some of that as

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1 you come through, you really can see how the
2 grades in this area and the sidewalk is dropped
3 down in that. This is that 40 foot of green space
4 that we're creating all the way down here.

5 There's some walls that you can notice. See, you
6 can see the building off to your right as it comes
7 in and out of focus as you walk by. And the
8 elements move in and back and forth on the street.

9 Now you're starting to see some of the houses
10 in the background and if you look at the scale and
11 character of that in the distance and the tree
12 line and how that transition works so beautifully
13 up the street in terms of the sight lines we were
14 talking about, the same thing John was showing
15 you, all of those elements, you really see in
16 reality and perspective how real all that is.

17 Now we're going to drive into the facility a
18 little bit and come around the entry and we're
19 going to take you around not just this perimeter,
20 but a few other areas, so we look under every rock
21 and see what else we can see. So we've just
22 passed the independent living and we're going to
23 turn and look again towards the neighbors to the
24 north. You can see the Corinth apartment elements
25 sticking out and the numbers of those and kind of

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1 really a -- a wall of elements that is. And then
2 we turn and come really to the -- to the west of
3 our facility and you begin to see our two-story,
4 as we talked about, the -- the condo elements
5 there in the back, the buildings in the back, the
6 same thing. And that character, again, that is on
7 that corner, again, very much marrying into the
8 scale of those elements, scale of those buildings.
9 And then this is the finished view of that area.

10 Now we're coming around the inside of the
11 courtyard and looking at our villas. You see a
12 house there off to the right. Can you slow it
13 down again? Back it up a little bit. And when we
14 approach that villa, what I want you to see as you
15 look into the neighbor's house there to the right,
16 that's one of those grades that was a little
17 higher. And so it -- it's up a little bit above
18 us to the scale of our villas. And as we get down
19 to the end, you'll have a quick view to, again,
20 outward to those houses, how far they are away,
21 and the scale and characters as they relate to our
22 villas as we come down our drive heading back up
23 to Mission.

24 We're now getting a portion of the two-story
25 wing of the independent and assisted building on

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1 the left and the last villas here on our right.
2 You're seeing a house across the street on Mission
3 there. And here, you kind of get a peak in
4 between the buildings of the scale of the houses
5 behind. Those are ten-foot eave lines or nine-
6 foot eave lines, something like that, with a roof
7 that's a very shallow roof. And we've, you know,
8 done the accurate modeling and massing without a
9 lot of detail.

10 Now, we're -- we're leaving the facility and
11 I want to take us down Mission again, because I
12 really think everybody feels like, you know, the
13 south approach is a lot more important than the
14 north approach. Although we dealt on that pretty
15 good, I want to back up and I want you to be able
16 to see the south approach. You see some of the
17 wall elements we're talking about, the ornamental
18 iron work, the -- the features that we're
19 building, this is really giving you a sense of the
20 distance that you're -- you're coming up the
21 street. There's the first house just to the south
22 of our facility on the left.

23 Okay. These views -- yeah, back up one
24 second. These are just a few still frames that we
25 pulled out of the model just to show you briefly a

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1 little clearer -- holding still for long enough to
2 look at, the scale of buildings around. Some were
3 an aerial view, some were a pedestrian view, we
4 just tried to pick a few views. So go back just
5 to the still frames at the end.

6 All right. So here -- kind of component by
7 component, if you will, house to villa, et cetera.
8 So here's our house, our villa, our two-story
9 stepping to three-story. You can see the
10 distances and the scale. This is our neighbors to
11 the north, same thing, you can see the vast
12 distance that we talked about and the total scale
13 compatibility and the condos a little bit in the
14 back. Here, you're coming all the way around the
15 west side, and you really can see our one-story to
16 our two-story next to the condos.

17 Finally, the overall image. You know, I'm
18 going to turn it back to John, but, you know, this
19 was really reiteration Number 4. And many of you
20 that came to the neighborhood meetings know that
21 we moved a lot of stuff around. We moved roads to
22 the interior, we created buffers we didn't have,
23 130-foot park areas, we added villas and moved
24 more villas up the whole south side of the
25 property line. We scaled down square footage, we

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1 added green space, we added character, we broke up
2 massing of buildings. All that happened over the
3 last few months in -- in working with your teams
4 and your folks in neighborhood meetings and
5 hearing comments.

6 MR. PETERSON: Thanks, Mitch.

7 Okay. I know we have been on awhile, so
8 we're going to finish this up in very quick order.

9 A couple of ancillary issues that I will
10 respectfully submit I'm not exactly sure are
11 within the purview of the planning commission in
12 terms of land use and site plan approvals, but
13 they definitely are within the purview of the city
14 moving from master plan to planning commission and
15 governing body as a whole. And we've heard about
16 them. And I anticipate we may hear some
17 commentary during the public hearing, so I want to
18 briefly touch on really two of them.

19 And one is the need of the facility. Why do
20 we need this? We have -- we have Brighton and we
21 have several others and -- and they are not --
22 they're -- you know, we hear reports, anecdotal
23 reports of their low vacancies. And -- and so, it
24 -- you know, we thought that's an important issue.
25 I will tell you that we rely in a -- in large part

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1 in determining that in the basis of this
2 application, that there is not only a need, there
3 is a distinct need, there is a growing need, and
4 today is the time to start addressing that need.
5 And that's -- Mr. Tuteria is going to speak briefly
6 at the end about why he formulated his vision for
7 this area and what his industry looks like,
8 because he's one of the leaders in it.

9 But we also thought what we better do is go
10 outside. And we hired a third-party consultant
11 that is an expert, Jeff Green of Jeff Green
12 Partners, of doing just this kind of planning,
13 anticipating needs, looking at demographics and
14 seeing how projects can fill immediate needs and
15 be in a position to serve future needs. And
16 basically, I'll summarize it, and we have already
17 taken the step of submitting this as part of the
18 public record so it will be available to the
19 commissioners to review in detail, staff as well
20 as members of the community.

21 But the conclusion, although it's very well
22 documented and researched with demographic
23 statistics, it really, when it comes down to it,
24 it -- it's premised and it confirms the exact same
25 conclusion the City of Prairie Village came to in

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1 2009, which when it commissioned its parks and
2 recreation commission to study this issue as part
3 of, how do we plan for the future of Prairie
4 Village? And in 2009, they said, we need a place
5 for our seniors when they transition from our
6 single-family traditional homes. And we need it
7 for two reasons, and there'll be others in the
8 area, because there's a need to have senior living
9 and senior living, hopefully, with some services
10 that go along with it.

11 But if you want young people to come to
12 Prairie Village, move the seniors out of the
13 traditional homes with the swingsets in the back
14 yard and the chain link fences and you open up
15 housing stock. Because Prairie Village, as
16 wonderful as a community as you are, you don't
17 have much more vacant land to build single-family
18 homes. You need to regenerate your traditional
19 two parents, two-and-a-half kids homes. And the
20 conclusions of Jeff, again, the conclusion of the
21 City of Prairie Village itself is that you get a
22 two-fer here. You provide a place for your
23 seniors so they don't have to leave your city and
24 northeast Johnson County can experience the
25 wonderful amenities of Prairie Village, and you

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1 provide that opportunity to start the young
2 families. And it's a phrase and it's well-worn,
3 but it's the cycle of life, and you're planning
4 for it. So we've submitted that.

5 The second one we're going to hear about, and
6 I'm sure we are, property values. If you build
7 this project, our property values will go down.
8 And I anticipate we will have a real estate person
9 in the real estate industry that will opine to
10 that as part of a presentation. And -- and I --
11 with all due respect, I understand that and it --
12 this probably comes down to a difference of
13 opinion. And this is probably one -- it's very
14 difficult to come to that objective standard that
15 we would love to be at. Because, obviously, if
16 somebody thinks it's going to reduce their
17 property values, they wouldn't buy the house. It
18 becomes very, very subjective.

19 We did the best we could. And we didn't want
20 just an opinion based on, well, I tried to sell a
21 house over here -- and I'm not suggesting --
22 whatever's going to be said, will be, but I've
23 heard it before in other -- I tried to sell a
24 couple of houses next to a senior living facility
25 and, boy, it just -- it was the dickens trying to

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1 get it sold. We tried to go -- let's drill down,
2 we hired Todd Appraisal, we want a substantiated
3 factual-based appraisal. So what he did is he
4 went out and he looked at really two different
5 situ -- potential situations.

6 He looked at school sites. What's the impact
7 if homes are near a school, good, bad or
8 indifferent? Operating the schools. And he went
9 to -- and the report's in there -- he went to Nall
10 Hills -- I call it Nall Hills -- Indian Woods. I
11 went to Nall Wood, but it's Indian Woods. And he
12 went to some middle schools. And the statistic
13 is, it's about a wash. And again, you have to
14 really drill down, because it could be a poorly
15 kept house next door. So we factored those out
16 and he came down to what he thought was a
17 reasonable statistical analysis. You can be the
18 judge whether you thought it was a good body of
19 work we do. It'll be submitted as part of the
20 record. Around the school is about a wash.

21 He looked at three similar facilities similar
22 to what we're proposing here. Brighton Gardens,
23 right in the general area; Village Shalom, which
24 is in Overland Park at about 123rd Street; and
25 probably the one that is as close to a comparison

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1 of apples to apples, a project called Santa Marta
2 in Olathe, that is a multi-building, multi-
3 utilization, has some very nice homes like we do
4 next to it at about the same setback. And I'll
5 just close on this point because it's a matter of
6 the record. We told him to really drill down at
7 Brighton, because it's Prairie Village, and look
8 at the homes next to it and look at the homes a
9 couple of streets away.

10 And here was his conclusion. For perimeter
11 property compared to sales -- and this is how much
12 it broke down -- in north Prairie Village -- so
13 there's north and south divided by the street --
14 7.9 percent perimeter premium in terms of home
15 sale values for those that were directly adjacent
16 to Brighton. South of Prairie Hills, on the other
17 side of the street, it was only a 2.9 percent
18 perimeter premium. I've observed this myself, if
19 it's a well designed project with good landscaping
20 transition, there are people that will pay more
21 other than looking at a neighbor directly across
22 the fence in their back yard. Again, it's in the
23 report. I don't expect everybody in the room to
24 agree with it, but we think it's a good body of
25 evidence, at least from a contact -- contextual

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1 standpoint, for the commission to consider.

2 So we -- phasing was going to be the last
3 one, but I -- really, I've adopted and I agree
4 with the -- the issue of phasing and accessory
5 uses that was brought up in the legal analysis
6 prepared by Mr. Dugan and on behalf of some of the
7 neighbors. We will -- I will tell you when we get
8 into that issue and we get into the so-called
9 Golden criteria analysis, that Mr. Dugan did a
10 fine job of going through and attempting to carve
11 his position into that, which I understand totally
12 and respect the effort that was done. We will be
13 submitting our 25 to 30-page analysis, not only
14 stating our legal opinion in terms of the legal
15 context within this application should be
16 analyzed, but also responding to -- to some of the
17 items that were brought up in that report and that
18 memorandum. Staff has already started doing that,
19 correcting some of the inaccuracies, factually,
20 that were in there. So we will be submitting
21 that, you -- you can have further review.

22 But I want to close on the Golden criteria
23 very briefly on just a couple of points. I'm not
24 going to do it tit for tat. Gold -- Golden
25 criteria, Golden versus the City of Overland Park,

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1 Supreme Court in 1984, if I'm not mistaken. John
2 will correct me if I miss the year. A big case.
3 91st and Metcalf, own -- owner wanted to zone it
4 commercial, the neighbors didn't want him to. The
5 City of Overland Park zoned it commercial and the
6 neighbors sued, it went to the Kansas Supreme
7 Court. And it's the seminal case today of where
8 the Supreme Court said, what are the legal
9 parameters that the city should consider rezoning
10 applications? And as we know, SUPs are being
11 treated as a rezoning application. And they set
12 forth what we've in the legal industry call the
13 Golden criteria. The city's adopted and Prairie
14 Village in a form, but the substance is the same,
15 has adopted that as their legal parameters that
16 their attorneys tell them, you and the governing
17 body must evaluate an application. There's eight
18 of them. I'm going to go through them very
19 quickly.

20 I want to start with two that I think are
21 very, very important. Conformance of the --
22 Number 1, conformance of the requested change to
23 the adopted or recognized master plan utilized by
24 the city. And 2, the recommendations of the
25 permanent or professional staff. Two important

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1 issues according to the Supreme Court. I won't
2 argue everything we put forth today, I will merely
3 cite from page 11 of the special use permit staff
4 report prepared by Prairie Village's professional
5 staff. And it quotes, the plan has evolved over
6 several months that included community meetings,
7 meetings with the city and many modifications to
8 the original plan. The plan proposed is
9 consistent with the amended village vision --
10 that's the master plan -- and in the opinion of
11 staff, is a workable plan. Today conformance with
12 the master plan, opinion of the professional
13 staff. I acknowledge staff, there will be some
14 more information for you to complete your position
15 and your opinion and your recommendations for it.

16 I want to go to the next 3, 4, 5, 6, the next
17 four very, very quickly because I think they're
18 important, but they don't get necessarily -- the
19 character of the neighborhood, we talked about it.
20 The interfacing with the thoroughfare, transition
21 from commercial to high-density residential from
22 low and how we have attempted to fit within that
23 character. I think the record speaks for itself.

24 Zoning and uses of nearby property, that's a
25 factual issue. You know what they are.

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1 Suitability of the property for the uses to which
2 it has been restricted, not quite here because in
3 most cases, they're trying to change the zoning.
4 Here, we have a zoning category that allows this
5 use pursuant to a special use permit. So we're
6 not trying to say it's -- it's -- it's
7 residential, we want to completely change the use
8 to office or retail. So this one is not quite as
9 relevant, but it's -- it really is a suitability
10 issue, again, I don't think is relevant. And the
11 last one, length of time the subject property has
12 remained vacant, we know what that is.

13 Here's the last two and I think the most
14 important. The Supreme Court said, the extent to
15 which removal of the restrictions will
16 detrimentally affect nearby property. I don't
17 think it will. Many of you think it will. Facts,
18 staff's putting facts within the filter of the
19 city's design criteria to try to come to a
20 conclusion, will this detrimentally affect nearby
21 property? I cite staff in support of our position
22 it will not -- at page 7 -- in their special use
23 permit -- afford --

24 THE REPORTER: I'm sorry. Please speak
25 up.

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1 MR. PETERSON: The taller buildings will
2 be on the northern portion of the property closer
3 to the two and three-story apartment buildings on
4 Somerset Drive. The buildings adjacent to the
5 south and southwest property lines will be a size,
6 design, and height of conventional single-family
7 construction. And again, page 7, I quote, in
8 summary, property around the proposed project is
9 already developed. The mass of this project will
10 dominate the area, but through greater setbacks
11 and landscaping, the use will not dominate the
12 immediate neighborhood so as to hinder development
13 or use of the property, the extent to which the
14 removal of restrictions would detrimentally affect
15 the nearby property. Their opinion in regard to
16 same.

17 And finally, what I think's the most
18 important one. And I think many in the legal
19 community would agree, it's the balance. After
20 you've gone through several subjective and
21 objective criteria, it's the balance. The Supreme
22 Court says you should ask, what is the gain to the
23 public health, safety and welfare by the
24 destruction of the value of the plaintiff property
25 -- what he wants to do with it -- as compared to

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1 the hardship imposed upon the individual
2 landowner? All of these factors we looked at,
3 it's the balance.

4 What's that hardship on the scale of impact?
5 The court felt this was important because they
6 went back to it again in a later case, Taco Bell
7 versus the City of Mission. And they said, I --
8 we want to drive down on that issue. What do we
9 mean by that? And in the Taco Bell case they say
10 -- I won't read the whole thing -- but they
11 restate what it is, the relative gain to the
12 public health, safety and welfare by the
13 destruction of the value of the plaintiff's
14 property as compared to the hardship imposed to
15 the individual landowner, when analyzing the gains
16 of the public, it must be remembered who
17 constitute -- constitutes the public. This court
18 has previously held zoning is not to be based on
19 the plebiscite of the neighbors. And although
20 their wishes are to be considered -- which we have
21 attempted to do as well -- this final ruling is to
22 be governed by the consideration of the benefit or
23 harm involved to the community at large.

24 And again, to support that I feel and
25 contend, it will plan it out that we have met that

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1 burden, I quote staff as part of their
2 professional report at page 5, it does not appear
3 that the proposed project will adversely affect
4 the welfare of the public. It will, however,
5 provide a senior housing community for area
6 residents that are not currently being provided
7 for in Prairie Village. The population is aging
8 in northeast Johnson County, and developments such
9 as this provide accommodations for senior citizens
10 to allow them to live near their former
11 neighborhoods. It is anticipated that by
12 providing senior housing, single-family dwellings
13 will become available for occupancy by young
14 families. This will help rebuild the community to
15 make it a more sustainable area. We have met that
16 burden and I cite and support that professional
17 staff at Prairie Village.

18 With that, and as part of our close, I turn
19 to Mr. Joe Tintera.

20 MR. TUTERA: Thank you, planning
21 commission members. I'm going to be very be --
22 brief. We spoke here to the commission at the
23 beginning of April, April 2nd, and I described the
24 property and the vision that we had for the
25 development and our desire to bring the senior

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1 living to Prairie Village. So I don't want to go
2 back through that, you've seen them on a number of
3 the factual records. A few of the things that I
4 did want to say, however, is that this is our
5 passion. We've been a -- a family business, we're
6 a local company. This is a vision that we've had
7 for 20-plus years, to bring a senior living
8 facility to this community. We've been looking
9 for years and years for the site, and we think
10 we've found the perfect location.

11 But over the years we've been in -- involved
12 in senior living for 30-plus years, we've always
13 been in the forefront of providing the next level
14 and the next generation of senior living to the --
15 senior living services to the community. We've
16 done that at each of the different levels of care.
17 We've done that with respect to skilled nursing at
18 some of our earlier facilities. We've done with
19 that with respect to assisted living, with
20 independent living and with memory care.

21 But what we haven't done and what the
22 industry is moving towards is to create one large
23 continuum of care so that the residents, when they
24 move into their new home, their community, this is
25 their home. And although it's been referred to in

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1 some of the public, that these are patients, these
2 are residents. These are the seniors that built
3 the fabric of Prairie Village, residents that have
4 lived here for 50-plus years.

5 These residents desire to stay in their
6 community. They want to be next to their social
7 services, their community, their friends, their
8 neighbors, their faith community. These are
9 residents that desire to stay in their community
10 and continue to be part of the community. And
11 when they move to their new home, they want to be
12 able to stay there permanently, they want to be
13 able to live in that community irrespective of
14 their needs, their changes in their physical
15 condition or that of their spouse.

16 And although we can provide an excellent
17 opportunity and excellent lifestyle for the
18 seniors in our existing facilities, we don't have
19 the opportunity to provide that continuum of care
20 such that the resident doesn't have to leave. The
21 happiest day for those seniors is the day they
22 move in. The saddest day is the day they have to
23 leave. The day that they have to separate from
24 their spouse, their friends that they've become
25 accustomed to. Some of these residents will live

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1 in our facilities ten, 15, 20 years. That's their
2 home.

3 The object is for the resident to move into
4 their home and stay in their home, progression
5 through the levels of care. Have the option, have
6 the lifestyle choices. That's our passion, that's
7 our vision. That is what we would like to bring
8 to Prairie Village.

9 Thank you for your support. And I'll turn it
10 back over to John.

11 MR. PETERSON: Do you want to take --
12 would you like to entertain questions now, Mr.
13 Chairman, or wait until after the public hearing?
14 We'll -- obviously, we'll do whatever your desire
15 is.

16 Do you have any questions at this --

17 CHAIRMAN VAUGHN: Not at this time. I
18 think we'll go to the public.

19 MR. PETERSON: Great. Thank you and we
20 would appreciate your recommendation and support.
21 Thank you for your time.

22 CHAIRMAN VAUGHN: Audience, we really
23 appreciate your attention and decorum, if you
24 will, during this process; and I hope that will
25 continue during the rest of the evening here while

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1 we hear from the -- the public involved. Remember
2 that when you wish to make a statement, please
3 come up to the microphone, introduce yourself,
4 give us your address and sign in. There's a
5 notepad to sign in at each one of microphones, I
6 believe.

7 First of all, I'd like to find out if there's
8 people in the audience that would like to speak in
9 favor of the proposed development. Would you, as
10 you can, find your way to the microphone. I'd
11 like for you to limit your time at the microphone
12 as much as you can because there's lots of people
13 that would like to speak.

14 THE SPEAKER: Good evening. My name is
15 Jim Chaar, I live at 9101 Delmar in Kenilworth.
16 My wife and I moved here in Prairie Village five
17 years ago from Overland Park. In Overland Park,
18 we lived on a two-story house that was across from
19 Bethany Lutheran Church. During our 19 years
20 there, that church doubled in its footprint, and
21 we were the most affected. But the wonderful
22 thing about it, in working with the architects, is
23 that when the projects were done over those years,
24 the neighborhood was a better place. The only
25 difference, in my opinion, from what I can see

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1 here is that in Overland Park, when the project
2 was finished, there was no additional tax revenue
3 given to the city, to the county or to the school
4 districts or the libraries.

5 This new project here being proposed is going
6 to provide a number of new jobs, it's going to not
7 use any new retail space, but people will be able
8 to use the current retail space that is nearby.
9 It will provide property tax immediately. And the
10 company that is doing it is not asking for any tax
11 dollars to be given to them for this. Thank you.

12 THE SPEAKER: My name is Frank Adler. My
13 wife and I lived in Prairie Village, 75th Terrace
14 and High Drive for 36 years. We -- our children
15 and grandchildren all went to elementary school,
16 junior high, senior high in Prairie Village. We
17 lived there happily. Circumstances changed for
18 us. We needed a senior living facility. We moved
19 to The Atriums, which is owned and managed by the
20 Tutera Company. I've been there for eight years,
21 my wife passed away after the first. And I
22 continued, because it's a wonderful place for me
23 to be and I hope to be there the rest of my life.
24 Now, had I still been -- had this facility that's
25 being proposed to you here been available to us,

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1 there is absolutely no question that is what we
2 have chosen -- that we would have chosen for
3 ourselves.

4 Let me tell you about The Atriums. I don't
5 know how many of you are familiar with it. It's
6 100 -- it's 7300 West 107th Street. It is run
7 with as -- as perfect -- as perfectly as can be
8 imagined. The staff is superb -- superbly
9 capable, well trained. The place is spotless
10 inside and out at all times. The residents have
11 every advantage in terms of entertainment, has
12 wonderful food provided, three meals a day if they
13 want it, and activities are planned day after day.
14 It is a marvelous place. And I know that if this
15 new facility is going -- is going to be run in the
16 same fashion as The Atriums, it is going to be a
17 place of pride for everyone in Prairie Village.
18 Thank you.

19 THE SPEAKER: My name is Pete Beyer. I'm
20 at 7315 Rosewood, Prairie Village. We've been
21 there for 36 years. We are like so many that were
22 described in that we are seniors who will be
23 looking to transition to senior living. We've
24 looked at several facilities in the neighborhood,
25 including Overland Park, Lenexa and other

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1 facilities, but we'd like to be home. So that if
2 there is a facility that meets the criteria that
3 objectively meets all of the codes, the
4 stipulations, the regulations and looks as nice as
5 this property is, we'd like to be there.
6 Certainly, this is a lot better than the existing
7 facility that's there now. The school's an
8 eyesore, that school. We've been here for
9 decades, it was never that nice. So that we think
10 this is a tremendous improvement for our
11 community.

12 THE SPEAKER: I'm Myron Wang and I lived
13 in Prairie Village for the last 25 years in
14 Corinth Downs. Now, they don't call Corinth Downs
15 Wrinkle City because there's a bunch of youngsters
16 there, we're all pretty -- getting up in age. And
17 that is the last stop for a continuum of care. So
18 when -- what I want to say to you tonight is, as I
19 walk my dog around Prairie Village and talk to the
20 neighbors, and why did this person move out and go
21 to Olathe, why did this person move out and go to
22 Mission, why did this person go to Lee's Summit,
23 why don't they stay here in our community in
24 Prairie Village?

25 Well, the answer was simple. The only

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1 facility in Prairie Village, in my mind, and --
2 and let me tell you a little bit about my
3 credentials because I spent 50 years on the board
4 of directors of Village Shalom. I was the
5 president, chairman of the board and went through
6 two building fund phases. The last one was 124th
7 and Nall, which is a facility very much like this
8 with continuum of care of all phases. And let me
9 tell you something, we sweat bullets, just like
10 we're sweating tonight for this project.

11 And this is a wonderful evening to get an
12 education, because there's a lot of myths about
13 nursing homes -- and I shouldn't use that term --
14 continuum of care, elderly facilities, that are
15 just not true. And the good lawyer here brought
16 most of them out tonight, so I'm not going to
17 reiterate them. But Mr. Adler said about The
18 Atriums, that is a fabulous facility. The Tuteras
19 are major league people when it comes to elder
20 care facilities. I've never heard a complaint. I
21 know people that have had their parents there,
22 their sisters there, their mothers, it's always
23 prime, prime, prime.

24 I can tell you a lot of stories about
25 traffic, because there isn't any traffic in

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1 nursing homes, there just isn't. My daughter,
2 Missy over there (indicating), she had to go visit
3 her aunt who had open heart surgery and was
4 convalescing at Village Shalom. And I took her --
5 her car was in the garage and she said, Dad, would
6 you take me? And I said, sure. So we got there
7 about 5:00 and I said, I have to make some calls,
8 I'm going to be right here in the driveway. Well,
9 I was there for 30 minutes till she came out. And
10 there wasn't one car that came around the entrance
11 of Village Shalom.

12 And I thought it was an aberration, so I went
13 there last night knowing that I was going to say a
14 few words tonight. And sure enough, again -- I
15 went a half hour later because I thought maybe at
16 6:00, there'd be some traffic. Well, there
17 wasn't. So I called one of the staff today and I
18 said, where is everybody? He said, well, we dine
19 at that hour. And I said, well, what time does
20 the staff change? 10:30. So there's no traffic,
21 those people don't have cars. There's no blasting
22 from juke boxes or whatever you call those things
23 in the cars. There's no screeching of tires.
24 It's ghostly quiet.

25 THE SPEAKER: This is a boring town.

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1 THE SPEAKER: Yeah.

2 And Corinth Downs -- they should be able to
3 go from Corinth Downs or any place in Prairie
4 Village to a superb care facility like this. This
5 is major league. Believe me, when we built
6 Village Shalom, we went all over the country
7 looking at places in Texas and Georgia and Florida
8 to build the most palacious place we could within
9 our budget. It cost us \$55 million to build that
10 facility. This is costing the people of Prairie
11 Village zip, nothing. You've got a major league
12 project here, free. And there's a line -- I'm
13 going to end this real quick. There's a line in
14 our Bible that says, do not forsake me in my old
15 age. Let's keep the people in Prairie Village.

16 THE SPEAKER: My name is Milburn Hobson,
17 I'm a retired physician. I've had a home at 5467
18 West 85th Terrace here in Prairie Village for 46
19 years. I have three children, they all went to
20 Mission Valley School, or Meadowbrook, it was
21 then. I have no ax to grind at all. I hadn't
22 even thought of senior living. We were happy in
23 our home, we've remodeled it quite a few times and
24 it's very -- it's great living there. But I read
25 about the Mission Chateau about a month ago in the

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1 paper and my wife and I started talking about it.
2 We met with some of the people from Tutera, heard
3 more about it; and we signed up, if this becomes a
4 reality, for a villa.

5 I -- there wasn't any other place in Prairie
6 Village that we would have wanted to move. If
7 you're interested in -- in Claridge Court, which
8 we were not, we had some good friends just move in
9 and they waited three years. So I think what's
10 been said about the need for senior living, I
11 think that there is. I look around here and see
12 all these silver heads. But I think many of them
13 are in the opposition and I can't understand why.
14 Thank you.

15 THE SPEAKER: My name is Mary -- Mary
16 Lucile Jewett. I have lived in Prairie Village
17 for 48 years. We raised our family here on 73rd
18 Street near Mission Road. I am in my early 80s
19 and am seeking to look and find a suitable
20 community. Brighton Gardens and also the -- the
21 new one that's over on Somerset start with
22 assisted living, and I want independent living.
23 Many of my friends who live in Prairie Village
24 have moved to Leawood, Overland Park, Lenexa or
25 Olathe to find a community that suited them where

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1 they could get a vibrant taste of independent
2 living and, if possible, have a community that had
3 the continuum of care where you could stay within
4 that community as you aged. I -- I love Prairie
5 Village, I want to stay here; and this is the type
6 of community that would help people like me.
7 Thank you.

8 THE SPEAKER: My name is Barbara McGrath,
9 I'm a plastic surgeon and wound care specialist at
10 Shawnee Mission Medical Center, and I have an
11 office on 75th and Nall and I live in Prairie
12 Village. I've worked here for over 25 years and
13 I've lived in Prairie Village for almost that same
14 amount of time. And I'm starting to have to color
15 my hair, so I'm entering near the golden years, I
16 guess.

17 And I have a relative living in a Tutera
18 facility. And when I go to visit, I really
19 inspect very closely because of my medical career
20 and my wound care knowledge. And I really think
21 that it's a terrific place. I think the care
22 given is good. I think it's a safe place. And it
23 would be nice to have more of those facilities
24 locally, not only for relatives, but for when I
25 get old. And as Dr. Hobson said, there are other

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1 people here with silver hair that don't color it
2 and will need a -- a safe facility and a pleasant
3 place to live.

4 So I'm supporting it. I think it's a good
5 idea, and old age used to be very far away and
6 it's getting closer now; and I think that the
7 facilities needed to take care of people in their
8 senior years is important, and it'd be nice to
9 have something nearby so that my daughter will
10 have ease knowing that her mother is being well
11 taken care of, too. Thank you.

12 THE SPEAKER: My name is Courtney Kounkel
13 and I live at 8424 Fontana. I'm here tonight to
14 express support for the project. First, like many
15 others, I was saddened by the school closing where
16 my friends attended and where my children would
17 have gone. However, I have and -- or had and
18 continue to have great respect for our school
19 board for making very tough decisions that are
20 required to keep our district financially strong
21 to ensure that our kids have the best public
22 education possible.

23 That being said, the property's no longer a
24 school. And I can't think of a better use for the
25 property than a senior living community. From the

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1 Prairie Village website, I got a statistic tonight
2 that I actually thought was very interesting.
3 One-fifth of our residents are 65 or older. And
4 the one thing I can guarantee is we're getting
5 older. I actually have gray hair too and I'm
6 already highlighting it.

7 I -- I was fortunate, I grew up -- I grew up
8 in this area and -- and actually was confirmed and
9 got married in this very church and went to
10 elementary school across the street. I had the
11 benefit of having my grandparents live in a -- in
12 a senior community at Mission Road and 95th. And
13 so my children and myself were able to spend a lot
14 more time with my grandparents because of that
15 they were in the vicinity. Life's busy. With
16 little kids, it's even busier. I have a seven-
17 year-old, a six-year-old and a four-year-old. And
18 my mom lives in Prairie Village and I hope she
19 stays in Prairie Village until the day she is no
20 longer with us.

21 And I hope my kids and their kids have the
22 benefit of spending time with her as she gets
23 older. And again, life's busy. And if she has to
24 move even ten miles away, they won't go have lunch
25 with her in the middle of day, they won't take her

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1 out to dinner or shopping, which is what I had the
2 benefit to do with my grandmother until she
3 passed. So a little emotional just because I
4 think it's so important to keep family close. I'm
5 one of nine children. And so I hope everybody in
6 our family stays close and stays in the Prairie
7 Village area. Thank you.

8 THE SPEAKER: My name is Olga Kurg and I
9 live at The Atriums. And I want to say something.
10 That gentleman who talked about how quiet it is
11 and no driving, I still drive and I still have a
12 wonderful life and enjoy all the benefits of
13 independent living. And I did have -- I've lived
14 there four years and I can't tell you how I'm
15 privileged to live in such a wonderful, beautiful
16 place. The staff, the residents, they're all
17 wonderful, wonderful people.

18 And my husband -- I had to put my husband in
19 a nursing home when I moved into The Atriums four
20 years ago. And had I lived in this facility, I
21 could have been in an apartment and he maybe could
22 have been down the hall. And instead of me going
23 every day to see him and worrying about the
24 weather, I could have walked to the other building
25 and been close to him at all times. But the

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1 people at The Atriums, they're my family and I
2 would never want to live anywhere else and I just
3 thank them all for this past four years and I hope
4 the rest of my life at The Atriums.

5 THE SPEAKER: My name is Susan Sadler
6 Lerman and I live at 4301 West 87th Terrace for
7 the past 18 years. I support senior living in
8 Prairie Village. I support the Tutera group and
9 family as a family-owned business based here in
10 Kansas City that will only provide the benefits of
11 employment, tax revenue and a senior -- senior
12 campus here in Prairie Village.

13 THE SPEAKER: Hi, my name is Chris Smart.
14 I live at 8024 Juniper Drive in Prairie Village.
15 I'm also a realtor in northeast Johnson County.
16 And I just wanted to share one -- one quick story
17 with the planning commission. About five weeks
18 ago, I was contacted by an old friend of mine who
19 I attended Belinder School with many years ago.
20 And she was -- her mother was ready to sell her
21 home in the 3000 block of West 71st Terrace.
22 She'd lived in the home since 1963, and prior to
23 that, she'd lived in another nearby home also in
24 Prairie Village.

25 When I asked mom where she was going to, she

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1 said to the new Mission Square complex next to --
2 to the Sylvester Powell Center in Mission, Kansas.
3 She then went on to let me know that her neighbor
4 directly to the east and her other neighbor
5 directly across the street were also selling their
6 homes and moving to the same facility. They felt
7 safe as a micro community to leave Prairie Village
8 because there was no option for them within the
9 city.

10 These three women each lived in Prairie
11 Village for between 51 and 56 years. None wished
12 to leave the city or their churches or drug stores
13 or grocery stores or their neighborhood. These
14 women live comfortable -- comfortably, but don't
15 necessarily have the means to put a huge down
16 payment on a lifestyle require -- required by
17 other options in our city, nor do they want to
18 live in a small cube. The Mission Chateau
19 would've been an excellent option for all three of
20 these ladies, allowing them to live within their
21 own community and move to into the higher care
22 available at the same facility, if and when
23 needed.

24 There's always been an abundance of first-
25 time buyer homes and a shortage of move-up stock

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1 of homes in Prairie Village. The Mission Chateau
2 would free up home inventory by allowing older
3 residents to stay in the city that they love and
4 in the state of the art facility and allow new
5 younger buyers to move in and update the existing
6 properties. This helps beautify our city and
7 increases our tax base. And once again, it allows
8 our residents to stay in the city that they love.

9 THE SPEAKER: My name is Rick Jones, 6517
10 Granada. I went to Shawnee Mission East and
11 graduated in 1966. For those of you that are good
12 at math, you'll -- you'll know -- know about what
13 age I am. I'm speaking here -- this is a unique
14 opportunity, I'm speaking on behalf of my wife and
15 I. I'd like to start out by saying when I -- when
16 I went to East, I didn't live in Prairie Village,
17 I lived down south in Leawood. At that time,
18 people moved around. My parents only lived in
19 Kansas City for six years, but considered it their
20 home. During high school, my dream was to someday
21 live in Prairie Village and raise a family there.
22 It took me a couple tries, but I was able to do
23 that. My two youngest are now in college.

24 Another thing I'd like to point out is the
25 Tutera family, I've had the opportunity to become

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1 -- know three generations of that family, both
2 personally and professionally. And they are some
3 of the finest people I know. Again, my wife Joan
4 and I would -- will definitely, I -- I -- I think
5 it's going to be a little while, but -- but you
6 never know, we -- we will definitely consider this
7 -- this community. We know that if they're part
8 of it and being a family-owned business, it'll be
9 very nice. One thing I've learned about them,
10 they're -- they're a very private family, very
11 close family, a very modest family. They're very
12 active community leaders, they support many, many
13 civic organizations. And -- and I'm proud to know
14 them and I know that whatever they do will be
15 first class.

16 And I think I had a final remark, but I'm not
17 sure what it was. Oh, yeah. The -- the site plan
18 and the architecture, I think is excellent. I've
19 -- I've had the opportunity as an architect to
20 appear before this planning commission on numerous
21 occasions. This is one of the finest
22 presentations, and both the plan and the
23 architecture are excellent, in my opinion. Thank
24 you very much.

25 THE SPEAKER: My name is Marcia Jacobs

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1 and I'm here to speak in favor of the project. I
2 know how hard decisions like this are for the
3 planning commission and the council. I sat on the
4 council two terms in the '80s during the time that
5 Claridge Court was in front of us. And there was
6 great opposition to that. And I can remember
7 standing on the corner, and unlike Mr. Jones, I'm
8 not an architect, it's very hard to stand and look
9 at vacant ground and imagine what's going to be
10 there. But I really think that with this
11 beautiful presentation, the positive it will --
12 effect it will have on the taxpayers of the entire
13 city and for those who want to retire here. I'm
14 not ready for that yet, but some time. I -- I
15 think it's a good thing for the city. Thank you
16 for serving and spending many hours of your time
17 doing this.

18 CHAIRMAN VAUGHN: Is there anyone else
19 waiting to speak in favor of the project? We
20 anticipate that the public hearing is going to
21 continue on to the next meeting in the planning
22 commission. I'm sure there's lots more people
23 that want to speak tonight, and we want to give
24 everybody a chance to do that and to make sure
25 that their comments are noted. I expect that we

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1 will be recessing, if you will, this meeting at
2 least by 11:00. I don't know how late you want to
3 stay, but the public will have a -- everyone will
4 have a chance to speak to the record, either at
5 this meeting or at the next meeting. So with
6 that, we'll open the hearing for anyone else that
7 would like to speak tonight.

8 MR. DUGGAN: Thank you, ladies and
9 gentlemen of the planning commission. I'm John
10 Duggan and I am the attorney that wrote the
11 memorandum that was delivered to you over the
12 weekend, and I represent the Mission Valley
13 neighbors.

14 I think first and foremost before we start
15 our presentation, we want to take Mr. Peterson up
16 on his statements that we want to be totally
17 transparent. I think something needs to be
18 corrected at the outset. Mr. Peterson suggested
19 in his opening comments or his closing comments
20 that he was thankful and appreciated the staff's
21 recommendation for approval, which I don't think
22 is, in fact, true. The -- page 13 of the staff's
23 report doesn't make any recommendation in favor of
24 the proposal. In fact, if you read it clearly,
25 the staff's suggestion under the cap -- caption

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1 recommendation says they need more information
2 before they can reach any conclusion on this,
3 including mass, density and the overall impact and
4 dominance of the project on the adjoining property
5 owners. So in an effort to be totally
6 transparent, the statements that were made that,
7 in fact, the staff somehow recommended approval of
8 this are just not true.

9 With regard to our presentation tonight, we
10 really want to focus in on, initially, a
11 discussion of that issue. Mass, density, how big
12 is this project? We've saw a lot of very gracious
13 pictures and renderings of what was recommended as
14 being a representation of the mass and density of
15 the project. We disagree.

16 My clients believe that this is an
17 unprecedented imposition of mass and density in
18 one area that Prairie Village has never seen
19 before. It's over 380,000 square feet. We're
20 going to show you some exemplars of other projects
21 that will give you some idea of the mass and the
22 density of this project, the very things that the
23 professional staff wants clarification on. They
24 want to know what the dimensions of the buildings
25 are. You would think with all of the numbers that

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1 were thrown at us tonight, with all of renderings
2 that we've seen, that we might see some dimensions
3 on the buildings that the staff has requested. We
4 had to scale them out. We're going to talk to you
5 about that.

6 A couple of these buildings, if you look at
7 them from one end to the other based upon the site
8 plan provided by the developer, are almost two
9 football fields long. We want to show you, we
10 want to invite you to go look at the project that
11 Mr. Peterson suggested was the most comparable
12 project to the one being proposed by the
13 applicant, the Santa Marta project. Do you have
14 the -- can you dim the lights, please, for us?

15 Ladies and gentleman, take a look at that
16 project. That is Santa Marta. That's the project
17 that Mr. Peterson said was the most comparable
18 project to the one being proposed by the
19 applicant. It's 293,000 square feet. That is
20 just about 20,000 square feet bigger than the main
21 building being proposed by the applicant tonight.
22 The main building proposed by the applicant
23 tonight is around 271,000 square feet, which
24 initially, is anticipated to be in Phase III.

25 Go to the next slide, please. Santa Marta is

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1 three stories tall. That project right there
2 gives you some indication of the mass and the
3 density that we would like you to understand. In
4 fact, we would like the planning commission to go
5 drive around that project, which is what I have
6 done. Get a feel for what you're going to be
7 inviting to be built. That is 100,000 square
8 feet, roughly, smaller than the total project
9 being proposed by the applicant tonight.

10 Go to the next slide, please. If you see the
11 Santa Marta project, we have the good fortune in
12 this day and age to have technology at our
13 fingertips, Santa Marta has a collector road that
14 runs out in front of it. It's 36 feet back-to-
15 back. It also has a publically dedicated street
16 that rings that project, unlike the one proposed
17 by the applicant tonight, which is a private road.
18 And it's not even really considered a road by the
19 basis of their application. We scaled it out,
20 once again, not having very accurate dimensions on
21 the site plan that was submitted to the city.
22 This road is 28 feet curved back-to-back on the
23 curb. This feet -- road is 36 feet. The little
24 ring road that goes around this site is only 22
25 feet wide. It's narrower than most people's

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1 driveways. I wouldn't expect that would be
2 something that would meet the safety and health
3 requirements that you'd want for fire and police
4 protection.

5 But notwithstanding that, Santa Marta, also,
6 we heard a discussion about some property values.
7 This area here, which we can't show you very
8 clearly, is actually green space for the Santa
9 Marta project. It's got a big water feature out
10 in front of it. We haven't measured the
11 dimensions, but it's at least 150 feet. That's a
12 significant buffer between these homeowners and
13 that project. You can see a substantial green
14 area here and here. And there's actually about a
15 75 to 100 foot wide green belt on the other side
16 of the public street that buffers these homeowners
17 from this massive project.

18 Go to the next slide, please. This is one
19 view of this massive project. And I am using the
20 word massive because I actually think it's
21 factual. We heard a lot of rhetoric tonight
22 about, let's be factual, let's stick to the facts.
23 And yet, right out of the same almost sentence, we
24 heard words like spectacular, we heard things that
25 were so off the charts artistic in the

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1 phraseology, I'm not even going to try to repeat
2 them. I'm telling you, this seems factual to us,
3 my clients, that is massive. That is a high
4 density project. That is only 20,000 square feet
5 bigger than their main building and it's roughly
6 100,000 square feet smaller than the entire
7 project being proposed by the applicant. I think
8 that's pretty good evidence of a fact this is a
9 massive, high density project.

10 Go to the next slide, please. Here is a
11 slide we didn't see tonight. We saw this thing
12 cut off in pieces to show us these renderings.
13 This is actually part of the Mission Chateau
14 proposal. This is actually the east elevation.
15 This is the elevation that faces Mission Road. We
16 did some calculations based upon the site plan
17 submitted by the developer. The site plan by the
18 developer shows that this is actually, if we
19 scaled it out using their plans, about 530 feet
20 long, almost two full football fields.

21 This is the south elevation. This is the one
22 that will be facing a number of the neighbors
23 along this area over here. That elevation is 480
24 feet long. That's a big building, that's a
25 massive structure. Mr. Peterson said, well, I

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1 guess we do, in all candor, have a building of
2 some size. I would agree with that. This is a
3 building of some size. It's 480 feet long, it's
4 three stories in the -- in a vast majority of it.
5 The one that faces Mission Road is 530 feet long.

6 The skilled nursing center, which is the one
7 that sits in the back that we see on their site
8 plan, is roughly 400 feet long on the west
9 elevation that backs up to the property owners on
10 the back side. This is 380,000-plus square feet
11 of high density development. We did some
12 comparisons very clearly and I -- I hate to keep
13 turning my back to you, but I can't see. We did
14 some comparisons and we looked at all the various
15 and sundry developments nearby, commercial in
16 particular. And we thought it might be an
17 appropriate analysis for the planning commission
18 to look at the number of square feet per acre.

19 We did that analysis, we've supplied that
20 information to the planning commission. This is
21 the most dense project, unprecedented in Prairie
22 Village history. It's almost 22,000 square feet
23 per acre. The other commercial high density
24 portions of your city that are nearby are only
25 11,000 square feet per acre. Let's not talk about

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1 setbacks and these rosy pictures, let's talk about
2 facts. That's a fact. We can prove that, we can
3 go get the plans, your city staff knows that.
4 22,000 square feet per acre, as opposed to 11,000
5 square feet per acre; that is a lot of mass and
6 density. It's no wonder the staff wanted more
7 information about mass and density so we could
8 properly evaluate this project. That's why the
9 staff did not make a recommendation to approve
10 this project; and that's why the staff actually
11 said, we need more information to properly
12 evaluate what we're dealing with.

13 Next slide, please. This is back to the
14 Santa Marta project. You can drive this thing
15 four sides. We would encourage the planning
16 commission to do that. You can see this is an
17 incredibly high dense project. Yet again, it's
18 100,000 square feet, roughly, smaller than what's
19 being proposed by the applicant.

20 Go to the next slide, please. You can
21 actually go through the next three. I want to go
22 all the way to Slide 12, please. Keep going, if
23 you don't mind.

24 What we've done is we tried to highlight for
25 the planning commission and -- and I think this is

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1 important -- special use permits, I have some
2 experience with them, as does, I'm sure, the --
3 the counsel for the applicant. I was involved in
4 the case that was probably the seminal case in
5 Kansas where they said, you know, you get a
6 special use permit, you actually have to consider
7 the rezoning and go through an application of what
8 a change in use is, it was the Chromebacker v Hunt
9 -- Hunt Midwest case --

10 THE REPORTER: Hold on. The Chrome?

11 MR. DUGGAN: Chrome -- Chromebacker
12 (spelled phonetically) -- I'm sorry, I'm stating
13 it quickly -- Chromebacker V Hunt Midwest. And
14 your statute has made an effort to try to comply
15 with what the Kansas Supreme Court considers to be
16 those mandates.

17 We looked at your statute and I think it's
18 very clear that you're not going to, and you
19 should not, approve a special use permit unless
20 it's designed in a manner that is compatible with
21 the surrounding properties. I can't imagine that
22 somebody would look at the project that's being
23 proposed that is twice as dense as some of the
24 most dense commercial projects you've got in your
25 city, nestled on three sides by R-1 and suggest

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1 that that is somehow compatible with the
2 surrounding properties.

3 More importantly, we think -- and we disagree
4 with the legal opinion, to a certain extent,
5 provided by the city's legal counsel. I didn't
6 have a chance to review that until I showed up
7 here tonight. I thought it was telling, however,
8 the interpretation that we put on the statute was
9 never opined by your legal counsel to be an
10 unreasonable interpretation. He said an
11 alternative reasonable interpretation is perhaps
12 you can actually reach the conclusion that you
13 could approve a special use permit for a
14 subsidiary accessory use before the actual use
15 itself was put in place.

16 Our contention is -- go to the next slide,
17 please. Our -- yeah, the next one. Our
18 contention is there's no logic in suggesting that
19 something could be a subsidiary accessory use
20 until the use itself is in place. How are you
21 subsidiary to something or accessory to something
22 if it doesn't exist? The statute in your
23 ordinance doesn't make any provision for the
24 planning commission to do that. There's nothing
25 in the zoning ordinance that -- that's been ever

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1 presented to us, that we're aware of, that would
2 suggest that you could, in fact, approve something
3 based upon a stipulation that they might actually
4 build a use at some point in the future.

5 If that was the case, I would expect there
6 would be some provisions in the zoning ordinance
7 that would lay out precisely what would have to be
8 required by the planning commission or the city
9 council. Do we want them to escrow \$50 million so
10 we know they're going to build the building? Are
11 they going to say, if we don't build the building,
12 we get to shut down the old building, the one that
13 was the accessory use? It makes no sense. You
14 can't have an accessory use unless you have the
15 actual use itself.

16 Go to the next slide, please. Go to the next
17 one, please. I think that the zoning ordinance
18 itself gives you some guidance about what these
19 accessory uses are. It talks about what an
20 accessory use is for a motel. It would be a
21 barber shop, it would be a bar, it would be a
22 lounge. It doesn't say and doesn't even suggest a
23 91,000 square foot building would be an accessory
24 use.

25 Go to the next slide, please. Keep

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1 continuing to go. Stop right there, if you don't
2 mind, and black it out.

3 What I want to talk about briefly is just
4 this notion that we need this facility in Prairie
5 Village. You're going to hear some statistics
6 from an expert in this field tonight. Johnson
7 County has 68 residents per senior living unit in
8 existence today. If you approve this project,
9 Prairie Village will be 30 to 1. Prairie Village
10 has become an epicenter for retirement living. We
11 did informal surveys, we're going to provide that
12 evidence to you in the record and as part of our
13 presentation tonight.

14 Prairie Village, obviously, has ample
15 facilities; because our informal surveys show that
16 only 30 percent or 33 percent of the people that
17 occupy the existing senior living facilities in
18 this city are Prairie Village residents. The rest
19 of them are coming from outside of Prairie
20 Village. We're going to articulate for you, we
21 feel, in a very compelling fashion why you don't
22 need more senior living. Why what you have is
23 adequate, why you have already served your
24 purposes in supplying that to your residents in
25 this city.

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1 We're also going to discuss with you tonight
2 and want to lay out -- we have a list of speakers
3 that are going to touch on a number of issues.
4 And we really want you to understand. This
5 project, in terms of its mass, its scale, its
6 density, is unprecedented in the history of your
7 city. We believe that when you look at this
8 project, you're going to come to the obvious
9 conclusion it dominates the -- the surrounding
10 properties. It dominates the single-family
11 residences on three sides.

12 We also believe when we get done presenting
13 our analysis to you, that you can reach the
14 reasonable conclusion. Their counsel has said you
15 have the ability to interpret your ordinances. It
16 doesn't make any sense to approve an accessory use
17 before the use itself is approved. You can make
18 that interpretation. Your counsel has suggested
19 that some Michigan case says, well, present tense
20 means future tense. In that case, the city in
21 that particular instance said storing a boat on
22 the back of your property was an accessory use,
23 but the house hadn't been built yet. So
24 therefore, present tense -- tense means future
25 tense, the boat can be stored before the house

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1 gets built. You actually have provisions in your
2 ordinance that deal with accessory uses.

3 There's only two buildings that your code
4 actually permits to be built on an R-1A site, a 10
5 by 12 tool shed or a maintenance shed and a
6 carport. And I ask you the question, don't
7 divorce yourself from common sense; we ask you to
8 use your God-given common sense. Would you really
9 -- after all the debate I heard tonight about the
10 gentleman that wanted to get his house approved,
11 would you really approve somebody putting the shed
12 on their property before the house was built? And
13 in your common sense, would you permit them to
14 build the carport before the house was there and
15 start parking their car in a vacant lot? It
16 doesn't make any sense. We want you to use your
17 common sense. We want you to come to the
18 conclusion that -- that saturating your city with
19 even more retirement facilities is not in your
20 best interest, it is not consistent with your
21 plan.

22 We're going to -- now, I'd like to have Todd
23 Bleakley come up and explain, in his expert view
24 as a multi-family developer, why this project, if
25 he were simply trying to get an apartment complex

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1 approved, would be extremely and -- and massively
2 more dense than any apartment complex that could
3 reasonably fit on the 18 acres. Todd, would you
4 please come up?

5 MR. WOLF: Counsel, may I ask you a
6 question?

7 MR. DUGGAN: Yes.

8 MR. WOLF: Just -- full disclosure --
9 what is Mission Valley Neighbors Association,
10 Inc., and I'm just curious who you represent.

11 MR. DUGGAN: I'm representing a group of
12 neighbors that have formed a nonprofit
13 organization for the purpose of protecting their
14 property interests and rights. In the
15 presentation tonight, they are here to oppose
16 emphatically the request by the applicant, because
17 they are a number of interested citizens who live
18 in Prairie Village, also live in Leawood and live
19 in the surrounding areas that are going to be
20 directly impacted by this proposal. Does that
21 answer your question?

22 MR. WOLF: Yes. So you're -- you're --

23 MR. DUGGAN: I'm their legal counsel.

24 MR. WOLF: You're legal counsel.

25 MR. DUGGAN: They hired me to represent

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1 that organization of people in this area tonight.

2 MR. WOLF: And that's made up of Prairie
3 Village residents?

4 MR. DUGGAN: Some -- mostly Prairie
5 Village residents, some Leawood residents, I
6 believe, that are in the general vicinity of this
7 project.

8 MR. WOLF: Thank you.

9 THE SPEAKER: Thank you so much.

10 MR. BLEAKLEY: Good evening, Mr. Chairman
11 and members of the planning commission. My name
12 is Todd Bleakley. My wife and I live at 8621
13 Delmar in Prairie Village.

14 384,000 square feet is a tough thing to get
15 your head wrapped around. And I've been in the
16 development business for almost 35 years and I
17 still have a hard time fathoming what this would
18 be located on 18 acres. In my experience,
19 especially with multi-family, I was asked to do a
20 comparative analysis of what a median density
21 multi-family project would put on this site as far
22 as square footage goes.

23 We had to make some assumptions, the first
24 being that this would -- or could be zoned RP-3.
25 Now, most cities in Johnson County consider RP-3

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1 to be a zoning classification that would allow
2 about 12 and a half apartment units per acre. We
3 went with the same theme right there. Some
4 developers ask for more and get a little more
5 density if they have to make certain concessions
6 in their plans. Other developers voluntarily come
7 in with less density. We wanted to go in the
8 middle and be at 12 and a half units.

9 At 18 acres, 12 and a half units to the acre,
10 you can put 225 apartment units on that site. The
11 next assumption we had to make was based on a
12 survey we did of 16 apartment communities in
13 Olathe, Overland Park and Prairie Village. We
14 took the data from those communities and we -- we
15 determined that a -- an even split, a 50/50 split
16 of one and two-bedroom apartments would average
17 848 square feet per unit. You multiply that
18 number times the number of units and you have
19 about 191,000 square feet. Now, we also made the
20 assumption that each of the two-bedroom apartments
21 would have an attached garage, a 10 by 20 garage
22 or 200 square feet. And you can see the square
23 footage that adds. We also put in 5,000 square
24 foot clubhouse and we assumed a 2,400 square feet
25 maintenance building for a total square footage of

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1 just under 221,000 feet.

2 Now, if you compare that to the Mission
3 Chateau proposal, the Mission Chateau proposal of
4 384,000 feet is 42 percent larger than an
5 apartment community of 225 units. We wanted to be
6 real conservative. So we said, well, let's ramp
7 this up to 14 units to the acre, which is doable
8 in most RP-3s, again, with certain concessions. I
9 doubt it would ever be approved in a location like
10 this because of transitional law policy.

11 But we went ahead and put 14 units to the
12 acre in the same comparison. The unit count now
13 jumps to 252 units on 18 acres, which changes the
14 total square footage, we increase the number of
15 attached garages. And you can work your way on
16 down the list, just as we did before, for the
17 total amount of square footage reduced by 252
18 apartment units and ancillary uses on 18 acres is
19 247,000 square feet or 246-plus. Again, when you
20 compare this to the 384,000 feet that's being
21 proposed with Mission Chateau, Mission Chateau is
22 35 percent larger.

23 Now, I think it would be important to imagine
24 you're standing at 84th Terrace and Mission Road,
25 you're looking west into the Mission Valley School

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1 building. Take the building out, and in its place
2 put in the 225 or 252 apartment units. That's a
3 massive project. Whether you're subjective or
4 objective, that's a massive project. Yet, it's
5 either 35 to 42 percent smaller than what's being
6 the proposed here with the Mission Chateau. I
7 think that's a definition that we need to explore.
8 Any questions? Thank you.

9 MR. DUGGAN: On behalf of my clients,
10 we'd like to touch on a couple more of what we
11 consider to be the profound density issues. And
12 we laid out some of those in -- in our position
13 paper and memorandum that we supplied to the
14 planning commission.

15 You know, when you start thinking about this
16 project and you start thinking about what we
17 consider to be some of the significant issues, we
18 looked at single-family residential as an option.
19 And given the R-1A zoning district, we thought it
20 would be appropriate that -- and most developers
21 concur with this, that you get about two-and-a-
22 half lots per acre if you actually did a R-1A
23 single-family residential subdivision, which would
24 be about 47 single-family residential homes. If
25 you assumed that, on average, they would build

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1 about a 3,500 square feet home on that site, you'd
2 end up with about 164,500 square feet if you
3 developed this in a typical single-family
4 residential square footage parameters. What we're
5 talking about here is the comparison between
6 164,000 square feet of living space and buildings
7 to over 380,000 square feet. If you were then to
8 go to apartments, like Todd Bleakley just
9 described for you, you see that we jump up in
10 those.

11 We feel like you should be looking at this
12 project and saying, what in the world is even
13 comparable in Prairie Village? Could you go to
14 slide 20, please? We've identified for you some
15 statistics on some commercial and retail
16 developments. We've taken photographs, you're all
17 familiar with them. The Corinth's office -- off -
18 - office area. We have looked at the other
19 commercial developments nearby. And in our view,
20 when you start looking at this 380,000 square foot
21 project and you start comparing it to the obvious
22 differences, we feel like it would impede and
23 dominate the surrounding projects.

24 We cited to you the transition lot policy
25 that the city of Olathe had. Santa Marta, the big

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1 project, the massive project, which is even
2 smaller than the one being proposed, is in Olathe.
3 There's, obviously, green space and transitions
4 between lots of that single-family nature and the
5 large massive project of Santa Marta. In our
6 view, when you start looking at the site plan that
7 was proposed by the developer in this case,
8 there's literally, virtually no transition policy.

9 And, in fact, our view is is when you start
10 putting the duplexes that they have on the small
11 lots that they're developing, they couldn't even
12 meet your minimum setback requirements. They're
13 suggesting, which we think is an -- a -- a
14 distortion of the zoning ordinance, that we can
15 build a campus with eight buildings on it, but we
16 don't have to plat any interior streets, we can
17 call it one project, one site, and the only
18 setback requirement we have is literally off of
19 Mission Road. In our view, that's a distortion of
20 reality.

21 We would like to see the dimensions of the
22 villas, we'd like to see the dimensions of the
23 buildings, which the staff would also like to see.
24 Because we believe once provided with the actual
25 dimensions of those buildings, we can show you

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1 demonstratively that those villas that are on
2 their site plan, which they've got right here,
3 have no front yard. I looked at the site plan and
4 it shows five feet from the front of the building
5 to the back of the curb of this little narrow
6 street that rings the project. That's
7 unacceptable. Even in Santa Marta, when they abut
8 those projects, their villas, up to the street,
9 they have a 25 foot setback.

10 They are having absolutely their cake and
11 eating it, too. They're coming to you and saying,
12 we have one project, one campus, eight buildings,
13 no internally platted streets, no separate
14 parcels, no separate lot descriptions, we don't
15 have to have a front yard for our duplexes, we can
16 put them right on this ring road. It's
17 unacceptable. There's no transition between these
18 large lots and the villas. 35 foot backyards
19 would be unacceptable in any other city. I can't
20 imagine that you would want to accept that.

21 Could you go to Slide 22, please? We did
22 some calculations and we looked at Corinth South
23 and we looked at Corinth Square, we looked at the
24 Corinth Office Building, we looked at the Corinth
25 Executive Building. And it appears to us, and the

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1 calculations were provided to you, that
2 essentially, if you do a weighted average of all
3 of those projects, it ends up being about 11,900
4 square feet per acre per project. And this
5 project, at over 380,000 square feet, is 21,122
6 square feet per acre. Unacceptable. Massive
7 density dominates the surrounding properties.
8 There is not one single-family residential area
9 adjacent to this that you could even come close to
10 with that density. It makes no sense.

11 Go to the next slide, please. In the past,
12 you have approved Claridge Court. It's a high-
13 density project. The difference between Claridge
14 Court, the underlying zoning when that was
15 approved was C-2, it wasn't R-1A. It was a C-2
16 zoning that you passed a special use permit to
17 allow Claridge Court to go in.

18 Go to the next slide, please. You can see
19 that Claridge Court, when we compare it to Santa
20 Marta, doesn't have the same garish, imposing
21 appearance that this project -- we're taking
22 pictures much closer to the project and it still
23 doesn't have the appearance that Santa Marta does.

24 Go to the next slide, please. If you go to
25 Slide 27. What we want you to consider is, do you

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1 want to be the city in Johnson County that has two
2 of the three largest residential buildings? We
3 polled the top ten residential buildings in
4 Johnson County. Santa Marta is the largest at
5 284,000 square feet. Claridge Court is second at
6 241,000 square feet. If you approve this project,
7 the main building at 271,000 square feet will be
8 number two. You will have the second and third
9 largest residential buildings in Johnson County
10 located in your city, not that far apart from one
11 another. I don't believe that your city wants
12 that concentration of these high density
13 residential units in your city.

14 Go to the next slide, please. One of the
15 projects that's on that top ten list is the Santa
16 Fe Towers. Not a very attractive building.
17 Nevertheless, it's only 181,000 square feet. It's
18 about 200,000 square feet smaller than the entire
19 project that the applicant is asking you to
20 approve tonight.

21 Go to the next slide, please. Our concern
22 and what I expressed earlier was the de minimis
23 front yards that are depicted on the site plan,
24 the very insignificant backyards of 35 feet, no
25 transition lot policy, you're going from large lot

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1 community over here, one-acre lots approximately,
2 into this extraordinarily high dense project with
3 no transition lot policy, no greenway, a 35 foot
4 back yard.

5 And we saw some very, very gracious
6 characterizations of what this project would look
7 like if you drove through it. I don't know about
8 anybody else in this room, I felt like I was
9 driving in a car and somebody put my visor down
10 over on the side. I couldn't see out the side of
11 my car to see how big the building was. I only
12 got to see out that side where they wanted me to
13 see. If we would've had the full view of what we
14 were looking at, we would've seen the elevations
15 that we showed you being three stories tall, two
16 football fields long. I didn't see that anywhere
17 in that drive around. It was completely missing.
18 Full and complete transparency is what we want.
19 They came to you and they're saying to you, we are
20 being transparent with you. We don't -- my
21 clients don't feel like that transparency exists.
22 We want to lift the veil and actually see what
23 we're dealing with.

24 The site plan, in our view, also, in this
25 ring road appearance, if you go all the way around

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1 this, this is one of earlier versions, all -- this
2 street is not the street that we're dealing with.
3 If you now look at their proposal, this front
4 portion of the street are all carports now. When
5 you measure the actual distance between that curb
6 and the next curb over for the medians where they
7 jut out, it looks to us like it's about 22 feet.
8 It's incredibly narrow.

9 What's going to happen if one of these cars
10 stalls on that -- in -- in their car out in that
11 22-foot wide driveway and there's a fire? There's
12 obvious safety issues involved here. A public
13 street wouldn't permit that to happen. A public
14 street would typically be, as a residential
15 street, 28 feet wide. A typical collector road
16 would be 36 feet wide. We're looking at this and
17 thinking, most people in this room's driveways are
18 wider than 22 feet. Why would you want to have
19 this incredibly dense project, life safety issues
20 being dealt with for fire protection based on a 22
21 foot wide driveway with villas sitting right on
22 top of the curb? It doesn't make any sense.

23 Go to the next slide, please. At this point
24 in time, we'd like to have you gain a fuller
25 understanding from our perspective as to what a

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1 skilled nursing facility is. We're going to ask
2 Doctor Satterlee to come up and see if he can shed
3 some light in our effort to be fully transparent
4 about what we're really dealing with.

5 MR. SATTERLEE: Hello. I'm Craig
6 Satterlee, Doctor Satterlee. I am a board
7 certified orthopedic surgeon, and I live at 8600
8 Mission Road. And I'd like to talk with you a
9 little bit about what a skilled nursing facility
10 is and what it isn't.

11 First slide, please. A skilled nursing
12 facility is not a nursing home. Next slide,
13 please. A hospital, as we all know it, is an
14 acute care facility where there's recovery after
15 surgery or an acute illness. A nursing home is a
16 permanent residence for people who are too frail
17 or sick to live at home due to physical, emotional
18 or mental problems. And they usually require
19 daily assistance.

20 Next slide, please. A skilled nursing
21 facility -- and that's the correct word, that's
22 what Medicare uses, skilled nursing facility, we
23 call it a -- a SNF. In the old days, when we'd
24 have them in the hospital, we called it a stepdown
25 unit. They're really not in the hospital any more

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1 due to market reason and financial reasons,
2 they're more out in the community. The insurance
3 companies will call it a non-acute care hospital
4 unit or a skilled nursing unit. Some of the
5 facilities are also called an adult care unit.
6 But the correct term is skilled nursing facility
7 or a SNF.

8 Next slide. Well, what is a skilled nursing
9 facility? To be certified by Medicare or
10 Medicaid, it must have a transfer agreement with
11 hospitals in case a person -- person requires an
12 emergency for restorative or rehabilitative care.
13 They must have a physician on staff who rounds
14 regularly and is available 24 hours a day for
15 emergency calls. They must have a 24 hour a day,
16 seven day a week nursing staff present. That's an
17 RN. This person must be supervised by a physician
18 or a medical director. They have to have staff
19 and equipment to give skilled care, like
20 audiologists, physical therapists, nurses, things
21 of that nature. And they cannot violate anti-
22 discrimination laws.

23 Next slide, please. Well, here we are at the
24 Mission Chateau. The skilled nursing facility is
25 this portion right here in the upper left. Sorry,

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1 I can't point over there. But it's the pink
2 facility right there.

3 Next slide, please. Well, the proposed
4 Mission Chateau skilled nursing facility is in
5 Phase I of their project. There's 68 single unit
6 beds and there's 16 semi private beds for a total
7 of at least 100 skilled nursing facility beds,
8 which will be filled by 100 patients. Doctors
9 call them patients. There's too many beds to
10 serve just the Mission Chateau or Prairie Village.
11 This is not subordinate to the complex.

12 Next slide, please. What types of patients
13 are referred to a skilled nursing facility? Who
14 do we send from the hospital to a skilled nursing
15 facility? Well, patients whose condition is too
16 severe to be treated at home after discharge.
17 They're so severe they can't be treated in their
18 own home. They're not walking down to Nellie's to
19 get a ice cream cone. There's no family support.
20 They require bedrest, they need extensive
21 rehabilitative, as well as physical, emotional or
22 psychosocial problems. They have what we call
23 comorbidities. The treatment is not covered by
24 their insurance at home. Some people, especially
25 Medicare folks, if you have an infection and need

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1 IV antibiotics, Medicare will not pay for it to be
2 done at home; and it has to often be done in a
3 skilled nursing facility.

4 Next slide. Well, what about insurance
5 coverage? Well, a lot of people are on Medicare
6 and they're over 65. And that's consistent with
7 the -- what we've been shown. But there's also
8 people who are under 65 that are sent to a skilled
9 nursing unit, they're on private insurance and
10 they might be on Medicaid if they match the low
11 income eligibility requirements. A term you
12 probably don't know is the term "Medicaid
13 Dependency Application for Kansas." And what that
14 is is there are folks who are low income, they're
15 in the hospital, they don't have insurance. And
16 so the ins -- the hospital facility will sign them
17 up for Medicare -- med -- I'm sorry -- Medicaid.
18 And so they'll have an application in process and
19 they can also be eligible for a skilled nursing
20 facility.

21 Next slide. Well, how do patients that are
22 outside of the retirement center and have to go to
23 a skilled nursing facility select one? First
24 thing they're advised to do is go to
25 www.medicare.gov and look at the quality rating,

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1 not the overall rating, not the color of the
2 drapes, but the quality rating. The next thing is
3 availability. The bigger the skilled nursing
4 facility, the more open beds there are. And so
5 bigger facilities have more beds and we can refer
6 patients to those.

7 What about care-specific needs? Certain
8 patients need things that are only covered in
9 certain skilled nursing facilities. Like if
10 you're on dialysis, most of them don't do
11 dialysis, but they will take you out daily to have
12 your dialysis. Other patients need special things
13 like what's called a wound vacuum. That's -- I'll
14 show you an example of that in a minute. There's
15 no HIPAA violations in this talk.

16 Next slide. Okay. What kind of conditions
17 are taken in? Well, if you're over 55 or 65, a
18 lot of the folks who've had the joint replacements
19 or they've had like a hip fracture and they need
20 more rehabilitative care than they needed at home.
21 In a skilled nursing facility, they can also get
22 blood transfusions, they can get IV antibiotics
23 and they can have their Foley catheter care. They
24 also can have infections. Like I said, they're
25 not often covered for IV antibiotics in the home.

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1 They need wound care and dressing changes. Other
2 folks that go there have severe lung or heart
3 problems. I think someone earlier mentioned a
4 friend who was rehabilitating from heart surgery.

5 Next slide. What about patients that are
6 under 55 to 65, who -- who are those kind of
7 patients that we refer to a skilled nursing
8 facility? Well, they're usually a little
9 different. Often, they can be in trauma,
10 accidents, whether it's motor vehicle accidents or
11 motorcycle accidents, and they need care that they
12 can't get at home. They can have gunshot wounds,
13 especially if they have a bowel perforation and
14 they need to learn colostomy care, those folks
15 often will go to a skilled nursing facility.

16 Next slide. Amputations for folks that have
17 had severe diabetes or infections or trauma. And
18 then this is the wound vac. If you have wound
19 problems, like this is a fissure on a fracture, we
20 clean the fracture out and then we put this device
21 on it, it suctions away what we call
22 serosanguinous fluid and purulence, or you might
23 call it blood and pus.

24 Next slide. So the Mission Chateau's skilled
25 nursing facility is not a subordinate act --

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1 accessory of use, it's massive, it's big, and I
2 think you need to take that into consideration in
3 your deliberations. Thank you.

4 MR. HIGNEY: My name is Bob Higney, I
5 live at 3303 West 127th Street in Leawood. My
6 background is president of Prime Marketing
7 Concepts. It's a strategic marketing and research
8 firm. I've been working in the senior housing
9 industry for over 30 years doing marketing plans,
10 marketing studies, feasibility studies. I've done
11 this for some of the largest developers across the
12 country. And isn't it just great, 11:00 at night,
13 the guy who wants to talk numbers while everybody
14 is tired, everybody wants to go to sleep. But I'm
15 not -- I'm not going to be up here too long.

16 Clearly, with all the information that was
17 presented tonight, I can appreciate the emotions
18 of -- of both sides. I haven't had a chance to
19 review Jeff Green's report, which I guess, I would
20 get to when this information is -- is available.
21 But I do want to provide some facts, you know, as
22 -- as Mr. Peterson pointed out. Here's some of
23 the things we do know.

24 First of all, Mission Chateau would be the
25 second largest elder care facility behind Lakewood

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1 in Johnson County. Lakewood's got about 625
2 units. Another thing we know is if you look down
3 Mission Road from Somerset to 95th street and a
4 little bit to the east, we've got Mission Chateau,
5 The Forum and Claridge. This concentration of
6 senior housing would be unprecedented in Johnson
7 County. So keep that in mind when you're talking
8 about density.

9 Next. Within that 12-block proposal, we are
10 looking at doubling virtually every type of senior
11 living facility, independent living, assisted
12 living units, and the combination of SNFs and --
13 and memory care.

14 Next. This massive development literally
15 will create the perception that Prairie Village is
16 the new home for senior citizens, especially for
17 those needing skilled nursing care. And one of
18 the questions I have is, is there really a need to
19 support that? We all know that our population is
20 aging. We all know that the senior population is
21 growing. And let's make sure we have the right
22 definition of senior. Some people start it at 55,
23 some people start it at 65. Quite frankly, many
24 in the senior housing markets look at 75 as the --
25 the true population because the average age -- the

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1 average age of a move-in is 78 years old.

2 Next slide. Look at the growth here, or lack
3 thereof. The fact of the matter is, according to
4 Nielsen's Senior Life Reports and -- and Nielsen
5 provides information for many of the national
6 developers -- we're looking at only gaining in the
7 75-plus population 24 individuals from 2013 to
8 2018. So that's a projection based off the 2013
9 estimates. As a percentage of the total
10 population in Prairie Village, 75-plus, we're
11 talking about a stagnant 10 percent. Again, is
12 there really the need? One other thing you have
13 to consider -- and I heard a lot of people talk
14 about how nice it would be to move into a local
15 facility, one close by, one in the neighborhood --
16 nationally, less than 5 percent of the senior
17 population will ever move into a CCRC. That's
18 been documented over the last 25 years. So even
19 though we all feel like, oh, man -- and my wife
20 included, that -- that would be a great place for
21 us, the reality is, when push comes to shove, the
22 vast majority do not move into a continuing care
23 retirement community.

24 Next slide. If you want to take the -- the
25 bigger picture and look at the 65-plus, you're

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1 talking about less than one half of 1 percent
2 growth over the next five years. Less than two
3 percent projected from 2013 to 2018. So again,
4 the question remains, where is the need? It's not
5 for me to say how Mr. Tuteru spends his money, but
6 what you've got to take into consideration, if
7 there is stagnant growth and the population of
8 seniors, even though it seems like we have this
9 massive movement, isn't growing in the local area
10 here, in the Prairie Village area, will those
11 other phases actually get finished? And then what
12 are you left with? The SNF.

13 Next slide. John mentioned this earlier that
14 the ratio, the population ratio, 68 individuals in
15 Johnson County for every senior housing unit.
16 It's 30 to 1 at Prairie Village. Does Prairie
17 Village need to support the senior population at
18 more than twice the rate of Johnson County?
19 That's the question for you to answer. Thank you.

20 MR. CARMAN: Good evening, Mr.
21 Commissioner and members of the commission. My
22 name is Steve Carman. I live at 8521 Delmar. So
23 for those of you keeping track, I back up to this
24 project. I want to talk about three topics this
25 evening. The first is traffic, second is height,

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1 and the third is financial impact.

2 As to traffic, we've all seen the traffic
3 study and it does a good job of focusing on the
4 vehicle capacity of Mission Road and the ability
5 to get on and off Mission Road. That's what the
6 study is supposed to do. It also focuses on the
7 traffic peak during the morning rush and the
8 afternoon rush. Well, let's not focus on the
9 impact that the traffic from this project is going
10 to have on the road at morning and afternoon rush
11 hours, let's focus on the impact the traffic for
12 this business park is going to have on the
13 neighborhood, in particular, the impact before and
14 after weekday rush hours.

15 And I asked to have distributed earlier, and
16 you all should have a packet of information that
17 I've provided. And on the first page, you'll see
18 a chart that shows, first of all, we know from the
19 -- from the proponents' own traffic study, that
20 this business is going to channel in excess of
21 1,100 vehicles per day into this site surrounded
22 by existing residential community. That's going
23 to happen seven days a week, 365 days a year.

24 The three shopping centers in Prairie
25 Village, the principal stop -- shopping centers

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1 were built at the same time as the houses near
2 them and they generate that kind of traffic every
3 day. But there's no other location in Prairie
4 Village that brings that huge volume of traffic
5 every day into a residential neighborhood. And
6 there's a spike in that traffic, as this chart
7 shows, between 6:45 and 7:15 a.m. every morning
8 and then again between 10:45 and 11:15 p.m. every
9 night. Spreading the parking throughout the
10 business park only ensures that all the neighbors
11 have to deal with this intrusion. It's an
12 intrusion that is entirely inconsistent with the
13 traffic patterns in the residential neighborhoods
14 that surround this business.

15 One final point as to traffic, the
16 developers' traffic study shows that the -- that
17 the SNF -- I learned a new term tonight -- would
18 generate 391 trips per day into the -- into the
19 business, a full 34 percent of the traffic flow,
20 which is further confirmation of the obvious,
21 which is that the SNF cannot possibly be
22 considered a subordinate accessory use.

23 Let's talk about height for a couple of
24 minutes. Commissioner Vennard, I apologize for
25 forcing you to again visit the topic of height,

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1 but here we go. At your meeting in April, counsel
2 for the developer talked at some length about the
3 height of the proposed project in one particular
4 spot. And Commissioner Schafer, you exhibited the
5 mental agility at that time to confirm that the
6 proposed project at that particular point will, in
7 fact, be three feet higher than the highest
8 elevation of the school. Well, that's a helpful
9 point.

10 I want to focus your attention on several
11 other significant heights. And I've provided to
12 you a copy of the survey that's in the packet that
13 I've provided. It's a survey. And on page 2 --
14 also, there are two charts. Let's start with the
15 survey, because this warrants a little
16 explanation. What I'm trying to show is that
17 highest point on the school right now, which is
18 Point A, and then on each of the surrounding
19 residential home sites, I've numbered the closest
20 to the -- the point on the property line that is a
21 direct line from that Point A to the residence's
22 kitchen window. Okay? So that's 1 through 8.

23 Points B through I are points on the proposed
24 project that get as close to each of those
25 residences as a -- a multi-story point in each of

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1 the -- each of those points -- I'm sorry, I'll get
2 this right. Each of those points reflects the
3 multi-story point of the project that is closest
4 to Points 1 through 8. So what does this show if
5 you look at the chart? If you look at Chart 1, it
6 shows the current elevation at Points A through I.
7 Then it shows the regraded elevation at each of
8 those points. It shows the proposed building
9 height at each of those points, the proposed total
10 elevation and then the change in elevation at each
11 of those points.

12 Chart 2 shows you a comparison of distance,
13 which is distance from Point A to Point 1 in the
14 first row, first column. And then Point A all the
15 way out to Point 8 in the furthest column in the
16 first row. And you look down to the bottom and
17 you see the change in distance from the closest
18 proposed multi-story structure point. The purpose
19 of this little exercise is to emphasize the fact
20 that this project is taller, and that height is
21 being projected toward the residences. So it's
22 not just a question of being three feet higher at
23 one point in the project, it is higher and it is
24 significantly closer to all of those residences.

25 If you look at the photos that I've attached,

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1 you can see in the first page -- you see a picture
2 taken from 84th Terrace on the far side of Mission
3 Road and you get a good view of that highest point
4 on the project, which is Jim -- well, actually you
5 can't see it very well, it's covered by trees.
6 You also see points -- you also see the current
7 view from Points 2, 4 and 6 to that Point A. Then
8 on the last page, you see two pictures. One is a
9 35 foot tall building taken from 175 feet away,
10 and the other is a 45 foot tall structure taken
11 from 175 feet away. Why 175 feet? If you look
12 back in Chart 2 in the second row, you'll see that
13 the distance now from property line to multi-
14 storied structure varies from as close as 131 feet
15 to 194 feet. All right. Enough on height.

16 Let's talk about the financial impact. Now,
17 I've come to accept the fact that some people view
18 the neighbors who live around this project as
19 anti-development crazies. And I've -- I've had
20 people ask me why I'm so concerned about this
21 project, and that it won't have an impact on me.
22 And to those people and to all of you, I say, that
23 is just not true. The adverse financial impact
24 this will have on our -- on our neighborhood is
25 clear. And I've been told by two different

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1 experienced real estate agents that this project
2 will reduce the value of my house by 50 to
3 \$75,000.

4 Fearing you might be unimpressed by the
5 opinion of experienced real estate agents, I spent
6 my own money to have a written opinion from a
7 Kansas licensed real estate appraiser who lives
8 and works right here in Johnson County. And I've
9 provided to each of you a copy of his opinion.
10 And this is admittedly different than the
11 assessments done by the proponent. I will admit I
12 did something radical. I didn't look at other
13 projects or other properties, I asked, what is
14 going to be the impact of this project on my
15 property?

16 A few snippets from that opinion. My primary
17 concern in reviewing the plan for the project is
18 that a three-story wing of the assisted
19 living/independent living complex will be
20 positioned within approximately 200 feet of your
21 rear property line. It will be visible to you and
22 to any potential purchaser of your property should
23 you ever decide to sell your home.

24 Further on, page 2, near the bottom of the
25 second paragraph -- or the first full paragraph,

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1 second paragraph. It's rare to find a multi-story
2 facility such as that proposed by Mission Chateau
3 with such proximity to well-established upper-
4 bracket single-family homes.

5 Further down, page 2, I would expect a
6 diminution of at least 10 percent of your current
7 market value should the Mission Chateau senior
8 living community be constructed as currently
9 proposed.

10 Near the end on page 3, a diminution in
11 property value of at least 10 percent is a
12 conservative baseline, given the facts as
13 presented to me concerning the proposed
14 development.

15 What's really irritating about this is I made
16 the decision to make my largest investment in
17 Prairie Village real estate, and 50 to \$75,000 is
18 going to be taken out of my pocket because someone
19 else's dream requires an oversized development on
20 property where it doesn't belong. And that's not
21 right.

22 Your planning consultant has guesstimated
23 this business park is going to generate more than
24 \$100,000 of tax revenue. What he doesn't tell you
25 is that if the licensed and certified appraiser

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1 that I hired is correct, that revenue will be
2 offset by a reduction in tax revenue by its
3 surrounding neighborhood. And it's not just eight
4 houses. It's very common for tax appraisers,
5 detecting a decrease in property value directly
6 abutting a new project, to reduce the appraised
7 value of houses within a five-block ring around
8 that project. In Prairie Village alone, the
9 combined appraised value of the residences in that
10 five-block ring is in excess of \$175 million.
11 Stop and think about that. You have a licensed
12 appraiser telling you this project confiscates --
13 and I don't use that word lightly -- confiscates
14 over a half a million dollars from me and each one
15 of my neighbors.

16 And a secondary consequence could well be the
17 loss of meaning -- meaningful tax revenue from a
18 number of other residences around the project.
19 For those of you considering approving this
20 project because the end of the anticipated
21 increase in tax revenue, you may want to adjust
22 your math downward. And that is before you even
23 think about the incremental expenses the city will
24 incur as a result of this project.

25 I'm opposed to this project. And I'm opposed

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1 to this project because this business park is too
2 big. I'm opposed to this project because it's too
3 tall. I am opposed to this project because the
4 intensity of the activity is incompatible with the
5 residential neighborhood into which it is proposed
6 to be stuffed. And I'm opposed to this plan
7 because it is wrong -- it is wrong to impose
8 significant financial harm on the neighbors who
9 live around this project. And I strongly
10 encourage each and every one of you to do the
11 right thing, which is to vote against this
12 project. Thank you.

13 CHAIRMAN VAUGHN: One moment. One
14 moment. We've passed 11:00 by a significant
15 amount already. Did you have a short statement
16 you wanted to make?

17 MR. DUGGAN: We have a number of other
18 persons that want to speak.

19 CHAIRMAN VAUGHN: I think we better stop
20 the meeting at this point.

21 THE SPEAKER: We were positioned last,
22 not our fault.

23 CHAIRMAN VAUGHN: We're not going to vote
24 tonight.

25 MS. VENNARD: You can be first next time.

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1 MR. DUGGAN: Would it be fair to say,
2 then, if we're going to adjourn tonight, that we'd
3 be able to start the public hearing with our --
4 the rest of our presentation?

5 CHAIRMAN VAUGHN: Right at this spot,
6 same spot. Do we need to have a motion?

7 MR. ENSLINGER: The next meeting, as
8 we've outlined in terms of the overall schedule,
9 would be June 4th in this same facility at 7 p.m.
10 That's been the target for the planning
11 commission. We've announced that all along, that
12 it would be unlikely, given the agenda we had
13 tonight previous to this item that this item would
14 be finished. So therefore, it's the planning
15 commission's prerogative of when they end the
16 meeting. They would need a motion to do that. I
17 think you do have commitment from them that the
18 opposition group that's speaking currently would
19 be able to start at that time. I will note
20 there's actually one application on next month's
21 agenda that the planning commission will all --
22 also have to deal with based upon that, so we'll
23 have to look at the scheduling of that and the
24 time when that -- when that application is for.

25 THE SPEAKER: And the public will remain

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1 open until --

2 MR. ENSLINGER: Yes, the public hearing
3 will remain open.

4 MR. PETERSON: I --

5 MR. WATERS: I would encourage you in a
6 motion to adjourn to make that clear in the
7 record.

8 CHAIRMAN VAUGHN: I will.

9 MR. KRONBLAD: I would make a motion to
10 adjourn the meeting, but leave it open until June
11 4th for the public hearing.

12 CHAIRMAN VAUGHN: Is there a second?

13 MR. WOLF: Second.

14 CHAIRMAN VAUGHN: Any discussion? Those
15 in favor of the motion, raise your hand
16 (indicating).

17 MR. ENSLINGER: I will note all the items
18 that were presented tonight, we will put on the
19 project page that the city has developed for this
20 project, so they will be available. It probably
21 will take us a few days to do that, and so I would
22 anticipate them being available some time
23 Wednesday afternoon or Thursday morning.

24 (THEREUPON, the hearing concluded at
25 11:20 p.m.)

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1 CERTIFICATE

2 STATE OF KANSAS

3 SS:

4 COUNTY OF SHAWNEE

5 I, Cameron L. Gooden, a Certified
6 Shorthand Reporter, Commissioned as such by
7 the Supreme Court of the State of Kansas,
8 and authorized to take depositions and
9 administer oaths within said State pursuant
10 to K.S.A. 60-228, certify that the foregoing
11 was reported by stenographic means, which
12 matter was held on the date, and the time
13 and place set out on the title page hereof
14 and that the foregoing constitutes a true
15 and accurate transcript of the same.

16 I further certify that I am not related
17 to any of the parties, nor am I an employee
18 of or related to any of the attorneys
19 representing the parties, and I have no
20 financial interest in the outcome of this
21 matter.

22 Given under my hand and seal this
23 _____ day of _____, 2013.

24 _____

25 Cameron L. Gooden, C.C.R. No. 1335

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PLANNING COMMISSION MINUTES
May 7, 2013

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, May 7, 2013, in the fellowship hall of The Village Presbyterian Church at 6641 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Bob Lindeblad, Randy Kronblad, Dirk Schafer, Nancy Wallerstein, Gregory Wolf and Nancy Vennard.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Dennis Enslinger, Assistant City Administrator; Jim Brown, Building Official, Keith Bredehoeft, Interim Public Works Director, Andrew Wang, Council Liaison and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Nancy Vennard noted on pages 2 & 5 the reference to review of **site** plan criteria was incorrectly typed as "sign". Gregory Wolf moved the minutes of the April 2, 2013 be approved as corrected. The motion was seconded by Randy Kronblad and passed unanimously.

NON-PUBLIC HEARINGS

**PC2013-112 Site Plan Approval - Building Height Elevation
9109 Fontana**

Dan Quigley, 11106 West 146th Terrace, stated he originally requested a three foot building elevation increase but has made modifications to his plans and is currently requesting a 2-foot increase in elevation. He acknowledged the concerns expressed by neighbors to this change noting there has only been one new home constructed in the neighborhood in the past 20 years. He showed pictures of the homes in the neighborhood, noting the varied heights and styles of the homes. Mr. Quigley grew up in this area and would now like to move his family to the neighborhood. He is an experienced home builder the other homes he has constructed.

The City code allows new residential structures or additions to raise the first floor elevations six inches for every additional five feet over the minimum side yard setback that the building sets back from both side property lines. This allows him an increase of 6".

Mr. Quigley showed pictures indicating the foundation issues of the existing home relative to the curb. The current home has a 7 foot deep basement; whereas the common basement depth today is 9 feet. Mr. Quigley reviewed the side yard setbacks and elevations of the adjacent properties. He will be building at a higher elevation to get drainage away from the house. He wants to maintain a walkout and to do so will be constructing a small retaining wall and keep the existing side entrance orientation for the garage.

Nancy Vennard noted the roofline of the existing house appears to be considerably lower than the others and how the new roofline would compare. Mr. Quigley responded it would be 7 to 10 feet above the adjacent property.

Gregory Wolf asked if the applicant accepts the staff recommendation. Mr. Quigley responded he desires a net increase of two feet.

Dennis Enslinger reviewed the following staff report:

The applicant is requesting a first floor elevation change of 2 feet and has submitted a site plan that shows how the change would be accommodated. The existing house was built in 1963 and has the typical low basement ceilings that were built at that time. The applicant would like to increase the ceiling height in the basement, provide a walk-out basement and provide a more positive slope to the street.

The existing house (965.0) is slightly lower than the street (965.7) and the first floor elevation is 5 feet lower than the house to the north (970.3) and 4 feet higher than the house to the south (961.1). The ground slopes from north to the south and west to east.

The applicant held a neighborhood meeting with ten area residents in attendance. A number of concerns were discussed including the height of the new first floor. The property owner to the immediate south is still concerned with the requested elevation change. The property owner to the south has provided written comment of his concerns. The applicant has secured approval from the Kenilworth Homes Association to construct the dwelling as proposed. However, Mr. Enslinger noted the deed restrictions address the width and lot coverage of the structure, not the building elevation.

In evaluating an application for an elevation change, the Planning Commission reviews the following criterion:

1. That there are special circumstances or conditions affecting the property;

The land in this area is hilly with significant elevation changes. There are a number of types of housing the neighborhood including ranch, split levels, walk-outs and two story structures. The existing residence and the residence to the immediate north are similar in nature and are reverse 1.5 stories with a walk-out in the rear. The house to the immediate south is a ranch. The applicant is proposing to construct a reverse ranch on the site.

A 2-foot elevation change will be noticeable based on the existing conditions. The houses on this side of the block conform to the topography of the street by progressively cascading down with each house. The proposed construction would interrupt this pattern. The new residence would be approximately 1-2 feet higher than the house to the north.

2. That the elevation change is necessary for reasonable and acceptable development of the property in question;

In today's market, taller ceilings are highly desirable and they make basement space more livable. When opportunities occur for properties to be rebuilt, a reasonable

effort should be made to allow the new building to meet current market demands, provided that it is compatible with the neighborhood. Current zoning code provisions would allow the applicant to raise the finished floor elevation 6 inches based upon the proposed side-yard setbacks. The applicant could also gain additional ceiling height in the basement by either modifying the design to provide additional setback or provide a retaining wall in the rear of the property allow for the walk-out.

Increasing the finish floor elevation by only 6 inches does not allow the applicant to achieve positive water flow to the street. Street grade is at 965.7 and a 6 inches elevation change would only place the finished floor elevation at 965.5. Additional height would be required to address this issue.

3. That the granting of the building elevation change will not be detrimental to the public welfare or injurious to, or adversely affect, adjacent property or other property in the vicinity in which the particular property is situated.

The proposed house will maintain the same front yard setback as the existing house. However, the side yard setbacks and rear yard setback will be reduced from the existing conditions. The front yard, side yard, and rear yard setbacks exceed the requirements of the zoning ordinance.

Staff does not recommend granting an increase of 3 feet based on its impacts on the adjacent property and in relationship to the existing streetscape. The terrain is hilly in this area and a more reasonable elevation change with proper foundation landscaping, would not adversely affect the public welfare or be injurious to property in the immediate area.

While staff does not have a specific recommendation on an acceptable waiver, staff believes that a 1-1.5 feet waiver is more acceptable. If the Planning Commission considers approval of the applicants request staff recommends the following conditions:

1. Submission for staff approval of a foundation landscaping plan to minimize the visual impact of the elevation change;
2. Approval of a Drainage Permit from the Public Works Department;
3. The applicant provide a letter from the Kenilworth Homes Association indicating that it has approved the proposed project; and
4. The applicant provides a survey document showing the height of the finished floor at (TBD) as part of the building inspection process.

Nancy Vennard noted residents are generally concerned the elevation height relative to the neighboring properties and is concerned with the proposed pitch of the roof. Mr. Quigley responded that he could reduce the pitch of the roof and gain two to three feet from the maximum height

Bob Lindeblad disagreed with Mrs. Vennard regarding the height and stated he views the entry and door height as the driving concern and feels the proposed building will have an adverse affect on the property to the south. The street front is a big picture concern even with the reduced 2 foot increase. Ken Vaughn and Randy Kronblad share Mr. Lindeblad concerns particularly with the grade difference to the south.

Dennis Enslinger noted that if the house was moved to the north, Mr. Quigley could meet the code provisions. Another option for him would be to change the walkout.

Dirk Schafer asked the applicant if he was willing to move the house to the north. Mr. Quigley responded he would be willing to give up the turnaround if he could raise the elevation 2 feet or an elevation increase of 1.5' in the location shown on the second plan submitted.

Mr. Vaughn asked if it creates issues for staff at the 1.5' elevation. Mr. Enslinger stated he would be more comfortable with a one foot elevation, but noted lowering the roofline will help for the properties to the north and south and landscaping can mitigate the foundation.

Gregory Wolf asked how much the roof could be lowered. Mr. Quigley responded two to three feet.

Dirk Schafer moved the Planning Commission approve PC2013-112 granting a building height elevation increase of 1.5' with the house to be located in location shown in the revised plan and subject to the following conditions:

1. Submission for staff approval of a foundation landscaping plan to minimize the visual impact of the elevation change;
2. Approval of a drainage Permit from the Public Works Department
3. The applicant provide a letter from Kenilworth Homes Association indicating that it has approved the proposed project;
4. The applicant provide a survey document showing the height of the finished floor at 1.5' as part of the building inspection process and
5. That the pitch of the roof be reduced to achieve a three to four foot decrease in total roof height.

The motion was seconded by Nancy Wallerstein and approved by a vote of 6 to 1 with Bob Lindeblad voting in opposition.

Chairman Ken Vaughn asked the public to be respectful of the applicants appearing before the Planning Commission and of the Commission. The Commission has a large agenda to complete this evening and it would be helpful if the public would remain quiet during presentations, not applaud speakers or hold up signs during presentations.

**PC2013-113 Approval of Sign Standards for Prairie Village Shopping Center
NW Corner 71st & Mission Road**

Kylie Stock, with LegaC Properties, LLC at 3955 West 83rd Street, stated she has been working with City Planning Staff in the development of the Tenant Sign Criteria for the Prairie Village Shopping Center. She has reviewed the staff comments on the proposed standards and accepts the staff recommendation and related conditions of approval.

Ron Williamson stated it was anticipated that the sign standards would be more similar in format to what was approved for Corinth Square. Prairie Village Shopping Center is designed differently than Corinth Square and the building facades are not being changed so the standards are an update of the existing standards. There are

several anchor tenants. Most of the signage will be within sign bands, however, there are several towers throughout the Center that have signage. Staff has reviewed several situations of the proposed sign standards with the applicant and has resolved most of the items. There are a few items that were not readily available and will be supplied at a later date.

The words "Drive Thru" are shown on the wall sign for Starbucks. That is not a part of their legal name and will need to be removed.

Dirk Schafer asked if the event sign at 71st & Mission Road would be permanently removed. Ms Stock responded the tenants want to have the ability to use that for promotion of center events and it will be incorporated into the sign standards.

Gregory Wolf moved the Planning Commission approved PC2013-113 approving the Sign Standards for Prairie Village Shopping Center subject to the following conditions:

- 1) That applicant provides the details for the U.S. Bank signs.
- 2) That the applicant provides the square footage for the proposed Hen House sign.
- 3) Remove the words "Drive Thru" from the wall sign for Starbucks.
- 4) Revise the sign standards (text and graphics) with conditions approved by the Planning Commission and submit to Staff for review and approval.
- 5) Remove the event sign at 71st and Mission Road or incorporate it into the Sign Standards.

The motion was seconded by Randy Kronblad and passed unanimously.

**PC2013-115 Approval of Final Plat
5250 West 94th Terrace**

John Petersen with Polsinelli Shughart at 6201 College Blvd, representing GDG, LLC stated the applicant will own the entire building and manage is as a single unit. The condominium association will be dissolved. The proposed final plat will eliminate the 28 condominium lots and be platted as one lot. The staff comments have been reviewed and are accepted by the applicant.

Ron Williamson noted the office building is currently platted as an office condominium with 28 individual units and 12 owners. The property is zoned CP-1 Planned Restricted Business District, but the plan designates all the parcels on the north side of 94th Terrace as offices. This lot is part of Meadowbrook Center which is a large development on the northeast corner of 95th Street and Nall Avenue. The building was built in 1982.

The applicant will own the entire building and manage it as a single unit. The condominium association will be dissolved. The proposed final plat will eliminate the 28 condominium lots and be platted as one lot. Since the area is developed and a preliminary plat was submitted when the area was originally platted, a preliminary plat was not required.

A survey and title opinion showing the easements and other encumbrances on the property has been submitted. All parties having a final interest in the development need to sign the plat which includes mortgagors.

All taxes due and payable must be paid and a copy of the tax receipt submitted to the City. The signatures section for the Governing Body needs to delete the word "Approved" and be replaced with "Easements and Rights-of-Way Accepted."

Gregory Wolf moved the Planning Commission approve the final plat of Meadowbrook Executive Building Replat and forward it on to the Governing Body for its acceptance of rights-of-way and easements subject to the following conditions:

1. That the applicant submits proof of ownership.
2. That the applicant submits the final plat to the Johnson County Surveyor for a review.
3. That the applicant submits a certificate showing that all taxes and special assessments due and payable have been paid.
4. That the signature section for the Governing Body be changed by deleting the word "Approved" and replacing it with the words "Easements and Rights-of-Way Accepted."
5. That the applicant revises the final plat and submit three copies to the City for final review and approval.
6. That the applicant dissolves the condominium association prior to filing the final plat with the Register of Deeds.

The motion was seconded by Bob Lindeblad and passed unanimously.

PUBLIC HEARINGS

PC2013-04 Special Use Permit Renewal & Expansion for Monarch Montessori School at 7501 Belinder Avenue

Lindsay McAnany, Administrator for the Monarch Montessori Preschool stated the school is seeking approval to expand their preschool within its existing REACH Church's building facility at 7501 Belinder Avenue. They plan to increase from two classrooms to four classrooms accommodating approximately 100 students. There is a minor change to hours of operation and the only change to the exterior structure will be the removal of the shed located on the east side of the south wing. It will be replaced with a 12' x 24' deck that opens onto the Monarch playground. Parking will be in the Church's west parking lot off the corner of 75th Street & Belinder. A five-year permit is being requested.

Chairman Ken Vaughn opened the public hearing to comments:

Joel Mellgren, 2611 West 75th Terrace, expressed concern with the traffic from the dropping off of children. He also noted traffic often backs up Belinder creating difficulties for residents to get out of their driveways now and additional students will bring additional traffic.

Ron Williamson replied that one of the conditions of approval is that the drop off and pickup of students occurs in the west parking lot and not on 75th Terrace. Access to

the new classrooms, which are on the main floor, is from the west so this should not further aggravate the problem.

With no one else wanting to address the Commission on this application, Chairman Vaughn closed the public hearing at 8:05 p.m.

Ron Williamson noted that Monarch Montessori Preschool received its initial Special Use Permit in December, 2009 subject to seven conditions for a period of three years.

The three year approved period has lapsed and renewal is being requested along with expansion of the use. The number of students has increased and the 24 student maximum is no longer adequate. The applicant is requesting to increase from two rooms to four rooms and the enrollment would increase from 24 to 102 students. Also the age is changed from 3 years to 2.5 to school aged and the hours of operation are to 5:30 instead of 5:00.

The existing Preschool is located on the garden level of the building and has access from the south and west. One of the concerns was ADA access and the applicant has resolved that concern with the City and the State Fire Marshall who must approval all plans for schools. The applicant will continue to use this space and will expand the Preschool to a portion of the main floor immediately above the existing space. The plans for the space will require approval of the Building Official and the State Fire Marshall.

The only outside physical change will be the removal of a shed on the east side of the building and the construction of a 12' x 24' deck. The deck will have a stairway to the playground.

A child care center was approved in 2012 for a maximum of 45 children. This is located in a different part of the building, is accessed from the north and uses the east parking lot.

The applicant held a meeting on April 22, 2013 in accordance with the Planning Commission Citizen Participation Policy and no residents attended the meeting.

Mr. Williamson noted a court decision that Special Use Permits are in reality a change in use and should be considered in the same manner as a zoning change is considered using the "Golden Factors." The Special Use Permit ordinance has factors for consideration similar but not identical to the "Golden Factors" and therefore, both sets of factors will need to be considered.

The Planning Commission made the following review of the factors for consideration for special use permits:

1. **The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations and use limitations.**

The proposed special use for the Montessori Preschool will be contained within an existing building and fenced playground which is in compliance with the zoning regulations.

- 2. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

The site and building are adequate in area to accommodate the proposed use without affecting other uses in the church. By requiring drop off and pickup in the west parking lot, there should be no inconvenience for the residents on the south side of 75th Terrace.

- 3. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.**

The proposed Montessori Preschool will be within the existing building and the modifications will be on the interior, except for the construction of a deck. The proposed use is not of a size or type that would cause substantial injury to the value of property in the neighborhood.

- 4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: a) the location, size and nature of the height of the building, structures, walls and fences on the site; and b) the nature and extent of landscaping and screening on the site.**

The proposed Montessori Preschool will accommodate approximately 102 children in a maximum of four classrooms and will use the classroom facility during normal working hours. This use will not have a dominating effect in the neighborhood because it will be located within an existing building. No expansion of the existing building is proposed.

- 5. Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.**

The proposed Montessori Preschool will use the existing 43 space off-street parking lot on the west side that is provided by the church. The operation of the Montessori preschool will not be at the same time as other events at the church. The drop off period in the morning lasts from 8:00 am to 9:15 am. The pickup times also vary from 11:30 a.m. to 5:30 p.m. Therefore, the west parking lot should be adequate to accommodate the traffic.

- 6. Adequate utility, drainage and other necessary utilities have been or will be provided.**

Since this use will be occupying an existing facility, utility services are already provided.

- 7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

Adequate entrance and exit drives currently exist at the facility on Belinder Avenue and this proposed special use will utilize the existing infrastructure that is already in place. The parking lot should be adequate to accommodate the staggered dropping off and picking up of children.

- 8. Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.**

This particular use does not have any hazardous materials, processes, odors or intrusive noises that accompany it.

- 9. Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.**

The proposed special use will not require any changes in the exterior architecture or style of the existing building. A deteriorating outbuilding will be removed and a 12' x 24' deck will be constructed which are minor changes.

The Planning Commission made the following review of the Golden Factors relative to this application:

- 1. The character of the neighborhood;**

The neighborhood is predominantly single-family dwellings to the north, south, east and west. The existing property is a church and another church is located on the northwest corner of Belinder Avenue and 75th Street. Northeast of the site is a large office building along with other office buildings on the north side of 75th Street to State Line Road. The character of the immediate neighborhood is primarily residential with single-family dwellings and churches.

- 2. The zoning and uses of property nearby;**

North: R-1B Single Family Residential - Single Family Dwellings

East: R-1B Single Family Residential - Single Family Dwellings

South: R-1B Single Family Residential - Single Family Dwellings

West: R-1A & R-1B Single Family Residential - Single Family Dwellings

- 3. The suitability of the property for the uses to which is has been restricted under its existing zoning;**

The property is zoned R-1B Single-Family Residential District which permits single-family dwellings, churches, schools, public building, parks, group homes and other uses that may be permitted either as a conditional use or special use. The property has a variety of uses available and it can accommodate uses that complement the primary use as a church. A day care center occupies another portion of the building.

- 4. The extent that a change will detrimentally affect neighboring property;**

The use has been existence for three years and has not created any detrimental neighborhood issues. The renewal request, however, will increase the school from two to four classrooms and 24 to 102 students which is a significant increase. Traffic is the main concern. The west lot which has 43 parking spaces will be the main drop off and pickup area and should be adequate to accommodate the traffic. Traffic needs to be minimized on 75th Terrace so that the houses on the south side of the street are

not adversely impacted. The Preschool has monitored this by working with the parents.

5. The length of time of any vacancy of the property;

The church was built in 1955 and has changed occupants and ownership several times, but to our knowledge has never been vacant.

6. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;

The proposed project is within an existing building that will not have any exterior modifications except for a 12' x 24' deck. The applicant will be able to better utilize the property and no hardship will be created for adjacent property owners.

7. City staff recommendations;

The use has been in operation for three years with no complaints; the use will be within an existing building with minimal exterior changes; the use will have minimal impact on the neighborhood; and the use will provide a needed service for preschool children that is in demand in Prairie Village. Since this is an increase of more than four times the size of the existing school, it is recommended that it be approved for five years to be sure that it does not adversely affect the neighborhood.

8. Conformance with the Comprehensive Plan.

One of the primary objectives of Village Vision is to encourage reinvestment in the community to maintain the quality of life in Prairie Village. The proposed Montessori Preschool is an amenity that sets Prairie Village apart from other competing communities in the metropolitan area. This application for approval of the Montessori Preschool is consistent with Village Vision in encouraging reinvestment; providing multiple uses in existing buildings and making better use of underutilized facilities.

Randy Kronblad moved the Planning Commission concur with the staff finding for both the Special Use Permit factors and the Golden Factors and recommend the approval of the Montessori Preschool Special Use Permit to the Governing Body subject to the following conditions:

1. That the Montessori Preschool be approved for a maximum of four rooms and 102 children between the ages of 2.5 and school-age.
2. That the Montessori Preschool be permitted to operate year round from 8:00 a.m. to 6:00 p.m. subject to the requirements of the State of Kansas
3. That drop off and pickup of students occur in the west parking lot and not on 75th Terrace.
4. That the Preschool meet all requirements of the building and fire codes, and the State Fire Marshall.
5. That the site comply with ADA requirements.
6. If this use is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless noncompliance is corrected.
7. That the Special Use Permit be issued for the Montessori Preschool for a period of five years from the date of Governing Body approval and that if the

applicant desires to continue the use, they shall file a new application for reconsideration by the Planning Commission and Governing Body.

The motion was seconded by Nancy Wallerstein and passed unanimously.

Chairman Ken Vaughn led the Commission in the following review of the site plan criteria:

A. The site is capable of accommodating the buildings, parking areas, and drives with the appropriate open space and landscape.

The proposed Montessori Preschool will be within an existing structure and parking and access will be accommodated within the existing west parking lot.

B. Utilities are available with adequate capacity to serve the proposed development.

This site is currently served by utilities and they should be adequate to serve the proposed use.

C. The plan provides for adequate management of stormwater runoff.

No changes in the existing site are proposed and therefore stormwater runoff will not be affected.

D. The plan provides for safe ingress/egress and internal traffic circulation.

The existing parking area on the west side will provide adequate ingress/egress for the proposed use.

E. The plan is consistent with good land planning and site engineering design principles.

The site is consistent with good land planning and design. An unattractive shed will be removed and a deck will be constructed which are the only changes that will occur to the site.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

It is not proposed to change the external appearance of the building with the exception of removing a shed and adding an 12' x 24' deck.

G. The plan represents an overall development pattern that is consistent with Village Vision and other adopted planning policies.

One of the primary objectives of Village Vision is to encourage reinvestment in the community to maintain the quality of life in Prairie Village. The proposed Montessori Preschool is an amenity that sets Prairie Village apart from other competing communities in the metropolitan area. This application for approval of the Montessori Preschool is consistent with Village Vision in encouraging reinvestment; providing multiple uses in existing buildings and making better use of underutilized facilities.

Randy Kronblad moved the Planning Commission approve the proposed site plan include the 12' x 24' deck on the east side of the building, subject to the following conditions:

1. That the applicant work with Staff to address ADA requirements regarding access to the Preschool.

2. That any outdoor lighting installed shall be in accordance with the lighting ordinance.
 3. That the applicant meet all requirements of the building and fire codes.
- The motion was seconded by Bob Lindeblad and passed unanimously.

Chairman Ken Vaughn stated the Commission would take a ten minute recess to allow for the presentations on the next application to be downloaded on the computer for projection. The meeting was recessed at 8:15 p.m.

Chairman Ken Vaughn reconvened the Planning Commission meeting at 8:25 p.m.

**PC2013-05 Request for Special Use Permit for Adult Senior Dwellings
8500 Mission Road**

David Waters, representing the City Attorney, presented the City's response to two legal issues raised regarding the interpretation of the provision of the Prairie Village Zoning Regulations governing the Mission Valley SUP, Section 19.28.070(I).

Mr. Waters stated that based on court findings and interpretations of similar situations that a reasonable interpretation of the Zoning Regulations is that a SUP may be issued under Section 19.28.070(I) for a project in which a separate nursing or health care facility will be built prior to the completion of the primary senior adult dwelling facility if the Governing Body determines that a reasonable likelihood that the primary dwelling facility will be built within a reasonable period of time after completion of the subordinate facility, and if the SUP is conditioned upon the completion of the primary dwelling facility.

Chairman Vaughn called upon the applicant for their presentation.

John Petersen, attorney for the applicant with Polsinelli Shughart 6201 College Blvd, noted that also in attendance for the applicant was Joe Tutera and Randy Bloom with the Tutera Group, representatives of Olson & Associates and Hoefer Wysocki Architecture with the development team for Mission Chateau.

Mr. Petersen noted that a court reporter was present as he believes it is in everyone's best interest to have a solid record of these proceedings which will continue over multiple meetings. Copies of the transcript will be made available to City and will become public record.

Mr. Petersen reviewed the outline for their presentation and noted that all of the presentation will be part of the public record for this application. The presentation will begin with a factual analysis based on the questions raised at the earlier worksession, from neighborhood meetings and the design criteria for the City of Prairie Village. The architect will then review the design of the project followed by comments addressing the Golden Factors and concluded with comments from Joe Tutera on their view and plans for this site.

John Petersen stated this is an 18 acre site with over ten acres of green space. The current finished grade elevations at the property line are from 954' to 951'. The elevation at the school site is 954.5'. The proposed development will hold the

elevations from east to west. They will level the site with the elevations of the primary buildings being 951.5'. The finished floor elevations on the villas adjacent to neighboring properties vary between 951' and 952'.

Mr. Petersen noted the varying heights of the buildings in the development, but noted lower heights on those buildings adjacent to neighboring properties. The following chart reflects height to peak:

1 Story Villas	21'-4"
1 Story Memory Care	26'-3"
2 Story Skilled Nursing	33'-6"
2 Story Independent Living	32'-4"
3 Story Independent Living	40'-0"
# Story Assisted Living	40'-0"

The setbacks on Mission Road are 115' with 233' to the main building. A site plan was shown depicting the setbacks between the property line buildings on site and those of the adjacent properties. Mr. Petersen stated the stormwater flow that exists today will be reduced by more than half.

Existing Storm Water Runoff

- 114 cfs to the North
- 37 cfs to the South
- 151 cfs total

Proposed Storm Water Runoff

- 114 cfs to the North
- 7 cfs to the South
- 73 cfs total

Mr. Petersen noted the traffic study presents a comparison of past traffic flow to projected traffic flow to determine if the traffic is over tasking the roadways. The AM peak hour comparison projects a decrease of 169 vehicles to and from the site and the PM peak comparison projects an increase of 22 vehicles to and from the site. There are currently 395 vehicles travelling on Mission Road during the afternoon peak of 2:30 to 3:30 p.m. Shift change for Mission Chateau staff will increase that number by 102 trips for a total traffic count of 495 trips.

A site plan reflecting color coded on-site parking was reviewed. Staff parking is primarily located as far from the buildings as possible. There are 51 carports available as part of the resident parking for the Independent Living residents and the Villas have 22 enclosed garage spaces. The required parking for the project is 285 spaces with the project providing for 350 on-site parking spaces. These include 135 employee spaces, 13 ADA spaces and 2 van spaces for community transportation.

Mr. Petersen noted the lot coverage requirement for the single family zoning district is no more than 30% of the lot. The Mission Chateau development will have lot coverage of 22.9%. The maximum height for the R1-A zoning district is 35 feet. The height of buildings within the development range from 16 feet to 35 feet. The setbacks required for R1-A are 25 feet. The setbacks for the development range from 35 feet to 240 feet. Concentrated active open space amenities are not required in R1-A; however, this development will provide 5.34 acres of park area including 1.23 miles of walking paths.

John Petersen reviewed the existing character of the Mission Road Corridor reviewing heights and setbacks of major buildings along Mission Road including

Macy's, Brighton Gardens, the Colonial Church (71st & Mission area); Normandy Court Condominiums, PV Office Center and SME (7221 to 7500 Mission Road); Coleridge Court and Mission Bank Bldg (8101 & 8201 Mission Road); Corinth Place & Corinth Gardens Apartments & the Office Complex (8340 Mission); The Chateau Condominiums, Somerset Apartments (8361 & 8401 Somerset) and Mission Valley Middle School (8500 Mission Road). These sites reflect the vast differences found along the Mission Road corridor. Mr. Petersen presented the landscaping proposed on this project along Mission Road.

Photos of the existing landscaped boundaries of the site were shown both with summer and winter foliage. Also shown were photos of views onto the site from adjacent properties. Photo simulations were presented of the proposed development without landscaping and with superimposed landscaping from multiple levels. Mr. Petersen stated the applicant is willing to work with the adjacent property owners to provide their desired landscaping to buffer their view of the proposed project.

Mitch Hoefer, architect for the project reviewed the architectural features of the development. He noted the design elements are driven by the desire to create a state of the art senior center neighborhood with a hospitality environment based an English country feel that includes many of the design features found in Prairie Village homes.

The Skilled and Memory Care Facility was designed with interior courtyards and a park area that allows for activities for its residents. The gross building area is 91,189 square feet with a building footprint of 58,268 square feet providing for 120 units. The make-up of these include 36 memory care private units, 68 skilled nursing private units and 16 skilled nursing semi-private units (32 beds). Mr. Hoefer reviewed the architectural features of the proposed building including the stone veneer, decorative shutters, stucco finish and asphalt shingles.

The proposed 11 Villas are 2,265 square feet and accommodate two residents per Villa. These are located along the south, southwest residential property lines. Photo simulations and drawings of the proposed villas were presented showing front and backyard views.

The Independent and Assisted Living Facility will have a gross building area of 271,140 square feet with a building footprint of 100,824 square feet providing for 220 units. The make-up of these buildings include 48 one bedroom assisted living units, 12 two bedroom assisted living units, 100 one bedroom independent living units and 60 two bedroom independent living units. Mr. Hoefer reviewed the architectural features of these buildings. He noted the closest single family resident is 223 feet from the proposed two story building and 260 feet from the proposed three story building.

Mitch Hoefer presented a video tour of the proposed development. He noted it has been an evolving project with this being the fourth version with changes made as recently as the past month.

John Petersen stated there is a growing need for this type of facility and now is the time to address that need. He entered into exhibit an independent study done by Jeff

Green Partners entitled “The Feasibility of Retail, Residential and Office Uses at the former Mission Valley Middle School site in Prairie Village, Kansas” dated October 7, 2011. The conclusion of that report recommended 84,700 square feet of retail along with a residential (senior living) component made up of 210 Independent and Assisted Living units along with a 45 bed Skilled Nursing facility and up to 55,000 square feet of Class A Office space. Since that study was completed the site has been identified in the Comprehensive Plan for entirely R1-A zoning uses. The report noted that the two mature senior living facilities in Prairie Village are 100% occupied and the newest facility is reported to be at 50% occupancy.

Mr. Petersen quoted the findings of the 2009 Parks Master Plan which made the following finding: “To conclude, unless there is a shift in the market to attract new families with children to Prairie Village, along with a growth in new housing options for elderly citizens to remain in Prairie Village or attract new households, the population of Prairie Village is not expected to see an increase in total population.” This is a win/win proposition for the City.

To address concerns with the potential impact of the proposed development on existing property values of neighboring properties, Mr. Petersen presented for exhibit a Real Estate Consulting Report done by Todd Appraisal. This study looked at the property values of homes located in this area near both school facilities (Brookwood Elementary, Indian Woods Middle School and Pioneer Middle School) and near adult senior living facilities (Brighton Gardens, Village Shalom and Santa Marta).

The study found that properties in the Brighton Gardens area sold at a premium. The report states that this is potentially attributable to the efforts at landscaping and the tree line as well as the preference for greenery rather than yards or yards adjacent only to another single family use. Mr. Petersen noted if there is a well designed project people will actually pay more for adjacent properties.

Mr. Petersen stated they are in agreement with the city’s attorney’s response to the questions raised by John Duggan on behalf of the Mission Valley Neighbors Association, Inc. and will be submitting a 20 to 30 page response to the comments.

John Petersen stated the City has adopted the legal criteria as established by the 1984 Supreme Court ruling on Golden vs. City of Overland Park. He briefly reviewed the criteria and how the proposed development meets these criteria.

1. Conformance of the requested change to the adopted or recognized master plan utilized by the City. Mr. Petersen referenced the City Planner’s Staff report which stated “it appears that the applicant has addressed the issues and proposed a use that is in conformance with the Comprehensive Plan Amendment, Chapter 8 Potential Redevelopment D. Mission Valley Middle School.”
2. Recommendations of permanent or professional staff.
3. Character of the neighborhood
4. Zoning and uses of property nearby
5. Suitability of the property for the uses to which it has been restricted
6. Length of time the subject property has remained vacant as zoned

7. Extent to which removal of the restrictions will detrimentally affect nearby property. The taller buildings will be on the northern portion of the property, closer to the two and three story apartment buildings on Somerset Drive. The buildings adjacent to the south and southwest property lines will be a size, design and height of conventional single-family construction. Mr. Petersen noted the city planner's staff report stated "In summary, property around the proposed project is already developed. The mass of this project will dominate the area but through greater setbacks and landscaping, the use will not dominate the immediate neighborhood so as to hinder development of use of property."
8. Relative gain to public health, safety and welfare by the destruction of value of the plaintiff's property as compared to the hardship imposed upon the individual landowner.

The Supreme Court ruling noted it is a comparison of what is gained as compared to the hardship of the property owners. Mr. Petersen referenced *Taco Bell vs. City of Mission* and stated zoning is not to be based upon a plebiscite of the neighbors, *892 and although their wishes are to be considered, the final ruling is to be governed by consideration of the benefit or harm involved to the community at large."

The Special Use Permit Staff report prepared by the City Planner states "It does not appear that the proposed project will adversely affect the welfare of the public. It will, however, provide a senior housing community for area residents that are not currently being provided for in Prairie Village. The population is aging in northeast Johnson County and developments such as this provide accommodations for senior citizens to allow them to live near their former neighborhoods. It is anticipated that by providing senior housing, single family dwellings will become available for occupancy by young families. This will help rebuild the community to make a more sustainable area."

Joe Tutera, with the Tutera Group, stated the development of this has been their vision for more than twenty years - to creating a continuing care community where residents can move from one level of care to another without having to leave their home/community. They feel this is the perfect site. Mr. Tutera reviewed their over thirty years of experience in this industry and other facilities that they have developed. The objective of this project is to provide a home where residents can live through all levels of care required.

Chairman Ken Vaughn opened to the public hearing to comments asking that those individuals wishing to speak in support of this project speak first. He asked all speakers to provide their names and addresses for the record and to limit their comments to allow time for all to be able to speak.

Jim Chaar, 9101 Delmar, noted his experience with the development of the Village Church community building at 98th & Mission Road. This project was initially strongly opposed by the neighborhood, but through cooperation between the Church and the neighborhood a better project was developed to serve the needs of the community. Mr. Shaw also noted that, unlike many proposed projects, no tax dollars or special funding is being requested from the City. Also no retail is proposed and new jobs will be created.

Frank Adler, residing in room #725 at the Atriums, 7300 West 107th Street, stated he was a resident of Prairie Village for 36 years, but circumstances required him to move from Prairie Village to the Atriums eight years ago. He noted had this facility been available at that time, he would have chosen to remain in Prairie Village. He added The Atriums is well staffed with trained staff that provide residents with every advantage in terms of their care.

Pete Beyer, 7315 Rosewood, stated that seniors are looking to transition from their homes into facilities such as that being proposed. He has looked at several senior facilities and would like to remain in Prairie Village. He stated the current vacant school is an eyesore and the proposed project would be a tremendous improvement for the City.

Myron Wang, 70 LeMans Court, stated he has served on the Board of Directors for Village Shalom. During that time they built two continuing care facilities and faced strong opposition for both. He stated there are a lot of myths about senior care that are not true. There is no excessive traffic created by these facilities. In fact, at Village Shalom it is ghostly quiet unlike the noise created from a school environment with children playing boom boxes. This project is good for the City of Prairie Village any way you look at it - a major development serving the needs of residents and not costing the City or its residents anything.

Milburn Hobson, 5467 West 85th Terrace, stated he was thrilled to learn about the proposed project. He stated there is a three-year wait to get into Claridge Court and noted she has already signed up for a Villa if the project is approved.

Lucille Jewett, 4206 West 73rd Street, has lived in Prairie Village for 48 years. In the early 1980's she was looking for a community, but the current communities in Prairie Village only provide assisted living. She is seeking independent living and noted that many of her friends have had to move to neighboring cities for independent living facilities. She wants to stay in Prairie Village and hopes this project will be approved.

Barbara McGrath, 7509 Nall Avenue, stated she has a relative living in a Tutera Senior Living facility. They provide excellent care and she strongly supports the important services they provide. She would like to see this project approved.

Courtney Kounkel, 8424 Fontana, stated she was saddened to learn of the school closing, but respects the school district's difficult decision to consolidate to two middle schools. The school district will not be reopening this school. It is time to move on. One-fifth of the resident in Prairie Village are over 65 years of age. She grew up in this area and was able to spend time with her grandparents who resided in The Forum. She wants that for her children, to be able to benefit from experiences with her grandparents. She strongly supports this project as it will provide the opportunity for Prairie Village families to remain close to one another, for children and grandchildren to easily visit and spend time with their older family members.

Olga Kurg, 7300 West 107th Street #424, stated she has been living in the Atrium for four years, she still drives and enjoys an independent lifestyle provided by the Atriums. Olga noted when her husband's health failed, he had to be moved to a

different facility making it very difficult for them to spend time together. She hopes this facility which will provide multiple levels of care will be approved. It is needed.

Susan Sadler, 4301 West 87th Terrace, spoke in support of the Tutera Group as a family business and in support of the proposed project for the City of Prairie Village.

Christopher Smart, 8024 Juniper Drive, as a realtor in Johnson County has listed homes of elderly Prairie Village residents who would prefer to stay in Prairie Village but have had to move out of the city to receive assisted living services provided by facilities in other cities. He currently knows three women between the ages of 55 and 66 that want to remain in Prairie Village, but have to move out of the City for senior care services which are not available locally. Mission Chateau is an excellent opportunity to both provide a place for Prairie Village senior citizen residents and free up existing housing inventory for new young buyers with children rebuilding Prairie Village communities.

Rick Jones, 6517 Granada, stated he has known three generations of the Tutera family both personally and professionally and strongly supports their proposed development for Prairie Village. Based on his experience and knowledge, the staff and services provided will be first class and the site plan and proposed architecture presented for this application is excellent in his professional opinion.

Marcia Jacobs, 4500 West 72nd Terrace, spoke in support of this project. She noted that she served on the City Council when Claridge Court was first presented with great opposition. Just as Claridge Court has had a positive impact on the City, she believes the proposed Mission Chateau project will also be a great addition to the City of Prairie Village. She thanked the development team for their many meetings with the neighboring residents and staff in order to address their concerns and present the best plan possible.

John Duggan, of Duggan Shadwick Doer & Kurlbaum, LLC., representing the Mission Valley Neighbors Association, addressed the Commission. He does not feel Mr. Petersen is being totally transparent. The staff report prepared by the City's Planning Consultant has been referenced as being in support of the proposed project. The only staff recommendation is that the application be continued to give the applicant the opportunity to prepare and submit perspective drawings that adequately depict the size and mass of the proposed development compared to the existing adjacent developments. The staff report states that staff needs additional information. Statements that the staff recommends approval of this application are not true.

The focus for this project should be on the mass and density of this project which brings an unprecedented massive development to Prairie Village. Some of these buildings are have a greater length then two football fields. The Santa Marta project, which Mr. Petersen stated is the most similar to the proposed project is 293,000 square feet. The main building for this project is 271,000 square feet and would be constructed in stage 2.

Mr. Duggan noted that the Santa Marta development is surrounded by collector streets. The street width indicated on the proposed development site plan appear to

be much narrower than standard public streets. He expressed concern with them being able to accommodate emergency vehicles. He also noted the Santa Marta projected is buffered from the neighboring residential properties by parks on three sides. An overhead photograph of the Santa Marta site plan was shown depicting the size of this development.

Mr. Duggan stated the Mission Chateau east elevation scales out to be 530 feet in length. The south elevation scales out at 480 feet. This is a massive structure. The skilled nursing component is 400 feet on the west elevation. The total square footage of all the buildings is 387,244 square feet. This is a massive development. Looking at square feet per acre, Mr. Duggan stated this would be the most dense development in Prairie Village. He stated the Santa Marta development is 100,000 square feet smaller than the proposed Mission Chateau development.

Mr. Duggan stated the criteria for Special Use Permit require that the proposed use be compatible with the surrounding property. The proposed project is three times as big as anything in the area.

Mr. Duggan stated he does not agree with the interpretation of the City's attorney and contends that there is no logic in stating something could be an accessory use to something that does not exist. He does not believe it can be approved based on the stipulation that the primary use will be built in the near future. There cannot be an accessory use unless there is an actual use.

Regarding the need for the use, currently there are 68 individuals in Johnson County for every senior house unit a ratio of 68 to 1. In Prairie Village there is a ratio of 30 to 1. The Village will become the center for senior living, although only 33% of the residents of the city's current facilities are Prairie Village residents. What is currently available is adequate.

John Duggan stated that this project in terms of this mass and density is unprecedented in Prairie Village. It dominates the neighboring properties. Mr. Duggan also noted the only two accessory buildings allowed in R1-A zoning are a 10' x 10' shed or a carport. He questioned that the Commission would approve permitting a shed or carport to be built on a property that did not already have a house constructed on it. Use your common sense. Saturating the city with more retirement facilities is not in the best interest of Prairie Village.

Commissioner Wolf asked what MVHA, Inc. was. Mr. Duggan responded it is a group of neighboring property owners who have formed the association to protect their legal rights as property owners.

Todd Bleakley, 8621 Delmar, presented a comparative analysis of the proposed project to medium density apartments. The RP3 zoning classification allows 12.5 apartment units per acre, which would be the equivalent of 225 apartments. When added to the base apartments attached garages, a clubhouse and maintenance facilities the approximate total square footage would be 220,600 square feet. The proposed Mission Chateau square footage of 384,000 square feet is 42% greater. Increasing that to 14 units per acre with the above stated amenities would have an

approximate total square footage of 246,296 square feet. The proposed Mission Chateau square footage of 384,000 square feet is 35% greater.

If single family homes were constructed with 2.5 lots per acre, 47 single family homes would be constructed. Complying to the maximum lot coverage requirements these homes would have a building footprint of 164,000 square feet compared to the proposed 384,000 square feet of Mission Chateau. This is not compatible with the neighboring properties and would dominate the adjacent neighborhoods.

Mr. Bleakley stated that if the proposed project was approved, Prairie Village would have two of the three largest senior living facilities in Johnson County with Santa Marta being the largest, Claridge Court second and Mission Chateau third. He does not believe the city wants or needs that concentration of high density building.

Mr. Bleakley noted the city of Olathe has a transition policy, which you can see in the Santa Marta development which is separated from the neighboring residential properties by three adjacent public parks. Mr. Bleakley stated he would like to see the actual dimensions of the villas and main buildings. Based on the site plan, the villas have minimal front yards and there is no transition between the large lots adjacent to this property and the villas. He noted the Claridge Court facility is located on C-2 zoned property and is not surrounded by single family homes. This is a massive density that dominates the surrounding area. The 35' back yard is not adequate.

Mr. Bleakley noted the media presentation by the applicant depicting a drive-thru their development appeared to him as being shown with blinders on. He does not feel it is an accurate depiction and expressed concern with the proposed width of the streets running through the proposed development. He feels this presents a safety issue. Public residential streets are 28 feet in width and collector streets, as found in Santa Marta are 36 feet wide.

Dr. Craig Satterlee, an orthopedic surgeon residing at 8600 Mission Road, presented information on skilled nursing facilities, noting their difference from nursing homes. A skilled nursing facility (SNF) provides hospital acute care - recovery time after surgery or treatment of severe illness or injury. A nursing home provides a permanent residence for people who are too frail or sick to live at home due to physical, emotional or mental problems who usually require daily assistance.

To be certified by Medicare and Medicaid SNF's must meet the following criteria:

- Transfer agreement with hospitals in case a patient requires emergency, restorative or rehab
- Physician on staff who rounds regularly and is available 24hrs/7days on emergency basis
- 24hr/7day a week nursing care (RN) supervised by a physician/medical director
- Staff and equipment to give skilled care
- Cannot violate anti-discrimination laws.

Dr. Satterlee stated the proposed Mission Chateau Skilled Nursing facility to be constructed in Phase 1 would accommodate 100 patients. Dr. Satterlee contends

this is too many beds to serve just Mission Chateau or just Prairie Village and is not subordinate to the complex.

Patients referred to Skilled Nursing Facilities are typically patients whose condition is too severe to be treated at home after hospital discharge, without family support, requiring bed rest, requiring extensive rehabilitation - physical, emotional or psychosocial or receiving treatment not covered by their insurance at home or Medicaid department.

Dr. Satterlee reviewed the process for individuals outside a retirement center selecting a skilled nursing facility and what types of conditions generally require skilled nursing services. A skilled nursing facility is a standalone entity. Mission Chateau is a skilled nursing facility - it is not a subordinate accessory use.

Bob Higney, 3303 West 127th Street, stated he has worked in senior housing for more than 30 years. He stated Mission Chateau would be the second largest elder care facility in Johnson County. If built, Mission Road would have three major senior developments within a twelve block stretch: Claridge Court at Somerset & Mission, Mission Chateau at 8500 Mission and The Forum at 95th & Mission. This would more than double the number of independent living units from 149 to 320; nearly double the number of assisted living units from 77 to 136 and increase the number of skilled nursing/memory care units 2.5 times from 85 to 222.

Mr. Higney stated the average age of residents moving into senior living facilities is 78 years of age. The 75+ population for Prairie Village is projected to gain only 24 individuals from 2013 to 2018 with the projected percentage of seniors in Prairie Village to remain stagnant at 10% for the next five years. The 65+ population of Prairie Village is projected to grow less than 2% over the next five years. Nationally less than five percent of individuals ever move into a continuing care facility. Mr. Higney asked where is the need.

Steve Carman, 8521 Delmar, addressed three topics: Traffic, Height and Financial Impact. Mr. Carman stated the traffic study focuses on the impact on the roadway. He presented data focused on the impact of traffic brought into the residential neighborhood. This traffic spikes between 6:45 and 7:15 a.m. and 10:45 and 11:15 p.m. and is inconsistent with traffic in a residential community.

Mr. Carman entered into the record and presented data and photograph depicting the change in elevation as well as the corresponding additional distance comparison for the eight adjacent properties as well as the overall elevation change.

Mr. Carman also entered into the record a real estate appraisal done by Dillion & Witt, Inc. on the potential impact of the Mission Chateau Senior Living Community on his property. The report stated there will be a negative impact on both Mr. Carman's ability to sell his home and its appraised value. The appraiser stated "that a diminution in property value of at least 10% is a conservative baseline given the information presented". Mr. Carman noted using that information the City of Prairie Village can anticipate a loss of value of \$175,000,000 and more than \$1.5 million in property taxes from decreased property values of adjacent properties with additional

losses from other properties in the neighborhood. The adverse financial impact on his home would be \$50,000 to \$75,000.

This proposed development is too big, too tall and too intense for the neighborhood. It is wrong to expose significant financial harm to neighboring residents by the approval of this project.

Chairman Ken Vaughn noted the hour is late and it obvious that the public hearing cannot be completed this evening.

Randy Kronblad moved the adjourn the meeting of the Planning Commission with the public hearing on PC2013-05 remaining open and continued at the next meeting of the Planning Commission on June 4th. The motion was seconded by Gregory Wolf and passed unanimously.

Dennis Enslinger stated that all items presented at this meeting will be available on the city's website on the city's project page for this application by the end of the week.

OTHER BUSINESS

PC2012-108 Hen House Site Plan, Corinth Square

This item was continued to the next meeting due to the lateness of the meeting.

ADJOURNMENT

Chairman Ken Vaughn adjourned the meeting at 11:20 p.m.

Ken Vaughn
Chairman

Mission Chateau Media Presentation

May 7, 2013

<http://www.youtube.com/watch?v=NkoFLCtEinc&feature=youtu.be>

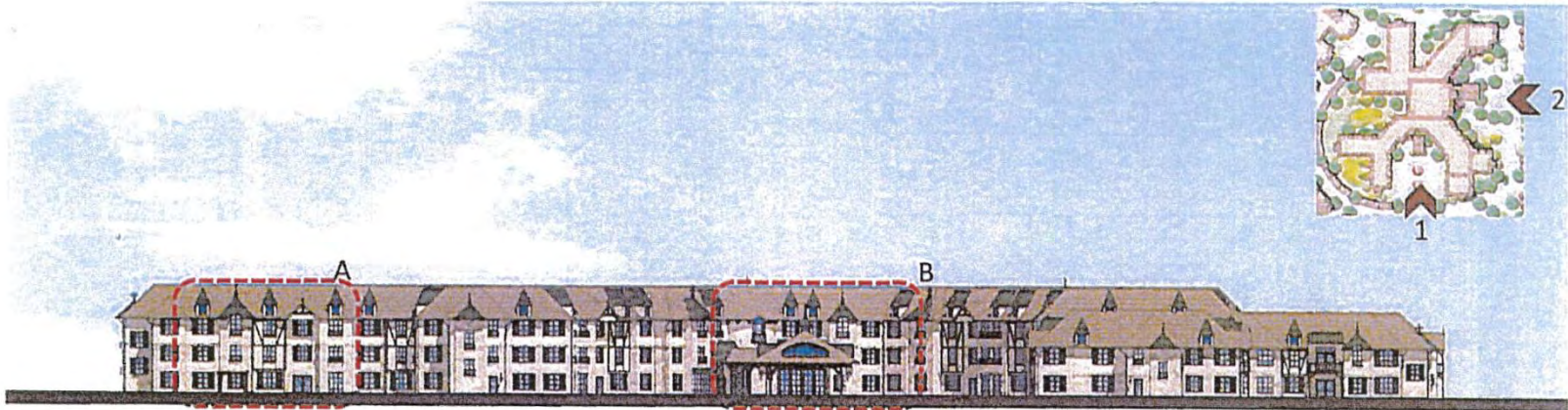
Introduction and Overview



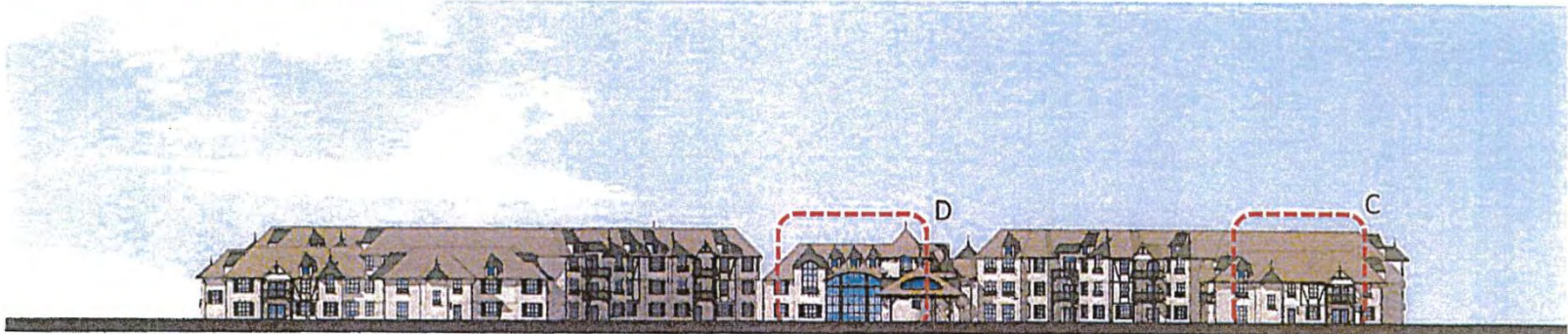








1 Independent & Assisted Living South Elevation



2 Independent Living East Elevation

HOEFER WYSOCKI
Architecture

THE
TUTERA
GROUP

Mission Chateau Senior Living Community

4-2-2013











CHAPTER 19.28 - SPECIAL USE PERMITS

Sections:

- 19.28.000 Governing Body.
- 19.28.005 General.
- 19.28.010 Application.
- 19.28.015 Filing Fee.
- 19.28.020 Public Hearing Notice.
- 19.28.025 Posting of Property.
- 19.28.030 Application Information.
- 19.28.035 Factors for Consideration.
- 19.28.040 Planning Commission Action.
- 19.28.041 Protest.
- 19.28.045 Governing Body Action.
- 19.28.050 Conditions of Approval.
- 19.28.055 Expiration of Special Use Permit.
- 19.28.060 Assignment.
- 19.28.065 Revocation of Special Use Permits.
- 19.28.070 Specifically Listed Special Use Permits.

...unless it is designed in a manner that is compatible with surrounding properties.

19.28.000 Governing Body.

Governing Body means twelve (12) members of the City Council and the Mayor for a total of thirteen (13) members. (Ord. 2199, Sec. IV, 2009)

19.28.005 General.

Special uses are those types of uses which, due to their nature, are dissimilar to the normal uses permitted within a given zoning district or whose product, process, mode of operation, or nature of business or activity may be detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs unless it is designed in a manner that is compatible with surrounding properties. Within the various zoning districts, specific uses may be permitted only after additional requirements are complied with as established within this section. In no event shall a Special Use Permit be granted where the Special Use contemplated is not specifically listed as a Special Use in the Zoning Regulations.

In no event shall a Special Use Permit be granted where the Special Use contemplated is not specifically listed as a Special Use in the Zoning Regulations.

19.28.010 Application.

A special use permit application shall be initiated by the owner of the property affected. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owners. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the City Planning Commission and duly filed with the City Clerk or their designee. (Ord. 2199, Sec. V, 2009)

19.28.015 Filing Fee.

A fee as established by the City Council shall accompany each application for a Special Use Permit. In addition, the applicant is obligated to pay all costs incurred by the City, including publication costs, consultant's charges for application review, if necessary, court reporter costs,

Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use.

CITY OF PRAIRIE VILLAGE – ZONING REGULATIONS

Chapter 19.28 – Special Use Permits

- A. A violation of the ordinances of this City including, but not limited to, the zoning regulations;
- B. A violation of the district regulations; and
- C. A violation of non-compliance with the conditions, limitations or requirements contained in the special use permit or these regulations.

(Ord. 2199, Sec. V, 2009)

19.28.070 Specifically Listed Special Use Permits

Any of the following uses may be located in any district by special use permit in accordance with Section 19.28.005: unless otherwise noted:

- A. Country clubs, or private clubs or clubs which serve food and alcoholic, wine and cereal malt beverages;
- B. Cemeteries;
- C. Columbariums;
- D. Hospitals;
- E. Nursery sales office, building, greenhouse, or area (wholesale or retail);
- F. Nursing and convalescent homes as defined by state statutes; but not including group homes;
- G. Buildings, structures, towers and premises for public utility services or public service corporations whether located in public right-of-way or on easements on private property except that the following shall be specifically excluded from the Special Use Permit requirements: utility poles; utility boxes; and underground utility lines. (Ord. 2029, Sec. 19.28.002)
- H. Assembly halls;
- I. Dwellings for senior adults, as defined herein, and including handicapped adults. Dwellings may be in the form of townhouses, apartments or congregate type living quarters. Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use. Not less than seven hundred square feet of land shall be provided for each occupant in an apartment or congregate dwelling unit and not less than five hundred square feet of land shall be provided for each bed in a nursing or continuous care facility. Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units, one space shall be provided for every five beds in any nursing facility, and not less than one space shall be provided for each employee on the premises on the maximum shift, provided, however, that this section shall not apply to group homes; Standards for height and setback of buildings applicable to such dwellings shall be those permitted in residential zoning districts R-1 through R-4;
- J. Service stations in C-1, C-2 & C-3 Districts only; not including automatic car wash; provided that all gasoline storage tanks shall be located below the surface of the ground. Display and service racks for new stock normally carried by filling stations, including oils and tires, may be placed outside the building during business hours;
- K. Automatic and semiautomatic car washes, continuous line car washes, self-service car washes, manual car washes and all other car washing facilities located separately or in relation to the operation of a service station in C-1, C-2 & C-3 Districts only;
- L. Skating rinks, arcades and similar commercial recreation facilities in C-1, C-2 & C-3 Districts only provided such use shall be not less than two hundred feet from any existing clinic, hospital, school, church or district R-1 to R-4 inclusive, unless approved by the

Governing Body under such restrictions as seem appropriate after consideration of noise and other detrimental factors incidental to such use;

- M. Mortuaries and funeral homes - in C-0, C-1, C-2 & C-3 Districts only;
- N. Day Care Centers in residential districts;
- O. Drinking Establishments - Bar or Night Club - C-1, C-2, & C-3 Districts only:
 - a. The initial approval shall be for a period of three years;
 - b. Subsequent renewals may be for periods up to ten years but shall not be in excess of the lease term or options thereof;
- P. Accessory uses to motels includes but not limited to restaurants, banquet rooms, liquor, notions and magazine counters, vending machines, beauty and barbershops, flower and gift shops; provided all are within the main building and designed to serve primarily the occupants and patrons of the motel or hotel;
- Q. Accessory uses to hospitals including, but not limited to, residential quarters for staff and employees, nursing or convalescent quarters, storage and utility buildings, food service and vending machines, laundry and other similar services for hospital personnel, visitors and patients;
- R. Utility or Storage Buildings: Detached storage or utility buildings for nonresidential uses.
- S. DELETED. (Ord. 1909, Sec. II, 1997; Ord. 2190, Sec. III, 2009)
- T. Private Schools, Colleges and University Education Centers (Ord. 1919, Sec. I, 1997)

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- T. Private Schools, Colleges and University Education Centers (Ord. 1919, Sec. I, 1997)

Todd Bleakley

MEDIUM DENSITY APARTMENTS 12.5 Units/Acre

18 Acres = 225 Units @ 848 sq. ft. per unit =	190,800 sq. ft.
112 Attached Garages @ 200 sq. ft. per Garage =	22,400 sq. ft.
Clubhouse	5,000 sq. ft.
Maintenance	2,400 sq. ft.

Medium Density Apartments – Approximate Total Square Footage	220,600 sq. ft.
--	-----------------

Proposed Mission Chateau Square Footage

384,000 sq. ft.

is 42% Larger

MEDIUM DENSITY APARTMENTS

14 Units/Acre

18 Acres = 252 Units @ 848 sq. ft. per unit =	213,696 sq. ft.
126 Attached Garages @ 200 sq. ft. per Garage =	25,200 sq. ft.
Clubhouse	5,000 sq. ft.
Maintenance	2,400 sq. ft.

Medium Density Apartments – Approximate Total Square Footage 246,296 sq. ft.

Proposed Mission Chateau Square Footage **384,000 sq. ft.** is 35% Larger

John Duggan – Density, Transition and Zoning Ordinance Issues





CORINTH AREA OFFICE AND RETAIL

	<u>Property</u>	<u>Acres</u>	<u>Square Footage</u> ¹
1.	Corinth South (Panera, First Watch, and Mission Antique Mall buildings)	6.92	89,076
2.	Corinth Square (All buildings)	17.76	167,351
3.	Corinth Office Building	2.01	51,818
4.	Corinth Executive Building	3.64	52,752
TOTAL		30.33	360,997

Square footage/acre of existing mixed use (properties 1-4 above) = $360,997/30.33 = 11,902$

	<u>Acres</u>	<u>Square Footage</u>
Development Proposal ²	18.4	388,640

Square footage/acre proposed = 21,122

The proposed development is almost two times more intense a development than the mixed use development to its north.

Square footage/acre proposed	21,122
Square footage/acre existing mixed use	11,902

$$21,122/11,902 = 1.78$$

¹ The square footage information comes from the Johnson County Appraiser's office and is virtually identical (for buildings then in existence) to information from a registration statement filed by the JC Nichols Company with the Securities and Exchange Commission in 2003. The Commerce Bank building and the CVS building have been built since, and the Tippins building has been removed. All of those adjustments are included in the information above.

² This square footage does not include the developer's proposed construction of car ports throughout the development.









Top 10 Residential Building Data

ax Year	Property Status	Quick Ref ID	Property Address	LBCS Code	Building Name	Total Sqf
2013	A	R209921	013800 W 116TH ST, OLATHE, KS	1240	SANTA MARTA MAIN BUILDING	294,284
2013	A	R135608	008101 MISSION RD, PRAIRIE VILLAGE, KS	1240	CLARIDGE COURT RETIREMENT	241,073
2013	A	R75578	006565 FOXRIDGE DR, MISSION, KS	1170	THE FALLS APTS	230,826
2013	A	R401623	009100 PARK ST, LENEXA, KS	1240	Lakeview Village (Southridge)	194,500
2013	A	R214792	005901 W 107TH ST, OVERLAND PARK, KS	1230	PARK MEADOWS SENIOR LIVING	193,569
2013	A	R105647	007300 W 107TH ST, OVERLAND PARK, KS	1230	THE ATRIUMS	183,456
2013	A	R95583	003501 W 95TH ST, OVERLAND PARK, KS	1240	THE FORUM OF OP	183,445
2013	A	R115213	008101 SANTA FE DR, OVERLAND PARK, KS	1176	SANTA FE TOWERS	181,452
2013	A	R105066	006555 W 75TH ST, OVERLAND PARK, KS	1210	OVERLAND PARK PLACE	162,431
2013	A	R214623	013750 METCALF AVE, OVERLAND PARK, KS	1210	Building 1.2 (Redtail View)	156,840

These are the LBCS codes I searched for:

Code Description

- 1170 Garden apartment complex (1-3 stories)
- 1171 Federally subsidized apartment complex
- 1172 Low Rise (Walk-up) apartment
- 1175 Mid-rise apartment (4-7 stories)
- 1176 High-rise apartment (8+ stories)
- 1179 Single room occupancy housing
- 1180 Dwelling converted to apartments





Skilled Nursing Memory Care
 Gross Building: 92,762 sf
 Ground Floor: 92,762 sf
 Total Units: 117 Units (137 Beds)
 Lot Coverage: 7.5%
 Building Height to One Story Frame: 24'-10"
 Building Height to Top Story Frame: 30'-0"
 Front Face Elevation: 712'-0"

SKILLED NURSING
 Ground Floor: 55,360 sf
 Units: 83 Units (101 Beds)

MEMORY CARE
 Ground Floor: 28,810 sf
 Units: 34 Units

Assisted Living/Independent Living
 Gross Building: 275,540 sf
 Ground Floor: 166,400 sf
 Total Units: 225 Units
 Lot Coverage: 15.8%
 Building Height to Two Story Frame: 30'-0"
 Building Height to Three Story Frame: 40'-0"
 Front Face Elevation: 957'-0"

ASSISTED LIVING
 Ground Floor: 207,114 sf
 Units: 80 Units

INDEPENDENT LIVING
 Ground Floor: 68,426 sf
 Units: 145 Units

Villas
 Gross Building: 24,974 sf
 Units: 24 Units
 Total Units: 11 Units
 Lot Coverage: 3.7%
 Building Height to Peak: 21'-0"
 Front Face Elevation: 1007'-0"

Park
 Property Area: 78.4 Acres (337,524 sf)
 Total Building/Structure Footprint: 389,123 sf
 Building Footprint on Site: 182,226 sf
 Lot Coverage: 22.7%

Planning Text
 Code Description Type
 R-3 Residential Medium-Density 10-15
 R-1A Residential Single-Family 10-15
 R-1 Residential Single-Family 10-15



Craig Satterlee - SNF

A SKILLED NURSING FACILITY (is not a nursing home)

C. Craig Satterlee M.D.
8600 Mission Road
Prairie Village, Kansas

A SKILLED NURSING FACILITY (is not a nursing home)

C. Craig Satterlee M.D.
8600 Mission Road
Prairie Village, Kansas

Definitions

- Hospital Acute Care-recovery time after surgery or treatment of severe illness or injury
- Nursing Home- permanent residence for people who are too frail or sick to live at home due to physical, emotional or mental problems. Usually require daily assistance.

Skilled Nursing Facility (SNF) (www.medicare.gov)

AKA:

- “Step Down Unit”
- Non-acute Care Hospital Unit
- Skilled Nursing Unit
- Adult Care Unit



What is a Skilled Nursing Facility ?

- To be certified by Medicare and Medicaid SNF's must meet strict criteria:
 - Transfer agreement with hospitals in case a patient requires emergency, restorative or rehab
 - Physician on staff who rounds regularly and is available 24hrs/day on emergency basis.
 - 24hr/7days a week nursing care (RN) ,supervised by a physician/medical director.
 - Staff and equipment to give skilled care.
 - Cannot violate anti-discrimination laws.

Mission Chateau Skilled Nursing Facility



Proposed Mission Chateau Skilled Nursing Facility- Phase I

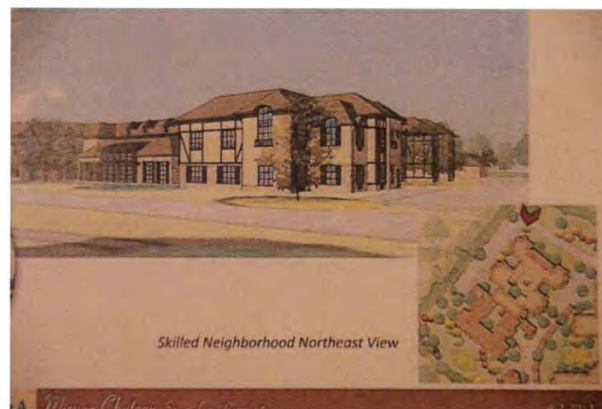
68 single units= 68 beds

16 semi-private=32 beds

Total = **100+**

Beds/Patients

Too many beds to just serve the Mission Chateau or just Prairie Village. Not Subordinate to the complex.*



What Type of Patient is referred to a SNF?

- Patients whose condition is too severe to be treated at home after hospital discharge.
- No family support.
- Require bed rest.
- Extensive rehabilitation- physical, emotional or psychosocial.
- Treatment not covered by their insurance at home (IV antibiotics).

Insurance Coverage for the SNF Patient?

- Medicare (age 65 or <65 and on disability)
 - Original, PPO, Fee for service, Advantage
- Private Insurance (provided SNF is In-network)
- Medicaid (low income eligibility requirements)
- Medicaid Dependency Application- Ks.

How Do Patients Outside a Retirement Center Select a SNF?

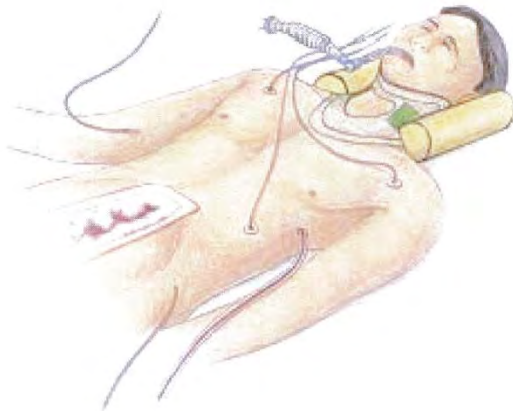
- “Quality of Care” rating (www.medicare.gov)
- Availability – the bigger the more open beds
- Care Specific to Need- e.g. Wound Vac., Dialysis
- Selection made for them by social worker for patients unable to participate in the process.

What Type of Conditions-examples

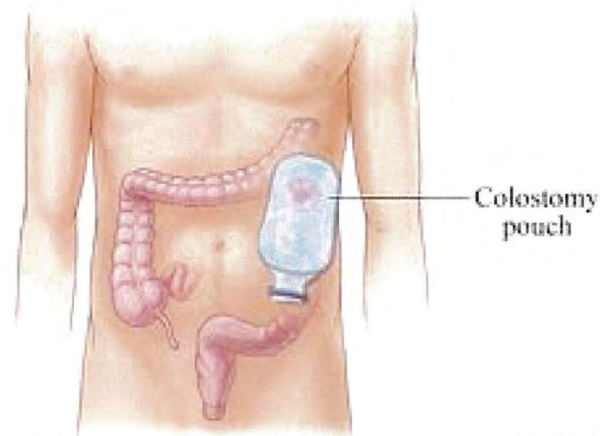
- Over age 55-65
 - Joint Replacement or Fractures
 - Physical therapy
 - Blood transfusions and catheter care
 - Infections
 - Wound care and dressing changes
 - IV antibiotics (SNF required by Medicare)
 - Severe Lung or Heart Problems requiring O2, meds.

Examples of SNF Admission Patients Younger than 55 Years Old

Trauma- MVA,
motorcycle



Gunshot Wound- especially
bowel perforation for
colostomy care



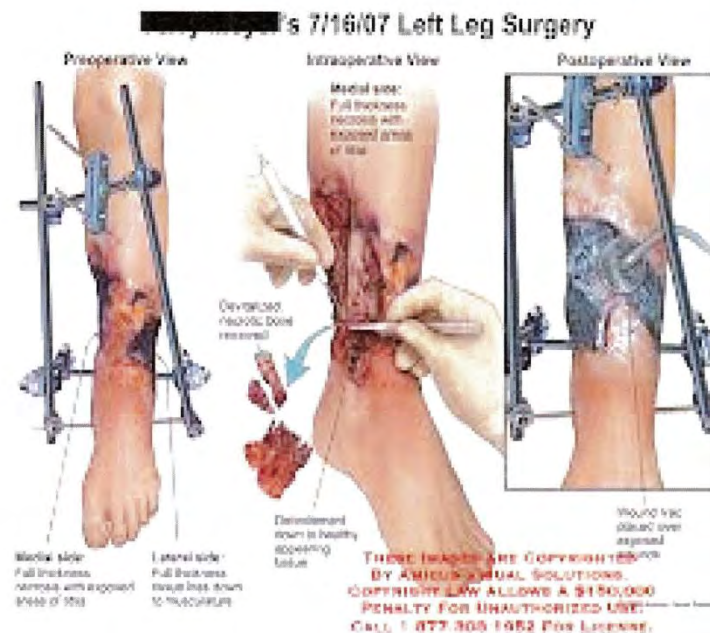
© HealthVista, Incorporated

Examples of SNF Patients Younger than Age 55

Amputations for Diabetes/infections



Wound Healing Problems- Wound Vac



The Mission Chateau SNF is not a Subordinate Accessory Use

-Thank You

Bob Higney

Bob Higney

President

Prime Marketing Concepts Inc.

Unnecessary Saturation

- The Mission Chateau proposal would be the 2nd largest elder care facility in Johnson County
- If built, Mission Road would have three major senior developments within a twelve block stretch:
 - Mission Chateau - 8500 Mission
 - Claridge Court - Somerset & Mission
 - Forum - 95th & Mission

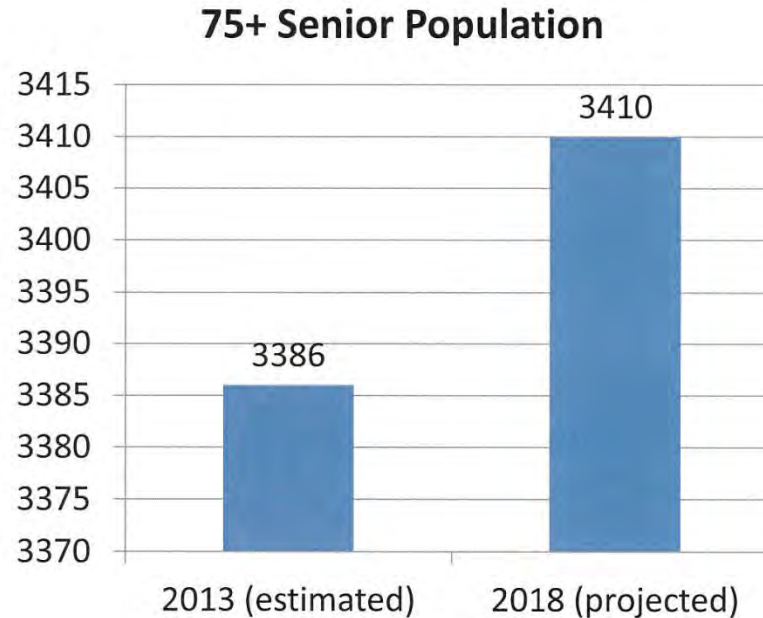
Unnecessary Saturation

- Within that twelve block span (from 82nd to 95th & Mission), the Mission Chateau proposal would:
 - More than double the number of ILF units, from 149 to 320
 - Nearly double the number of ALF units, from 77 to 136
 - Increase the number of SNF/MC units 2.5X, from 85 to 222

Lack of Prairie Village Senior Population Growth

- The 75+ population for Prairie Village is projected to gain only 24 individuals from 2013 through 2018.
- The projected % of seniors in the Prairie Village population remains stagnant at 10% for the next five years.

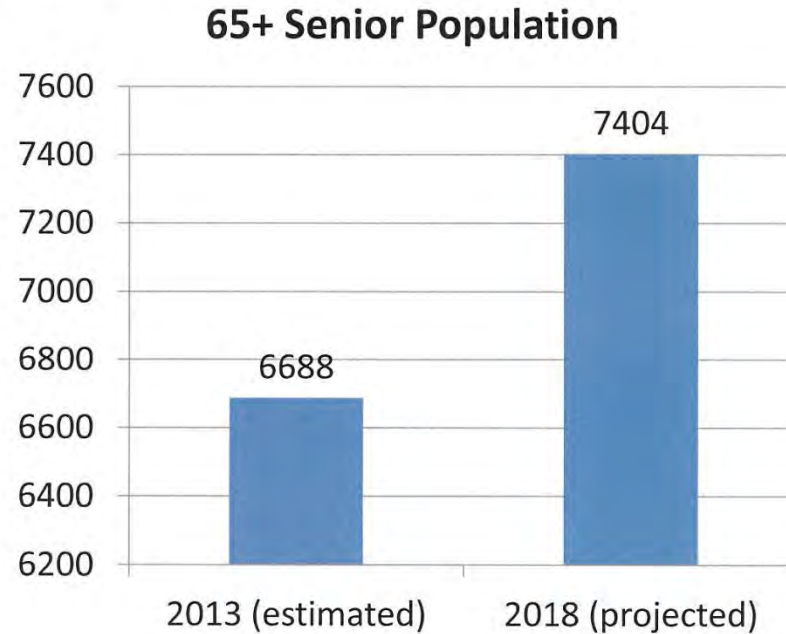
(Nielsen Senior Life Report, 2013)



Lack of Prairie Village Senior Population Growth

The 65+ population of Prairie Village is projected to grow less than 2% over the next five years.

(Nielsen Senior Life Report, 2013)



Unnecessary Saturation

- Currently, there are 68 individuals in Johnson County for every senior housing unit (68:1 ratio)
- Counting the Mission Chateau units, there would be 30 Prairie Village residents for every senior housing unit built in Prairie Village (30:1 ratio)
- Does Prairie Village need to support senior housing at more than twice the rate of Johnson County?

John Duggan – Overview

Qualitative Concerns

Craig Satterlee – Attractive Nuisance

STORM WATER TREATMENT

- Preliminary Stormwater Management Study
 - Increases impervious cover on the site and redirects stormwater to the northeast corner
 - Utilizes:
 - Swales
 - Rain gardens(3)
 - “The majority of the site will be treated utilizing the detention basin as an extended detention basin.”
 - DRY DETENTION BASIN

Dry Detention Basin A Safety Issue



Dry Detention Basin

Dry



After Heavy Rain



Childhood Drowning

- Center for Disease Control
 - 2004 of all children ages 1-4 that died 26% were from drowning.
 - 2005 In children age 1-14 drowning remains the second leading cause of unintentional injury-related death.
- Detention Ponds can have rapidly rising water levels.



Detention Pond Across the Street from Corinth Grade School

“Attractive Nuisance”

- “ a dangerous condition which is likely to attract children on their property”

-definitions.uslegal.com

- Fences can actually attract children and impede firefighters in the event of a drowning rescue.

-usfa.fema.gov, Hansen, Hazard Assessment for Water Retention and Detention

Solution: Underground Detention



Detention

- Put it underground
- But “don’t take your eye off the ball”
- The Mission Chateau is too massive and dense



MASSIVE

- Tintera proposal would be the 2nd largest elder care building in Johnson County
- If built, Mission Road would have:
 - 2nd largest (Tintera Proposal) - 8500 Mission
 - 3rd largest (Claridge Court) - Somerset & Mission
 - 8th largest (Forum) - 95th & Mission

within twelve blocks (95th Street to 82nd Street (Somerset))

BRIGHTON GARDENS 71ST AND MISSION ROAD



MVNA - MISSION VALLEY NEIGHBORS
ASSOCIATION

CORINTH SCHOOL
83RD AND MISSION ROAD



MVNA - MISSION VALLEY NEIGHBORS
ASSOCIATION



MVNA - MISSION VALLEY NEIGHBORS
ASSOCIATION



MVNA - MISSION VALLEY NEIGHBORS
ASSOCIATION

Additional Traffic Impact Comparison

	6:45 – 7:15 a.m.	10:45 – 11:15 p.m.	Saturday	Sunday	Each Weekday May 15 to August 15
School	≈ 1	≈ 1	≈ 150	0	≈15
Planned Business	> 80	> 70	1,153	1,153	1,153

CHART 1

Additional Height Comparison

	A	B	C	D	E	F	G	H	I
Current Elevation	989.5	950	950	950.5	951.5	951.5	951	942	981
Regraded Elevation	951.5	951.5	951.5	951.5	951.5	951.5	951.5	951.5	951.5
Building Height	41	32	32	41	41	41	26	41	41
Proposed Total Elevation	992.5	983.5	983.5	992.5	992.5	992.5	977.5	992.5	992.5
Change in Elevation	3	33.5	33.5	42.5	41	41	26.5	50.5	11.5

CHART 2

Additional Distance Comparison

	Pt. 1	Pt. 2	Pt. 3	Pt. 4	Pt. 5	Pt. 6	Pt. 7	Pt. 8
Distance from Pt. A	512'	445'	405'	400'	383'	375'	435'	515'
Distance to Closest Proposed Multi-Story Structure	Pt. B-160'	Pt. C-147'	Pt. D-180'	Pt. E-174'	Pt. E-194'	Pt. F-194'	Pt. G-131'	Pt. G-140'
Change in Distance	352'	298'	225'	226'	189'	181'	304'	375'

84th Terrace



POINT 2



POINT 4



POINT 6



BUILDING A



BUILDING B



DILLON & WITT, INC.

Real Estate Appraisal and Consulting Services

6925 West 151st Terrace
Overland Park, Kansas 66223

Phone: 913-385-9600

Fax: 913-385-9696

April 23, 2013

Steve Carman
8521 Delmar Lane
Prairie Village, KS 66202

**RE: Potential Impact
MISSION CHATEAU SENIOR LIVING COMMUNITY
Prairie Village, Kansas
Our File No. 1302141**

Dear Mr. Carman:

Pursuant to your request, I have researched and reviewed the proposal for the Mission Chateau Senior Living Community, which is proposed for the west side of the 8400 block of Mission Road, placing it directly northeast of your residence. In the performance of this analysis, I have personally inspected the exterior of your home, as well as neighboring properties on Delmar, Somerset and 86th Street, as well as the proposed site for the Mission Chateau Senior Living Community complex.

For reference purposes, the legal description of your property is:

Lot 100, TOWN & COUNTRY ESTATES, a subdivision of Prairie Village, Johnson County, Kansas.

The intended use of this letter is to provide my opinion as to the potential for impact to the market value of your home caused by the proposed development referenced as Mission Chateau Senior Living Community. The report is intended for use by you as the client and the function of this appraisal is for analysis in determination as to potential impact to the market value of your home as caused by an external influence. The report is intended for use in providing information as to the potential for impact to you as a property owner and it is not intended for any other use.

Let me start by saying that I find the proposed development identified as Mission Chateau Senior Living Community to be somewhat unique, given its location within an established residential area. The prior use of the Mission Chateau site as an elementary school was

considered a benefit to adjoining residential neighborhoods. However, the application for Mission Chateau includes a Special Use Permit, which will allow for the construction of a variety of structures, including villas, an assisted living/independent living center, as well as a skilled nursing/memory care facility. Taken in its entirety, the complex will include just under 390,000 square feet of total building area within structures proposed to range from one to as many as three-stories. For your property specifically, I note that the closest structures within Mission Chateau will be single-story villa residences that are proposed for the southern boundary of the development site. To the immediate north and east of these villas is the assisted living/independent living center, which itself contains over 270,000 square feet of total building area in a two to three-story design. Indeed, that portion of the assisted living/independent living center closest to your property (and the properties on 86th Street) consists of a proposed three-story wing. The outside wall of this wing appears to be, at its closest, just under 200 feet from your northeastern property line. This places it in direct view from your property, as well as being visible from adjacent residences within your block.

It is useful to, first, discuss homes in your area, including your residence, by way of background information. Your home, which, according to Johnson County records, contains 3,077 square feet of living area, was completed in 1959 and is currently appraised for tax purposes at \$463,000. Your neighborhood and, indeed, homes with immediate proximity to your residence, have shown a history of high value at time of sale. One home with close proximity to yours sold in early 2011 for \$475,000, while another home, again with close proximity to yours, sold in early 2012 for just under \$990,000. There have been homes within your subdivision, Town & Country, which have sold for as much as \$1,125,000. Therefore, any impact caused by an external influence could be significant, given the proven market value of homes in your neighborhood.

Any potential for impact to your market value due to the construction of the proposed Mission Chateau development would be caused by external influences. External influences have long been recognized as having potential impact upon the market value of a particular property. As defined by *The Dictionary of Real Estate Appraisal*, 4th Edition, externalities are: "The principal that economies outside a property have a positive effect on its value, while diseconomies outside a property have a negative effect upon its value." Diseconomies, or negative external factors, lead to external obsolescence, which, again, per *The Dictionary of Real Estate Appraisal*, 4th Edition, is defined as: "An element of depreciation; a defect, usually incurable, caused by negative influences outside a site and generally incurable on the part of the owner, landlord or tenant." External obsolescence is one form of depreciation that, along with physical deterioration and functional obsolescence, can negatively impact the market value of a particular property.

Steve Carmen

April 23, 2013

Page 3

In my analysis, it is necessary to anticipate the completion of the proposed Mission Chateau complex as currently presented to the city. A copy of this plan has been attached to this letter. My primary concern in reviewing this plan is the fact that a three-story wing of the assisted living/independent living complex will be positioned within approximately 200 feet of your rear property line. Thus, it will be visible to you and to any potential purchaser of your property, should you ever decide to sell your home.

Typically, in evaluating a potential for impact caused by an external influence, such as that presented by Mission Chateau, I would investigate similar developments and attempt to record their impact upon less intensive development existing on adjacent properties. However, to date, I have been unable to find an exact "match" for this situation in other areas of metropolitan Kansas City. Typically, developments such as Mission Chateau are placed adjacent to other more intensive developments, such as multifamily or commercial properties. Indeed, I note that the property to the north of the proposed Mission Chateau is zoned R-3, a multifamily designation within Prairie Village. Thus, a proposed development such as Mission Chateau would not pose a negative external influence on more intensive uses such as apartments. It is rare to find a multi-story facility such as that proposed by Mission Chateau with such proximity to well established, upper-bracket, single-family homes. For this reason, it is not possible to extract an exact market pairing using similar situations in other parts of the metropolitan area.

However, I have, in the past, completed several analyses as to damage or the potential for damage to upper-bracket, single-family homes caused by other external influences. The specific circumstances of these influences include a proposed public amphitheater with proximity and exposure to adjacent upper-bracket single-family residences, as well as a proposed fire station/training academy/office building that was to be constructed adjacent to an existing upper-bracket residence. These analyses, which are retained in my files, together with other impact assessments I have performed in the past, provide a basis for my opinion that the proposed Mission Chateau Senior Living Community, if constructed as currently presented, would cause external obsolescence leading to a reduction in the market value of your property. This reduction would be based upon an external influence over which you have no control. Further, while I have not been able to duplicate the exact circumstances proposed within this assignment, I am of the opinion that based upon other analyses I have completed. I would expect a diminution of at least 10% of your current market value, should the Mission Chateau Senior Living Community be constructed as currently proposed.

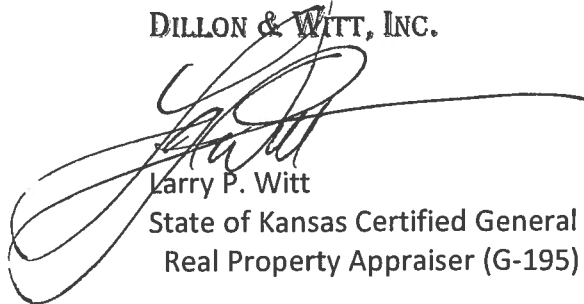
The most recent proposal submitted by the developer included some discussion as to the fact that the proposed building heights were reduced as a part of the revised proposal. Obviously, this would be a benefit to your property if it were not for the fact that the wing of the assisted living/independent living facility closest to your property remains three-stories in height. The

developer goes on to state: "Keep in mind that the school gym is 38 feet tall; and, to its north, the existing school is three-stories". Obviously, these factors do not negatively influence your property, given the fact that, although the gymnasium is 38 feet tall, it is not a housing unit and the three-story portion of the school lies at the northern portion of the school tract, well removed from your property. Further, the gym itself is almost twice as far away from your property as the proposed three-story Mission Chateau building.

I note the developer's decision to add additional single-story villas adjacent to the single-family residences along Delmar and 86th Street, including your property. However, this does not mitigate the fact that a three-story structure will be in clear view of your property at a distance of less than 200 feet, by my estimation. Therefore, although the amount or percentage decrease in market value caused by Mission Chateau, if constructed as currently planned, is open to some speculation, the fact that it will have such a negative impact is undeniable, in my opinion. I believe, again, that a diminution in property value of at least 10% is a conservative "baseline", given the facts as presented to me concerning the proposed development of Mission Chateau Senior Living Community. A more time consuming study would be required to expand upon this opinion in support of a specific diminution in value to your property; however, market evidence gathered on other projects supports my conclusion as to the potential for impact caused by this proposal.

Respectfully submitted,

DILLON & WITT, INC.



Larry P. Witt
State of Kansas Certified General
Real Property Appraiser (G-195)

LPW/sh

CERTIFICATION

I certify, to the best of my knowledge and belief, that:

1. The statements of fact contained in this report are true and correct. The information contained herein is specific to the needs of the client and, as such, it may not include full discussions of the data, reasoning and analyses that were used in the consulting process to develop my opinion. Supporting documentation concerning the data, reasoning and analysis is retained in my file.
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial and unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this analysis and no personal interest or bias with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined opinion that favors the cause of the client, the extent of the opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this consultation.
7. My analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the *Uniform Standards of Professional Appraisal Practice (USPAP)*.
8. The reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the *Code of Professional Ethics* and the *Standards of Professional Appraisal Practice* of the Appraisal Institute.
9. As of the date of this report, I have completed the Standards and Ethics Education Requirement of the Appraisal Institute for Practicing Affiliates.
10. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

11. I have made a personal inspection of the property that is the subject of this report.
12. No one provided significant real property appraisal assistance to the person signing this certification
13. I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.



LARRY P. WITT
State of Kansas Certified General
Real Property Appraiser (G-195)

ASSUMPTIONS AND LIMITING CONDITIONS

This analysis is subject to the following assumptions and limiting conditions:

1. Title to the property is assumed to be good and marketable and the legal description correct.
2. No responsibility for legal matters is assumed. All existing liens, mortgages or other encumbrances have been disregarded and the property is appraised as though free and clear, under responsible ownership and competent management.
3. All sketches in this report are intended to be visual aids and should not be construed as surveys or engineering reports.
4. All information in this analysis has been obtained from reliable sources. I cannot, however, guarantee or be responsible for the accuracy of information furnished by others.
5. Possession of this report or a copy thereof does not imply the right of publication or use for any purpose by any other than the addressee without my written consent. This appraisal report was prepared for the sole and exclusive use of the client. No third parties are authorized to rely upon this report without my express written consent.
6. I am not required to give testimony or attendance in court by reason of this analysis, unless prior agreements have been made in writing.
7. Neither all nor any part of the contents of this analysis shall be conveyed to the public through advertising, public relations, news, sales or other media, without my written consent and approval, particularly as to valuation conclusions, my identity or the identity of the firm with which I am connected or any reference to the Appraisal Institute.

EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

Extraordinary Assumption¹: An assumption directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

There are no extraordinary assumptions employed in this appraisal.

Hypothetical Condition²: A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

As a part of this consultation, it was necessary to assume the completion of the proposed Mission Chateau as presented. This is contrary to what exists as of the date of this letter.

¹ The Appraisal Foundation, *2012-2013 USPAP*, 2012-2013 Edition (Washington, 2012, Page U-3)

² The Appraisal Foundation, *2012-2013 USPAP*, 2012-2013 Edition (Washington, 2012, Page U-3)

DILLON & WITT, INC.

Real Estate Appraisal and Consulting Services

6925 West 151st Terrace
Overland Park, Kansas 66223
Phone: 913-385-9600
Fax: 913-385-9696

LARRY P. WITT Qualifications and Experience

Certifications

- I. State of Kansas Certified General Real Property Appraiser (G-195)
- II. State of Missouri Certified General Real Estate Appraiser (RA001975)

Specialized Appraisal Expertise

I. Litigation Valuation

- A. **Eminent Domain** - Completed more than 2,500 appraisals and/or consultations, specifically for condemnation related takings. Extensive experience in consultation, appraisal and expert witness testimony for both property owners and condemning agencies, including selections by both parties for joint dispute resolution.
- B. **Zoning** - Highest and Best Use analysis, impact analysis and consultation, including presentations and testimony before numerous officials, boards, commissions, councils and courts.
- C. **Ad valorem** tax appeal, commercial foreclosure, bankruptcy, partnership dissolution, environmental contamination, probate and partition.
- D. Expert witness testimony in several district/circuit courts, as well as federal bankruptcy court. Selection as court-appointed appraiser by Johnson County District Court.

II. Local, Regional and National Scope Valuation Assignments, Market Valuation and Feasibility Analysis, Fee Simple, Lease-by-Lease and Fair Rental Analysis

- A. **Land** - All types of development sites, subdivision analysis, agricultural, special use/special conditions
- B. **Conservation Easements** - Valuation of Conservation Easements, Certificate from AI, ASRMRA and ASA
- C. **Retail** - Regional Malls, Community Centers, Outlet Malls, Power Centers, Neighborhood Centers, Multi-Property Franchise Properties, Discount Stores and "Big Box" Stores
- D. **Industrial** - Manufacturing and Distribution Centers, Material Handling Systems, Industrial/Business Parks, all types of Office/Warehouse facilities, as well as High-Tech and Flex Buildings
- E. **Residential** - All multifamily types, including high-rise, mid-rise and garden apartments, as well as congregate care and specialty developments; single-family residential for litigation/condemnation
- F. **Office** - Regional and National Corporate Headquarters, Single and Multiple Tenant
- G. **Special Use** - Specialized appraisals on equipment, concrete batch plants, sand and gravel operations, gaming casinos and other non-standard properties

Appraisal and Related Experience

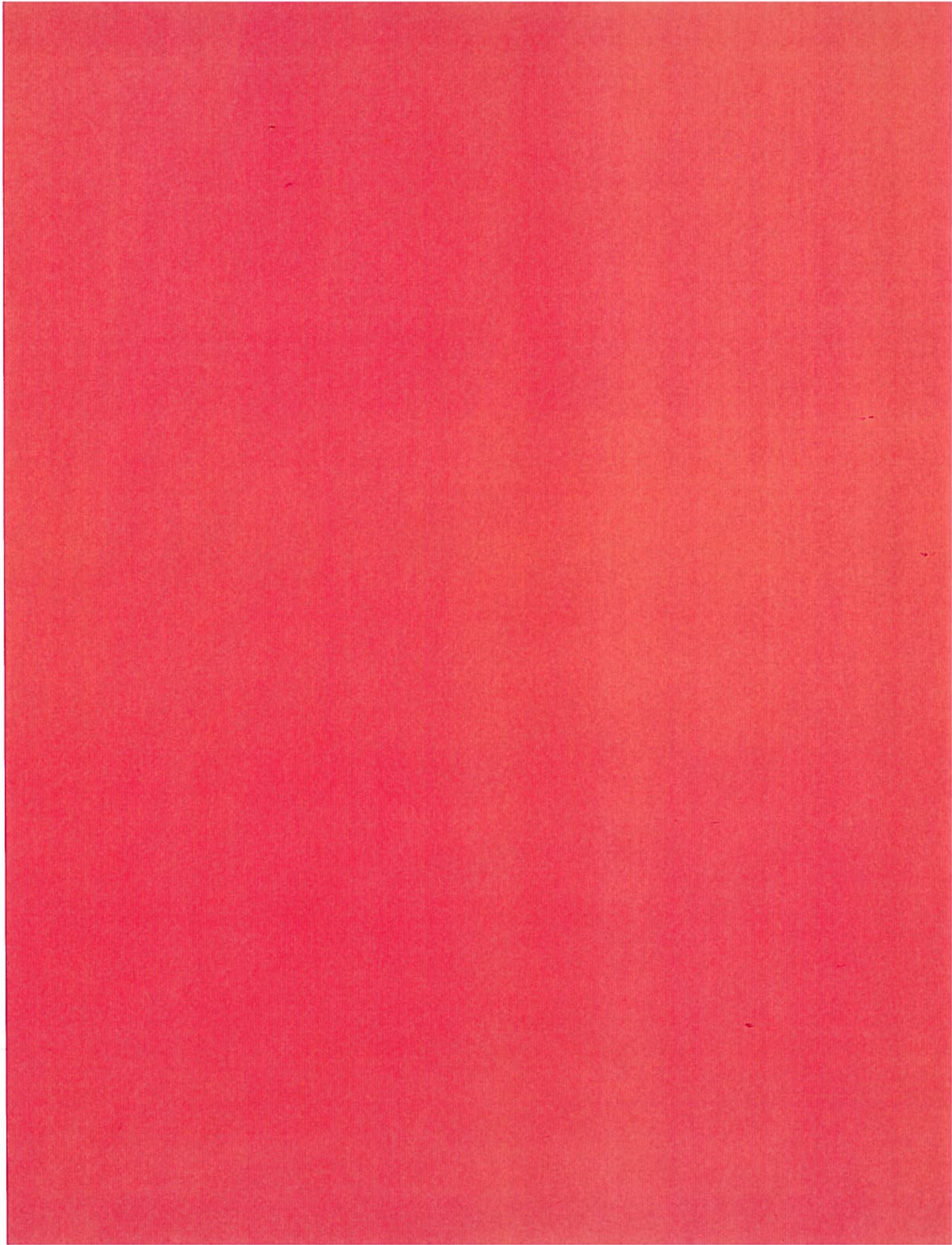
- 1996-Present Co-founder/President, Dillon & Witt, Inc., and Founder/President, Witt Appraisal Company, Inc., full-service real estate appraisal and consulting firms.
- 1984-1995 Senior Appraiser, Nunnink & Associates, Inc., with work assignments completed coast-to-coast and border-to-border.
- 1971-1983 City of Mesa, Arizona. Full range of positions, starting in Public Relations for Engineering Division and progressing to Senior Real Estate Services Officer. Duties included acquisition, relocation, property management, appraisal and appraisal review for a full-service "All American" city.

Appraisal Affiliations

- I. Practicing Affiliate of The Appraisal Institute
- II. Member, Kansas Society of Farm Managers and Rural Appraisers

Business and Other Affiliations

- I. Member, Heartland Business Capital (SBA Lender)
- II. Member, Independence Chamber of Commerce
- III. Member, Overland Park Chamber of Commerce



ADDENDUM

R-1A
84th St

84th Ter.
R-1

85th St.
R-1

1 Story
2 Story
3 Story



R-3

Delmar Ln
R-1A

Skilled Nursing/Memory Care
 Gross Building: 92,855 sf
 Ground Floor: 59,270 sf
 Units: 157 Beds
 Lot Coverage: 17%
 Building Height to One Story Peak: 24'-10"
 Building Height to Two Story Peak: 36'-10"
 Finish Floor Elevation: 652'-0"

Assisted Living/Independent Living
 Gross Building: 271,140 sf
 Ground Floor: 100,824 sf
 Units: 180 Units
 Lot Coverage: 12.8%
 Building Height to One Story Peak: 37'-10"
 Building Height to Three Story Peak: 47'-10"
 Finish Floor Elevation: 651'-0"

1/2 Mile
 Gross Building: 24,815 sf
 Unit Size: 2,265 sf
 Units: 11
 Lot Coverage: 3.1%
 Building Height to Peak: 21'-4"
 Finish Floor Elevation: 650'-5"

Field
 Property: 18.4 Acreal (801,504 sf)
 Total Building Square Footage: 368,820 sf
 Building Footprint on Site: 182,009 sf
 Lot Coverage: 22.1%

Code	Description	Type
100	100	
101	101	
102	102	
103	103	
104	104	
105	105	
106	106	
107	107	
108	108	
109	109	
110	110	
111	111	
112	112	
113	113	
114	114	
115	115	
116	116	
117	117	
118	118	
119	119	
120	120	



HOEFER WYSOCKI
Architect
THE TUTERA GROUP

Mission Chateau Senior Living Community

Site Plan - Total Floor: 1' - 200'-0"

THE TUTERA GROUP

Mission Chateau FAQ Supplement 3-5-2013



* Concept sketch of Mission Chateau Independent Living facility entrance from Mission Road.

1. Will there be any retail or mixed use?

No, our plans include only residential uses allowed in R1-A per an SUP.

2. Most of your green space is in the center of your development. Can it be moved, and can you add more?

Yes, there will be more green space. Lot Coverage decreased 28,654 square feet, from 26.3% to 22.7%, a 14% reduction in building footprint. Keep in mind that the City planning benchmark provides for not more than 30%. We have modified the plan to move the circulation

and parking, which was formerly to the south, to the center of the property. This resulted in **more green space to the perimeter and more total green space.**

3. Can buildings be moved farther away from property lines?

Yes, we have moved structures and site lines farther from the property lines. Please consider that the closest residential wings that face Mission Road remain approximately 100 feet from the road, consistent with the location of the existing school; however, the main façade of the building was moved from approximately **200 feet from Mission Road to about 240 feet from the road.** We also **eliminated the skilled nursing facility from the southern portion of the site** and relocated it to the far north of the site.

4. Can building heights be reduced?

Lot Coverage Height Grid

	Original	Revised	Change
One Story	96,291	46,373	(49,918)
Two Story	-	62,408	62,408
Three Story	114,372	73,228	(41,144)
Total Footprint	210,663	182,009	(28,654)

Yes, by over a third. Three-story structures have been **reduced by 41,144 square feet or 36%.** All or a portion of the heights and site lines have been reduced on each building. We have also taken into consideration the site grading and its impact on height. All **buildings far exceed the allowed setbacks.** Keep in mind that the **school gym is 38 feet tall;** and, to its north, **the existing school is three stories.** The building to the northwest was **reduced from three stories to two.** The building **facing Mission is now tiered** towards Mission Road and farther back. The one-story building to the **Southwest was mainly replaced with green space or villas.**

5. Can you add additional Villas?

Yes, 4 more. Duplex Villas now cover approximately **three-fourths of the southern property line.**

6. Can you move delivery locations to north of the property?

Yes, the **delivery access and location have been moved to the North and Northwest** of the property in connection with the re-engineered drives, parking, and access.

7. We don't like the road entrance and circulation to the South. Can you move them?

Yes, while the villas require a drive to the South for their access, **the road no longer circulates to the southern perimeter.**

8. Have you considered walking trails, a parklet or micro-park or a dog park?

Yes, we have included approximately **1.23 miles of walking paths** within the community and a total of **5.3 acres of park space** located in three continuous sections, 1.7 acres to the Southwest, 2.5 acres to the North, and 1.1 acres on the East fronting Mission Road. We have not connected the walking paths to the public sidewalks to the West because we do not own the property that extends to the existing sidewalks. If this community desires this connection, we would be pleased to talk to the City about how that could be possible.

9. How are you dealing with the water runoff, and will it make a bad situation worse?

It will improve from existing conditions. The peak water runoff rate will reduce to about **40% from existing conditions**. Construction cannot begin until all regulatory bodies have reviewed and agree that the water runoff will perform as designed.

10. Can you reduce the number of units?

Unit Counts by Type

	Original	Revised	Change
Assisted Living	62	60	(2)
Memory Care	36	36	0
Independent Living	180	160	(20)
Skilled Nursing and Rehabilitation	91	83	(8)
Total without Villas	369	339	(30)
Villas – Single and Duplex	7	11	4
Total	376	350	(26)

Yes. Total counts have reduced by 30 units or 8%, and duplex villas increased by 4 or 57%. Keep in mind that a lifestyle is being created; and, without enough residents, there is no lifestyle.

11. Will morning traffic issues be addressed?

Table 3: Trip Generation Comparison

Daily Comparison				AM Peak Hour Comparison				PM Peak Hour Comparison			
Previous Land Use				Previous Land Use				Previous Land Use			
School	Enter	Exit	Total	School	Enter	Exit	Total	School	Enter	Exit	Total
	405	405	810		149	121	270		39	41	80
Total	405	405	810	Total	149	121	270	Total	39	41	80
Proposed Land Use				Proposed Land Use				Proposed Land Use			
Residential	Enter	Exit	Total	Residential	Enter	Exit	Total	Residential	Enter	Exit	Total
	400	398	798		39	47	86		41	54	95
Total	400	398	798	Total	39	47	86	Total	41	54	95
Comparison				Comparison				Comparison			
	Enter	Exit	Total		Enter	Exit	Total		Enter	Exit	Total
Previous	405	405	810	Previous	149	121	270	Previous	39	41	80
Proposed	400	398	798	Proposed	39	47	86	Proposed	41	54	95
Total	-5	-7	-12	Total	-110	-74	-184	Total	+2	+13	+15

* Reports prepared for the City of Prairie Village by Olsson Engineering. Full report provided along with application for special use permit.

Yes, consistent with our previous traffic study, the **morning peak traffic** will be **significantly reduced**. The updated traffic study will show an overall reduction from the prior comparison provided above.

12. How many employees will work at Mission Chateau?

Employee Count

	Staff Count	Arrival time	Departure Time
Administrative Staff	25	8:00 AM	5:00 PM
First Shift	50-60	6:45 AM	3:00 PM
Second Shift	50	2:45 PM	11:00 PM
Third Shift	20	10:45 PM	7:00 AM

* Note 15 minutes overlapping shift schedule.

At full capacity during the day shift, Mission Chateau will have 85 employees. 105 employee parking spaces are provided on site in designated areas to the North and the Northwest of the site. All staff is either licensed or screened for appropriateness.

13. How much light will be required for the roads, paths, and parking?

We will provide the amount required per the City requirements and resident and visitor safety. Design will require that **no light illuminates the perimeter**. The revised circulation will result in most of the lighting only being visible from within the community.

14. What will it look like from Mission Road, and will the pedestrian crosswalk remain?

The structure on Mission Road is anywhere from **100 feet to 240 feet off the street**. At the center of the property, the independent living residence is placed **4 feet lower than Mission Road** and includes a berm blocking any view of parking and much of the first level. Care has been taken to **reduce the height** in areas that have the most visual impact. An **extensive streetscape** with curved sidewalks, landscaping, and berms is provided off Mission Road. The current sidewalk is adjacent to the curb. We do not control the crosswalk; however, our desire would be for it to remain.

15. How will parking drives and access be addressed?

298 parking spaces are provided. Employee, visitor, and resident parking is designated and in **controlled locations on the site**. **Employee parking is restricted to the North and Northwest**. **No offsite parking** is required. The parking and drives are **located away from residential** neighbors to the South and Southwest. The neighbors to the East will have the same access points, more screening, further setbacks, and an improved streetscape.

16. Do these retirement communities create more crime?

No, there are no statistics that support a theory of increased crime in a senior community from either residents or staff. These are the residents' homes. The property is **monitored 24/7**, and all staff are either licensed or screened for appropriateness.

17. Is there an increase in ambulance or emergency vehicle traffic?

Emergency vehicles would enter from Mission Road. We do not experience a high volume of emergency vehicles in other locations. **Vehicles do not arrive with sirens and lights** unless merited by the type of emergency that would exist at any other residential property; i.e., a fire alarm or resident medical emergency.

18. Why do we need senior housing or services? Can't the seniors go to another community? Wouldn't the City be better off with more homes for families versus seniors? How much is needed and why Mission Road?

Seniors, like other Prairie Village residents, like to stay in their own community close to family, friends, familiar shops, community, and faith services, etc. Every city should embrace the opportunity to provide living alternatives in its community for its seniors rather than expect its seniors to move outside the city when a lifestyle change is needed or desired. Prairie Village is no different in its desire to provide for its seniors.

Additionally, Prairie Village is not different from many other cities facing **the graying of America as the baby boomer generation** ages. Please find attached a study from the Prairie

Village Parks and Recreations Master Plan and a second report commissioned by the City that contains demographic information.

Some of the key statistics are as follows:

Demographics Information (Source PV)

The peak population was in 1970 with 28,378 persons.
2010 population was 22,272 - a **21.5% decrease**

Age Cohorts and Family Information (Source PV Parks and Recreation)

Population 65 and above in 1980 – 11.4%
Population 65 and above in 2008 – 19.8% - a **74% increase**
Population 24 and under in 1980 – 33.7%
Population 24 and under in 2008 – 27.7% - a **18% decrease**

Household Types Trends (Source PV Parks and Recreation)

Family Households in 1980 - 78%
Family Households in 2008 - 60% - a **23% decrease**
Non-Family Households in 1980 - 29%
Non-Family Households in 2008 - 40% - a **38% increase**

Trends from 2000 to 2015 Projected

Projected population in 2015 is 22,462, **an increase of 390 of residents or 1.8%**.
The over 55 population increased from 6,334 to 7,885, **an increase of 1,504 residents or 24%**.

The reports are clear that **senior housing is appropriate and contributes to the overall health and prosperity of the community**. Senior Living Communities within the City allow the senior population and its **wealth to stay in the City**, while allowing **natural housing rotation** to younger **couples starting families and growing families** in need of larger homes.

Independent Living

Over the last 15 years (2000 to 2015, which year is the anticipated start of Mission Chateau), **no independent senior living has been provided in Prairie Village**. The only independent senior living project in the City is Claridge Court, which opened in 1988 with 135 units. There will be a period of **27 years between senior independent living opportunities** in Prairie Village.

Assisted Living and Memory Care

During the same 15 years, only 59 specialized private and semi-private Assisted Living and Memory Care units have been added, the Benton House, which opened in 2013. Brighton Gardens opened in 1997 with 124 units, **an 18-year span**.

Skilled and Rehabilitation Care

During the same 15 years, **no additional Rehabilitation or Skilled Care** has been provided in the City of Prairie Village. Twenty-seven years ago, Claridge Court added 35 skilled units and recently added 10 skilled units. However, Claridge Court is a Lifecare facility, and services are

primarily limited to its own residents. Claridge Court reports a **98% occupancy**. The Brighton Gardens, developed 18 years prior to the anticipated Mission Chateau 2015 opening, contains **45 predominantly semi-private skilled beds**.

The location on **Mission Road is the most appropriate** for this type of community. The Mission Road corridor provides the community with access to shops, services, and events that are integral to the desired lifestyle.

19. Don't we have plenty of Senior Living options in or around the City already?

Senior Options within and close to Prairie Village

	Year Built	Age as of 2015	MC	ALF	ILF	Skilled Rehab	Total	Occupancy
Benton House	2013	2	12	47	0	0	59	Now Leasing
Claridge Court	1988	27		0	135	45	180	Full
Brighton Gardens	1997	18	40	84	0	45	169	Full
Total within City			52	131	135	90	408	
Forum 1989	1989	26	0	30	118	56	204	Full
Total within 2 Miles			52	161	253	146	612	
Mission Chateau	2015	0	36	60	160	83	339	

* Existing community unit counts are estimated based on available information. Facility configurations change from time to time. Some units are combined and some are shared. Full occupancy is stabilized. At any given time residents will be moving in and moving out.

No, 85% of the Senior Living options for Prairie Village were built 18 to 27 years ago to accommodate the need that already existed. The facilities serve specialized markets. Senior housing needs continue to grow, and the product continues to evolve. Seniors desire and demand communities that are designed with their needs in mind and utilize the most recent design that offers a continuum of care in a residential environment.

The newest senior community serves a small portion of the market and offers no skilled or rehabilitation care, Villa or Independent living apartments. Even when looking beyond the City, the closest facility is twenty-six years old and fully occupied.

Mission Chateau will provide the **only option for the resident in Prairie Village to remain in his/her City.**

End of FAQ Supplemental 3-5-2013

LATHROP & GAGE_{LLP}

MEMO

To: Prairie Village Planning Commission

From: Katie Logan, Lathrop & Gage LLP

Dated: May 6, 2013

Re: Application PC 2013-05
Special Use Permit for Adult Senior Dwellings (Mission Valley SUP)

Issues:

We have been asked to review two legal issues regarding the interpretation of the provision of the Prairie Village Zoning Regulations governing the Mission Valley SUP, Section 19.28.070(I), a copy of which is attached to this Memo.

Conclusion:

Section 19.28.070(I) does not require an adult senior dwelling project which includes nursing care or continuous health care services as a subordinate accessory use to provide those services in the same building as the senior adult dwelling facilities. A separate care facility may be approved for completion prior to the completion of the primary dwelling facility, as long as the SUP is conditioned upon the completion of the primary dwelling facility.

Facts:

Applicant is seeking a SUP for a three phase project. City staff is treating the application as a single SUP under Section 19.28.070(I) of the Zoning Regulations. The project consists of a 271,140 sq. ft. Independent Living/Assisted Living building (Phase II), six separate Villa buildings for independent living (Phase III), and a separate 92,565 sq. ft. skilled nursing or memory care facility (Phase I).

Section 19.28.070(I) lists as a permitted special use:

Dwellings for senior adults, as defined herein, and including handicapped adults.
Dwellings may be in the form of townhouses, apartments or congregate type living quarters. Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use....

We understand that the City's Planning Consultant, Lochner, and City staff have concluded that the Phase I facility is a subordinate accessory use based in part upon the square footage of the Phase I facility compared to the total square footage of the project and based on the number of

units in Phase I compared to the total number of units in the project.

We also understand that that they will recommend to the planning commission that, at a minimum, the SUP be conditioned upon the start of construction and completion of all three phases within some specified time period, and that the SUP will terminate if the conditions are not satisfied.

We have been advised that John Duggan, counsel for the Mission Valley Neighbors Association, Inc., contends that under Section 19.28.070(I), the phrase “may be provided *on the premises* as a subordinate accessory use” means that nursing or health care services may only be provided in same building as primary senior adult dwelling facility.

We have also considered the separate question of whether a separate facility for nursing or health care services is subordinate if completed prior to the primary senior adult dwelling facility.

General Discussion:

We have considered the above separately as Legal Issue #1 and Legal Issue #2 in the discussion that follows.

Legal Issue #1:

To qualify as a “subordinate accessory use” under Section 19.28.070(I) of the Zoning Regulations, must “nursing care or continuous health care services” be provided in the same building or buildings as “dwellings for senior adults?”

Answer: It is a reasonable interpretation of Section 19.28.070(I) of the Zoning Regulations that the subordinate accessory use of a nursing or health care facility may be provided in a separate building.

Discussion:

Section 19.28.070(I) authorizes as a special use “dwellings for senior adults” and further provides “Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use.”

The following are just some sections of the Zoning Regulations which clearly distinguish the term “premises” and “building” and indicate that the term “premises” is broader than the term building, and includes the surrounding parcel on which a building is located.

19.28.070(I) uses the term “premises” a second time, in connection with parking: “Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units, one space shall be provided for every five beds in any nursing facility, and not less than one space shall be provided for each employee on the premises...” Clearly the term “premises” as used a second time in that section does not mean that parking must be provided in the dwelling buildings.

Other sections of the Zoning Regulations distinguishing the terms “building” and “premises” are:

19.02.120 defines “private club” as a building or premises used for

19.06.010 “In District R-1a, no building, structure, land or premises shall be used.....

19.22.050 – Parking Regulations in District C-3: Off-street parking shall be provided on the premises...

19.26.070 Nonconforming Uses. A structure or the use of a structure or premises which was lawful before....

19.28.070(G) lists as a permitted special use: Buildings, structures, towers and premises for public utility services....

The following sections of the Zoning Regulations also distinguish the terms “building” and “premises,” and clearly indicate that accessory uses may be in a different building than the principal use building:

19.02.015 defines “Accessory Use” as a use of building or land which is customarily incidental to and located on the same lot or premises as the principal building or use of the premises.

19.02.300 defines “Lot” as a parcel of land occupied or to be occupied by one main building or unit group of buildings, and the accessory buildings or uses customarily incidental, thereto....

19.34.005 Accessory Uses – General. Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall ... be on the premises of the principal building or use. [Clearly in this context, “premises” means parcel of land on which the principal building is located].

Based upon the clear context in which the term “premises” is used in the Zoning Regulations, and upon the clear intent that accessory uses may be in buildings separate from a principal building, it is a reasonable interpretation of Section 19.28.070(I) of the Zoning Regulations that the subordinate accessory use of nursing or health care services may be provided in a building which is separate from the senior adult dwelling.

If the Governing Body so interprets its Zoning Regulations, it is likely, based on case law, that a court would defer to the Governing Body’s interpretation.

“Under the doctrine of ‘operative construction,’ the interpretation placed upon legislation by the administrative agency whose duties are to carry the legislative policy into effect is entitled to great weight. *State v. Helgerson*, 212 Kan. 412, 413, 511 P.2d 221 (1973); *Cities Service Gas Co. v. State Corporation Commission*, 192 Kan. 707, 714, 391 P.2d 74 (1964). Judicial deference to the interpretation is especially appropriate in this case where it is the legislative body itself and not an administrative agency, that is giving effect to the interpretation.” *Robert L. Rieke Building Co., Inc. v. City of Overland Park*, 232 Kan. 634 (1983).

Legal Issue #2:

Under Section 19.28.070(I) of the Zoning Regulations, may a SUP be issued for a project which includes a separate nursing or health care facility which will be completed prior to the completion of the primary dwelling for senior adults?

Answer:

A reasonable interpretation of the Zoning Regulations is that a SUP may be issued under Section 19.28.070(I) for a project in which a separate nursing or health care facility will be built prior to the completion of the primary senior adult dwelling facility if the Governing Body determines that there is a reasonable likelihood that the primary dwelling facility will be built within a reasonable period of time after completion of the subordinate facility, and if the SUP is conditioned upon the completion of the primary dwelling facility.

Discussion:

Section 19.28.070(I) establishes that nursing care or continuous health care services are a subordinate accessory use to senior adult dwelling facilities. As noted above, a reasonable interpretation of that section is that those services may be provided in a separate facility.

Section 19.28.070(I) does not require that the subordinate facility must be constructed simultaneously with or after the construction of the primary senior adult dwelling facilities.

Section 19.02.005(A) of the Zoning Regulations provides "Words used in the present tense include the future tense," referred to in this Memo as "present tense includes future tense" construction clause.

In a Michigan case, the court applied the same "present tense includes future tense" construction clause in a local zoning ordinance to a separate section of a residential zoning code requiring that boats could not be stored "within the front yard," but could be stored in "a garage, enclosed building, or in the rear yard, or located behind the front building line of the main structure." The lower court found that the section governing boat storage prohibited the storage of a boat on a vacant lot. The court of appeals held that, "By using the ordinance's rule of construction, the present tense form of this definition includes the future, which means that the structure on the property need not exist at the present moment, but may exist in the future. Accordingly, the circuit court erred in concluding that the ordinance prohibits the storage of a boat on a vacant lot." *Thomas v New Baltimore*, 254 Mich. App. 196; 657 NW2d 530 (2002).

In a later case, involving whether riding off road vehicles is an accessory use of residentially zoned property where there is no dwelling, the court of appeals indicated that future "primary" use could be relevant to the inquiry of whether an existing use is an accessory use. "To the extent that it is pertinent in any respect here, *Thomas* merely instructs that, to determine whether a use violates an ordinance, a court must undertake the same analysis of that use regardless of

whether the primary structure is then present or whether it may be present at some point in the future. *Milton Township v Kaminsky*, 2012 Mich. App. LEXIS 2261[unpublished opinion].

These cases support the argument that since the Prairie Village Zoning Regulations include “present tense includes future tense” construction clause, it is reasonable to consider a future primary use in connection with a determination of whether a current use qualifies as an accessory use.

Based upon the foregoing, we believe that reasonable interpretation of the Zoning Regulations is that a SUP may be issued under Section 19.28.070(I) for a project in which a separate nursing or health care facility will be built prior to the completion of the primary senior adult dwelling facility if the Governing Body determines that there a reasonable likelihood that the primary dwelling facility will be built within a reasonable period of time after completion of the subordinate facility, and if the SUP is conditioned upon the completion of the primary dwelling facility.

If the Governing Body so interprets its Zoning Regulations, it is likely, based on case law, that a court would defer to the Governing Body’s interpretation. See Rieke case, above.

Attachments: Section 19.28.070 City of Prairie Village Zoning Regulations

cc: Dennis Enslinger
Ron Williamson

Chapter 19.28 – Special Use Permits

- A. A violation of the ordinances of this City including, but not limited to, the zoning regulations;
 - B. A violation of the district regulations; and
 - C. A violation of non-compliance with the conditions, limitations or requirements contained in the special use permit or these regulations.
- (Ord. 2199, Sec. V, 2009)

19.28.070 Specifically Listed Special Use Permits

Any of the following uses may be located in any district by special use permit in accordance with Section 19.28.005: unless otherwise noted:

- A. Country clubs, or private clubs or clubs which serve food and alcoholic, wine and cereal malt beverages;
- B. Cemeteries;
- C. Columbariums;
- D. Hospitals;
- E. Nursery sales office, building, greenhouse, or area (wholesale or retail);
- F. Nursing and convalescent homes as defined by state statutes; but not including group homes;
- G. Buildings, structures, towers and premises for public utility services or public service corporations whether located in public right-of-way or on easements on private property except that the following shall be specifically excluded from the Special Use Permit requirements: utility poles; utility boxes; and underground utility lines. (Ord. 2029, Sec. II, 2002)
- H. Assembly halls;
- I. Dwellings for senior adults, as defined herein, and including handicapped adults. Dwellings may be in the form of townhouses, apartments or congregate type living quarters. Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use. Not less than seven hundred square feet of land shall be provided for each occupant in an apartment or congregate dwelling unit and not less than five hundred square feet of land shall be provided for each bed in a nursing or continuous care facility. Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units, one space shall be provided for every five beds in any nursing facility, and not less than one space shall be provided for each employee on the premises on the maximum shift, provided, however, that this section shall not apply to group homes; Standards for height and setback of buildings applicable to such dwellings shall be those permitted in residential zoning districts R-1 through R-4;
- J. Service stations in C-1, C-2 & C-3 Districts only; not including automatic car wash; provided that all gasoline storage tanks shall be located below the surface of the ground. Display and service racks for new stock normally carried by filling stations, including oils and tires, may be placed outside the building during business hours;
- K. Automatic and semiautomatic car washes, continuous line car washes, self-service car washes, manual car washes and all other car washing facilities located separately or in relation to the operation of a service station in C-1, C-2 & C-3 Districts only;
- L. Skating rinks, arcades and similar commercial recreation facilities in C-1, C-2 & C-3 Districts only provided such use shall be not less than two hundred feet from any existing clinic, hospital, school, church or district R-1 to R-4 inclusive, unless approved by the

Governing Body under such restrictions as seem appropriate after consideration of noise and other detrimental factors incidental to such use;

- M. Mortuaries and funeral homes - in C-0, C-1, C-2 & C-3 Districts only;
- N. Day Care Centers in residential districts;
- O. Drinking Establishments - Bar or Night Club - C-1, C-2, & C-3 Districts only:
 - a. The initial approval shall be for a period of three years;
 - b. Subsequent renewals may be for periods up to ten years but shall not be in excess of the lease term or options thereof;
- P. Accessory uses to motels includes but not limited to restaurants, banquet rooms, liquor, notions and magazine counters, vending machines, beauty and barbershops, flower and gift shops; provided all are within the main building and designed to serve primarily the occupants and patrons of the motel or hotel;
- Q. Accessory uses to hospitals including, but not limited to, residential quarters for staff and employees, nursing or convalescent quarters, storage and utility buildings, food service and vending machines, laundry and other similar services for hospital personnel, visitors and patients;
- R. Utility or Storage Buildings: Detached storage or utility buildings for nonresidential uses.
- S. DELETED. (Ord. 1909, Sec. II, 1997; Ord. 2190, Sec. III, 2009)
- T. Private Schools, Colleges and University Education Centers (Ord. 1919, Sec. 1, 1997)

MEMORANDUM

TO: Prairie Village Planning Commission
FROM: Ron Williamson, Lochner, Planning Consultant
SUBJECT: Mission Chateau
DATE: May 6, 2013

Project # 000005977

COMMENTS:

I have reviewed the Memorandum submitted on behalf of the Mission Valley Neighborhood Association and a few of the items need to be clarified as follows:

1. The most recent plans submitted indicates the Skilled Nursing/Memory Care building is 91,189 sq. ft. rather than 92,565 sq. ft. It should also be noted that the Skilled Nursing portion of the building is 70,354 sq. ft.
2. On page 9. The proposed Villas will be setback 35 ft. from the south and southwest property lines and since this is a side yard the ordinance requirement is 5 ft.
3. On page 9. The two major buildings will setback between 131 ft. and 168 ft. from the south and southwest property lines which is consistent with the City of Olathe "neighborhood transition area" of 100 – 250 feet.
4. On page 10. The required front yard setback is 30 feet and the major building sets back approximately 111 feet from Mission Road.
5. On page 10. There is no setback requirement for buildings on private roads or drives. This is consistent with the numerous condominium and townhouse projects that have been built in the City.
6. On page 11. Lot coverage is that portion of the lot covered by structures and as this project is proposed it is 23.9%. This is one large lot and the term "net lot area" does not apply.
7. On page 12. The Forum is not in Prairie Village.
8. On page 18. The "retention" pond is a "detention" pond which means that it does not have water in it all the time.
9. On page 20. A term "non-acute hospital facility" has been introduced and repeated in the memorandum and this is not the use the applicant has requested.
10. On page 26. It states that open space has not been incorporated into the plan. The applicant has stated that 10.2 acres of the 18.4 acres will be in open space and 5.34 acres will be useable park space. In comparison, Prairie Village has 12 parks and eight are less than five acres in area. The eight parks range in size from 0.10 acres to 4.60 acres. It should be noted, however, that a significant amount of the open space will be located along the creek on the north end of the site. A summary of the city parks is as follows:

Bennett Park	1.45 acres	Santa Fe Trail Park	3.40 acres
Taliaferro Park	4.60 acres	Shliffke	1.39 acres
Windsor Park	5.79 acres	McCrum Park	1.00 acres
Franklin Park	11.12 acres	Brenizer Park	0.10 acres
Porter Park	7.00 acres	Prairie Park	0.80 acres
Harmon Park	23.12 acres	Weltner Park – Unknown since the park re-do (approximately 1.73 acres)	

LAW OFFICES
DUGGAN SHADWICK DOERR & KURLBAUM LLC

11040 OAKMONT
OVERLAND PARK, KANSAS 66210

TELEPHONE (913) 498-3536
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May 3, 2013

Prairie Village Planning Commission
Mr. Kenneth J. Vaughn
Ms. Nancy Wallerstein
Mr. Gregory Wolf
Mr. Randy Kronblad
Mr. Dirk Schafer
Mr. Bob Lindeblad
Ms. Nancy Vennard
Mr. Ted Odell

Dear Commissioners:

We represent the Mission Valley Neighbors Association, Inc. ("Mission Valley Neighbors") who respectfully oppose the special use permit application submitted by MVS, LLC ("MVS"). We have attached to this letter our *Memorandum* outlining the Mission Valley Neighbors' objections to the special use application now before the Commission. In addition, we will be providing a *Proposed Resolution* denying MVS' application at a later date.

The size and scope of MVS' proposed development is truly astonishing. MVS seeks a "special use" permit to construct the Mission Chateau Development in the middle of a residential neighborhood zoned as an R-1A, single-family residential district. In all, MVS seeks to construct eight (8) buildings on the lot that now contains the Mission Valley Middle School building, surrounding green space, and nature trail. The development calls for the construction of a 92,565 square foot non-acute hospital or "skilled nursing and memory care facility," a 271,140 square foot "assisted living and independent living facility," and six (6) "villa"-style residence buildings constituting an additional 24,195 in square feet. The 271,140 square foot building in the MVS development would constitute the single largest residential building in the City. The development's two main buildings would dominate the Prairie Village "skyline" with rooftops stretching over forty (40) feet above ground. Under nearly every measure, MVS' proposed Mission Chateau Development would truly be unprecedented in Prairie Village.

Whether you consider this special use application under the specified criteria set out in the City's Zoning Ordinance or under the *Golden* factors, any review of MVS' proposal demonstrates that its application should be denied. While explained more fully in the Mission Valley Neighbors' Position Paper, the Planning Commission should disapprove MVS' proposed special use on the following grounds:

- MVS' special use permit application does not meet the minimum standards of the Zoning Ordinance.
 - MVS seeks special use approval under Section 19.28.070(I) of the Zoning Ordinance. That section, however, prohibits MVS' proposed 92,565 square foot skilled nursing facility as it is clearly not a mere "subordinate accessory use" for the following reasons:
 - The Zoning Ordinance's strict definition of "subordinate accessory use" does not include in its scope a major, 92,565 square foot non-acute hospital facility.
 - The Zoning Ordinance itself does not allow an "accessory use" to impose any additional burden (noise, traffic, etc.) than what would be caused by the "primary" building. The 92,565 square foot skilled nursing facility, however, would itself generate an estimated 390 "trips" per day.
 - MVS cannot claim the 92,565 square foot skilled nursing facility is a "subordinate accessory use" because it will be the only building constructed in "phase 1," and the other buildings will only be constructed later if "phase 1" proves profitable.
 - MVS has thus failed to show that its proposed special use is one "*specifically listed*" in the Zoning Ordinance.
- The Mission Chateau Development will adversely affect the welfare of the surrounding community.
 - The unprecedented size, density, and height of the development are incompatible with the surrounding neighborhood.
 - The square footage covered by the independent living facility would constitute the largest residential building in Prairie Village.
 - The Mission Chateau Development is larger, in terms of square feet, than all of the following Corinth-area buildings combined: (a) Corinth South (Panera, First Watch, and the Mission Antique Buildings); (b) all of the Corinth Square Buildings; (c) the Corinth Office Building; and (d) the Corinth Executive Building.
 - At 271,140 square feet, the proposed "assisted living and independent living facility" would alone be the second-largest residential building in the City.
 - The development is *two times more intense* than the Corinth area office and retail mixed-use development. Unlike the Corinth development, the Mission Chateau Development would be constructed in the middle of a residential block surrounded on three sides by single-family homes.

- The 92,565 SF Skilled Nursing Facility and the 271,140 square foot “assisted living” facility would extend 40’ and 40’ 10” above ground, respectively.
 - MVS has not provided any sort of transition or buffer between its high-density development and the surrounding single-family residential lots. Under substantially similar circumstances, many cities (including the City of Olathe) would require a 100 to 250 foot “transition area.”
 - The proposal is replete with violations the Zoning Ordinance applicable to R-1A districts intended to prevent such a high-density development (i.e. 30% lot coverage requirement, 30-foot front yard requirement). MVS attempts to make an end-run around such requirements by presenting its “campus” of 8 separate buildings as a single building for purposes of the Zoning Ordinance.
 - Prairie Village’s market for senior living facilities is saturated. Thus, any additional construction will adversely affect the “welfare or convenience” of the City’s residents in a number of ways.
- The Mission Chateau Development will cause substantial injury to the values of surrounding single-family homes.
 - The size, square footage, height, and lack of setback of the proposed development, in light of its construction in the middle of a single-family residential neighborhood, will have an undeniable negative impact on surrounding home values.
 - One area neighbor has commissioned an opinion of a licensed Kansas real estate appraiser which estimates that the development would cause the value of his home to drop by at least 10%.
- While proponents of the development will likely point to the apartment buildings to the north and northwest of the Mission Valley lot, such developments pale in comparison to the size, square footage, height, and scope of the Mission Chateau Development. Any statistical comparisons based on “living units per acre” are misleading. The proposed development, unlike the apartments, will not merely just be “living units,” but will instead require considerable additional institutional support services and facilities.

For all the foregoing reasons summarized above, and also those set forth in the attached Memorandum, the Mission Valley Neighbors Association strongly urge this Commission to deny MVS’ proposed massive development. MVS’ proposed development threatens the very character of the surrounding neighborhoods and negatively impacts the feel of the entire City. Only a disapproval of the application now before this Commission would adequately safeguard the exceptional nature of this Prairie Village neighborhood.

Prairie Village Planning Commission
Letter Re. Mission Chateau Development
May 3, 2013
Page 4

Thank you for your consideration of this matter.

Respectfully,

DUGGAN SHADWICK DOERR & KURLBAUM LLC

A handwritten signature in blue ink, appearing to read "JD", with a long horizontal flourish extending to the right.

John M. Duggan

MEMORANDUM

**TO: Prairie Village Planning Commission
Mr. Kenneth J. Vaughn
Ms. Nancy Wallerstein
Mr. Gregory Wolf
Mr. Randy Kronblad
Mr. Dirk Schafer
Mr. Bob Lindeblad
Ms. Nancy Vennard
Mr. Ted Odell**

FROM: John M. Duggan, counsel for Mission Valley Neighbors Association, Inc.

DATE: May 3, 2013

RE: MVS, LLC's proposed Mission Chateau Development Special Use Permit Application

The following memorandum sets forth the relevant factors for consideration under: (1) Section 19.28.035 of the Prairie Village, Kansas, Zoning Ordinance (“Zoning Ordinance”); and (2) the Kansas Supreme Court’s decision in *Golden v. City of Overland Park*, and codified by Zoning Ordinance § 19.52.030. Under either review, MVS’ requested special use permit application should be denied by this Planning Commission.

I. The Relevant “Factors For Consideration” Demonstrate That MVS’ Special Use Permit Should be Disapproved.

As set forth below, each of the factors set forth in Section 19.28.035 of the Zoning Ordinance weigh heavily against the Planning Commission granting MVS’ requested special use permit. Moreover, a consideration of the following factors demonstrates that the proposed development is incompatible and “dissimilar to the normal uses” permitted in the district. See *Zoning Ordinance* §19.28.005. Thus, this Planning Commission should deny MVS’ special use application.

A. MVS' Proposed Special Use Violates the City's Zoning Ordinance Because the 92,565 SF Nursing Facility is Not Merely a "Subordinate Accessory Use."

The Mission Valley Middle School property is zoned as a "single-family residential district," or District R-1A. While primarily designed to accommodate single-family homes, the Prairie Village, Kansas, Zoning Ordinance applicable to District R-1a allows for a number of other accepted uses. As such uses are generally in keeping with the intended residential nature of the district, they are allowed as a matter of right. *See Zoning Ordinance* § 19.06.010. For example, the Zoning Ordinance allows R-1A properties to be used as a public school. *Zoning Ordinance* § 19.06.010(G). Indeed, the City of Prairie Village has for many years permitted the operation of Mission Valley Middle School under the Zoning Ordinance's express carve-out for public schools.

The Mission Chateau Development, on the other hand, is not a "single family dwelling," "public school," or any other structure otherwise sufficiently in keeping with the residential nature of the community so as to be permitted as a matter of right under the R1-A Zoning Ordinance. To the contrary, the extraordinary nature of the proposed development requires MVS, LLC to seek a "special use permit." *Zoning Ordinance* § 19.06.010(L); *see also Zoning Ordinance* § 19.28.005 ("Special uses are those types of uses which, due to their nature, are dissimilar to the normal uses permitted within a given zoning district or where . . . [the] business or activity may be detrimental to the health safety, welfare or property values of the immediate neighborhood . . ."). As such, MVS, LLC must strictly follow the detailed procedures and regulations applicable to such "special use permits" and enacted in recognition of the inherent risks associated with approving developments incompatible with the nature of the surrounding community.

To that end, the Zoning Ordinance mandates that special use permits will not be granted unless the use is specifically allowed by statute, providing that: “[i]n no event shall a Special Use Permit be granted where the Special Use contemplated is not specifically listed as a Special Use in the Zoning Regulations.” *Zoning Ordinance* § 19.28.005. As such, MVS must demonstrate that the Mission Chateau Development falls within the scope of one of the limited special uses “specifically listed” by the Zoning Ordinance.

In this case, MVS seeks to construct a separate and stand-alone 92,565 square foot “skilled nursing and memory care facility” (“92,565 SF Nursing Facility”) under the guise of a special use permit application under Section 19.28.070(I). Section 19.28.070(I), however, only allows such a nursing facility to the extent that it is a “subordinate accessory use” and “on the premises” of the dwelling. In particular, the statute allows for the following “specifically listed” use:

- I. Dwellings for senior adults, as defined herein, and including handicapped adults. Dwellings may be in the form of townhomes, apartments or congregate type living quarters. Nursing care or continuous health care services *may be provided on the premises as a subordinate accessory use. . . .*

Zoning Ordinance § 19.28.070(I) (emphasis added).

Simply put, MVS cannot demonstrate that its 92,565 SF Nursing Facility constitutes a mere “subordinate and accessory use.” As an initial matter, the Zoning Ordinance demonstrates an intent to only permit nursing care as a “subordinate accessory use” “on the premises” of the principal building and not as the primary use in a wholly separate building. *Zoning Ordinance* § 19.28.070(I). Stated another way, the Zoning Ordinance does not “specifically” grant the right to operate a separate and distinct skilled nursing facility on a “campus” which includes several buildings, one of which facilitates a “use” not specifically listed. Section 19.28.070(I) does not provide MVS any authority to construct a separate building or “premises” independent of the

principal senior adult “dwelling” building. To the contrary, Section 19.28.070 demonstrates that the Zoning Ordinance was never intended to be used as a statutory authority to construct a separate building under the guise of a mere “subordinate and accessory use.” Indeed, the Zoning Ordinance itself only contemplates an “accessory use” to be a secondary use in the primary building. “Accessory uses” to motels include, for example:

restaurants, banquet rooms, liquor, notions and magazine counters, vending machines, beauty and barbershops, flower and gift shops; provided all are within the main building and designed to serve primarily the occupants and patrons of the motel or hotel;

Zoning Ordinance § 19.28.070(P). Further, “accessory uses to hospitals” are similarly limited in definition to uses contained in the primary building or clearly secondary thereto:

Accessory uses to hospitals including, but not limited to, residential quarters for staff and employees, nursing or convalescent quarters, storage and utility buildings, food service and vending machines, laundry and other similar services for hospital personnel, visitors and patients;

Zoning Ordinance § 19.28.070(Q).

The proposed special use permit seeks to construct a major, 92,565 square foot non-acute hospital that, as discussed more fully below, would alone constitute one of the largest buildings in the area. Under any statutory construction and any cursory review of the proposed 92,565 SF Nursing Facility, such a structure cannot be considered a mere “subordinate accessory use” within the meaning of the Zoning Ordinance. As such, MVS has failed to apply for an allowable special use “specifically listed” by statute and, thus, the application now before the Planning Commission fails to meet the minimum standards of the Zoning Ordinance.

Moreover, MVS’ contention that the 92,565 SF Nursing Facility is somehow a “subordinate accessory use” attempts to distort the plain meaning of those terms. In using the plain and unambiguous words “subordinate” and “accessory,” any fair reading of Section

19.28.070 should also give such terms their plain and unambiguous meaning. *See, e.g., Weeks v. City of Bonner Springs*, 518 P.2d 427, 433 (Kan. 1974) (“This court has many times stated the primary rule for the construction of a [municipal ordinance] is to determine the legislative intent from the language used therein. If the language used is plain and unambiguous the court should follow the intent expressed by the words within the statute . . .”) (quoting *Phillips v. Vieux*, 504 P.2d 196, 201 (Kan. 1972)). Indeed, and in accordance with the generally accepted definition of such terms¹ as connoting a secondary or inferior position, the Zoning Ordinance specifically proscribes the construction of a building as an “accessory use” if it imposes any sort of burden in excess of that associated with the primary building or use. Specifically, Section 19.34.005 states that:

accessory buildings and uses shall be so constructed, *maintained and conducted as to not produce* noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof *or generate vehicular traffic which exceeds the normal traffic in the neighborhood and shall be on the premises of the principal building or use.*

Zoning Ordinance § 19.34.005 (emphasis added). MVS’ proposed “subordinate accessory” 92,565 SF Nursing Facility, however, would produce a significant traffic burden on the surrounding area. As set forth in a recent Traffic Impact Study dated April 5, 2013, the 92,565 SF Nursing Facility would alone generate an estimated 390 “trips” per day. *See Traffic Impact Study* dated April 5, 2013, prepared by Olsson Associates (“Traffic Impact Study”) at 10. To the extent that Section 19.34.005 expressly prohibits a purported “accessory use” from producing *any* additional vehicular traffic burden, the significant traffic burden produced by the 92,565 SF

¹ The Merriam-Webster Dictionary defines “subordinate,” in relevant part, as: “(1) placed in or occupying a lower class, rank, or position : inferior” “Accessory” is similarly defined as: “(1) assisting as a subordinate . . . ;” (2) “aiding or contributing in a secondary way;” or (3) “present in a minor amount and not essential as a constituent.”

Nursing Facility demonstrates that MVS' proposed special use is not merely a "subordinate accessory" use. For such additional reason, MVS' special use application should be denied.

Moreover, MVS' claim that its 92,565 SF Nursing Facility constitutes a "subordinate accessory" use contradicts the very site plans it submitted to the Planning Commission. MVS invites the City to approve its massive 92,565 SF Nursing Facility based on a finding that the nursing facility is merely a "subordinate accessory use" to the Mission Chateau Development's other planned structures set forth in its proposed site plan. Notably, however, MVS's submitted site plan indicates that it will construct *only* the 92,565 SF Nursing Facility in "phase 1" of its project, and has further represented that it will only construct the remaining planned buildings in "phase 2" if the 92,565 SF Nursing Facility proves financially profitable. Stated another way, while attempting to argue that the 92,565 SF Nursing Facility is merely "subordinate" and "accessory" to the other planned buildings for purposes of obtaining a special use permit, MVS actually does not even plan to construct the purportedly primary building until phase 2, and only in the event that the success of its bellwether nursing facility motivates it to do so. It defies reason to suggest that the 92,565 SF Nursing Facility is just a "subordinate accessory use" to a building(s) that may never be constructed.

In addition, MVS' contention that its proposed 92,565 SF Nursing Facility would somehow constitute a "subordinate accessory use," under the plain meanings of those terms, clearly misses the mark when one assesses the sheer size of the nursing facility in relative terms. Under the proposal presented by MVS, the 92,565 SF Nursing Facility would be a separate, stand-alone structure and, of the three planned building categories,² would constitute the second-largest in terms of square feet. In comparison to other notable nearby structures, the 92,565 SF

² In addition to the 92,565 SF Nursing Facility, the proposed Mission Chateau Development would also include a 271,140 square foot "Assisted Living and Independent Living Facility" and multiple "villa"-style residences constituting 24,915 square feet.

Nursing Facility would be larger³ than any of the following: (a) the Corinth South property (i.e. Panera, First Watch, and Mission Antique Mall buildings); (b) the Corinth Office Building; and (c) the Corinth Executive Building. *See Corinth Area Office and Retail* data, attached hereto as **Exhibit A**. In addition, the 92,565 SF Nursing Facility would constitute over half of the square-foot area of *all* the buildings in the Corinth Square retail center. In light of such numbers, any argument by MVS that the nursing facility should be considered anything other than one of the largest buildings in Prairie Village should not be countenanced by the City.

In sum, MVS' reliance on the Zoning Ordinance's allowance for skilled nursing care as a "subordinate accessory use" in order to seek approval of a separate and free-standing 92,565 square foot facility is entirely unsupported and should not be accepted by the City. Further, MVS' suggestion that its 92,565 SF Nursing Facility is only "subordinate" to its other planned structures entirely disregards the fact that it only intends to construct the remaining buildings in the event that the nursing facility proves successful.

As such, the first factor under Section 19.28.035 weighs heavily against MVS' proposed special use permit.

B. The proposed Mission Chateau Development will adversely affect the welfare of the surrounding community.

The Planning Commission should deny MVS' proposed special use to the extent that it will negatively impact the welfare of the surrounding Prairie Village community in a variety of ways, including but not limited to the following: (1) the size and intensity of the proposed development is truly unprecedented in Prairie Village; (2) MVS' proposal fails to provide any buffer between its high-density development and adjoining single-family homes; (3) MVS' "campus" proposal attempts to make an end-run around the Zoning Ordinance's minimum

³ Comparisons are made in terms of square feet.

standards that are designed to apply to *every* individual building; and (4) as Prairie Village's market for retirement facilities has long been saturated, additional construction will negatively impact the City's diversity of development and its ability to attract future businesses and residents.

1. *The size and density of the proposed development would adversely affect the welfare of the surrounding single-family residential home owners.*

If approved by the Planning Commission, the square footage covered by the Mission Chateau Development would constitute the largest residential building in Prairie Village. At 271,140 square feet, the "assisted living and independent living facility" proposed for construction in "phase 2" of the development would itself be the largest residential building in the City. *See Top 10 Residential Building Data*, attached hereto as **Exhibit B**.

The development's sheer size is only made more pronounced by its intensity. Based on information provided by the Johnson County, Kansas, Appraiser's Office and confirmed through a review of certain registration statements filed by the JC Nichols Company with the Securities Exchange Commission in 2003, the proposed Mission Chateau Development would be almost *two times more intense*, in terms of square foot development per acre, than the Corinth area office and retail mixed use development. *See Corinth Area Office and Retail* data, attached hereto as **Exhibit A**. Indeed, the Corinth area office and retail development averages 11,902 square feet per acre. *Id.* The proposed Mission Chateau Development, on the other hand, would average an amazing 21,122 square feet per acre. *Id.*

Unlike the Corinth area office and retail development, which is for the most part bordered by streets, the Mission Chateau Development would be constructed in the middle of a residential block and would be surrounded on three sides by single-family residential homes. Such homeowners, who have for many years enjoyed significant setbacks and an abutting school

perfectly in harmony with the residential nature of the community, would suddenly be adjoining a massive, high-density development. Construction of such a special use so clearly incompatible with the surrounding community would adversely affect its residents and their residential properties.

2. ***The adverse effects of the high-density proposed development are only exacerbated by the lack of transition or setback with surrounding single-family residential homes.***

MVS' proposed site plan indicates that several buildings on the perimeter of the Mission Chateau Development will be set back a thirty-five (35) feet from the property lines of the abutting single-family residential homes. Such a setback, or lack thereof, is entirely unacceptable—especially given the high-density nature of the proposed development. While Prairie Village has not enacted specific ordinances requiring transition areas, several municipalities have recognized the obvious need to require a sufficient setback or transition between areas of varying densities.

For example, the City of Olathe has enacted ordinances mandating a “neighborhood transition area,” between one hundred (100) and two-hundred (200) fifty feet in width, between areas zoned as a “traditional neighborhood”⁴ and areas zoned as either: “(a) R-2⁵ or more restrictive; (b) Land zoned R-3 and developed with or platted for single-family or two-family residential purposes; and (c) Land in unincorporated areas developed with or platted for single-family residential purposes.” See City of Olathe Unified Development Ordinance § 18.29.070. As stated by the City of Olathe Unified Development Ordinance, a neighborhood transition area “is appropriate along the perimeter . . . abutting . . . low-density housing or other sensitive areas

⁴ “Traditional Neighborhoods” contain a variety of residential land uses including single-family, two-family, townhouse, condominium, multifamily dwellings, and a “neighborhood center.” See City of Olathe Unified Development Ordinance § 18.29.020.

⁵ Property zoned “R-2” consists of a “two-family residential district.”

that may be impacted by the higher densities often found in a [traditional neighborhood].” See City of Olathe Unified Development Ordinance § 18.29.020(D).

While certainly not binding on the Planning Commission, the above ordinances nonetheless underscore a central deficiency of the Mission Chateau Development; namely, MVS has failed to propose a sufficient perimeter with the abutting single-family lots. To the extent that the City of Olathe would require a neighborhood transition area of one hundred (100) to two hundred fifty (250) feet under substantially identical circumstances, the Planning Commission should not permit MVS’ attempts to stretch its construction up to a point thirty-five (35) feet from adjoining single-family homes. Instead, the Planning Commission should reject MVS’ special use permit to the extent that it has failed to propose a plan with any identifiable transition area.

MVS’ refusal to provide any buffer between its high-density development and the surrounding residential neighborhood demonstrates more than just a failure to propose a development not “dissimilar to the normal uses permitted” and “in harmony with the neighborhood;” such proposals shows that MVS’ requested special use would “adversely affect” the welfare of the surrounding community. See *Zoning Ordinance* §§ 19.06.005 & 19.28.005.

3. *MVS attempts to make an end-run around certain statutory violations by presenting its proposed “campus” development of 8 separate buildings as a single building for purposes of the Zoning Ordinance.*

Notably, the Staff Report submitted to the Planning Commission recognizes that “[t]he property is zoned R-1A which requires a 30’ front yard setback.” See Staff Report at 4. MVS’ proposal, however, provides that its “villa”-style residences will be constructed a mere ten (10) to twenty (20) feet (approximately) from the proposed road. Moreover, the proposed 92,565 SF Nursing Facility does not provide for a thirty (30) foot front yard, but instead calls for

construction almost directly abutting the adjoining road. This proposal is in direct violation of Section 19.06.025 applicable to properties zoned as R-1A. *See Zoning Ordinance* §§ 19.06.025 & 19.02.520.

Further, as a property zoned R-1A, MVS' proposal must show that its proposed development will "not cover more than 30% of the net lot area." *See Zoning Ordinance* § 19.06.040. Again in contravention of such requirement, MVS' proposed Mission Chateau Development would cover far more than 30% of the net lot area.

Such additional violations of the Zoning Ordinance demonstrate MVS' attempts to sidestep the above statutory requirements by framing its proposed "campus" of eight separate buildings as a single building for purposes of obtaining approval of its special use. Indeed, while MVS has purportedly complied with the Zoning Ordinance's front-yard requirement for its 271,140 square foot assisted living facility, its plans all but overlook such statutory requirements as to the seven other buildings in its proposed development. By seeking this Planning Commission's approval of its "campus" development as a single property, MVS also hopes to bypass the 30% lot coverage requirement in order to construct one of the most intense developments in Prairie Village.

MVS' oversight of the Zoning Ordinance underscores a central flaw of its proposed special use. Namely, the high-density nature of the Mission Chateau Development would adversely affect the welfare of the surrounding single-family residential community in ways that the Zoning Ordinance was specifically enacted to prevent, but which MVS now seeks to avoid.

4. ***The market for retirement homes in Prairie Village is saturated; as such, any additional retirement facility development will not only not serve, but will also adversely affect, the "welfare or convenience" of the City's residents.***

The City of Prairie Village is saturated with retirement facilities. As the Planning Commission is well aware, the City has seen the construction of a number of retirement facilities in recent years. At present, Prairie Village is home to four retirement homes: Claridge Court, Brighton Gardens, The Forum, and most recently, the Benton House. Based on independent research conducted by members of the Mission Valley Neighbors Association, Inc. (“Mission Valley Neighbors”), it is clear that Prairie Village is home to an unusually disproportionate number of retirement homes. Indeed, for every one Prairie Village resident, there are 22 retirement living units⁶ in the City’s various facilities. *See Retirement Facility Research Data* (compiled by the Mission Valley Neighbors) attached hereto as **Exhibit B**. In contrast, however, the average in Johnson County as a whole is approximately 67 retirement living units per resident. *See id.*

The explosion of retirement home development in Prairie Village has unfortunately not produced benefits to the City’s residents. Based on informal polls taken of the management staff of the Benton House, Claridge Court, and The Forum, it is estimated that only one-third (33%) of those facility’s patrons are residents of Prairie Village⁷. Given such figures, it is clear that any additional retirement facility construction in the City would not only fail to improve the “welfare or convenience” of the residents of Prairie Village but would actually cause adverse effects to such considerations. Firstly, as the market for retirement homes is clearly saturated, one must strain to conjure any “welfare or convenience” interest served by the construction of even more such homes. Moreover, it is a tenet of any zoning ordinance, and is indeed expressed in this

⁶ This figure includes the number of living units that would be added to the City in the event that the Planning Commission approves the Mission Chateau Development.

⁷ The management staff of Claridge Court reported that the ratio of Prairie Village residents living in its facility was some percentage less than 50%.

City's comprehensive plan, that a wide array of housing options⁸ and diversified businesses should always be available to its residents. Concentration in retirement home development may have the unintended effect of impeding the City's future development and attractiveness to home-buyers. While no one will dispute that retirement homes play an essential role in the City's overall "welfare or convenience," it is undeniable that Prairie Village's demand for such businesses has long been satisfied.

In that vein, the Mission Valley Neighbors must respectfully disagree with the Staff Report's assessment that the proposed project will not adversely affect the welfare of the public because "[i]t will . . . provide a senior housing community for area residents that are not currently being provided for in Prairie Village." See Staff Report at 5–6. Such an opinion reflects an unfortunate oversight of the recent proliferation of senior housing construction and the clear saturation of the market for such housing in Prairie Village, as set forth above. Indeed, the ratio of senior housing living units in Prairie Village is nearly *three times* the average in Johnson County.

For such reasons, the proposed special use before the Planning Commission will not advance, and will indeed adversely affect, the "welfare or convenience" of Prairie Village residents.

C. **The proposed special use would cause substantial injury to the values of the surrounding single-family homes.**

The next factor for the Planning Commission's consideration is whether MVS' proposed special use would "cause substantial injury to the value of other property in the neighborhood in which [the development] is to be located." See *Zoning Ordinance* § 19.28.035(C). The Mission

⁸ The City's Village Vision Strategic Plan ("Village Vision") states, for example, as a "development principle" that "[o]pportunities to create a range of housing types and price levels should be provided to bring people of diverse ages" See Village Vision at 3.19.

Chateau Development proposes the construction of a two to three-story 271,140 square foot “assisted living and independent living facility” which would constitute the largest residential building in Prairie Village and would extend forty feet ten inches (40’ 10’’) in height at its highest point. *See Top 10 Residential Building Data*, attached hereto as **Exhibit B**. Such a massive three-story development would be visible from nearly every nearby single-family residential lot. Moreover, the proposed two to three-story 92,565 SF Nursing Facility constructed in “phase 1” of the project is proposed to similarly extend approximately forty (40) feet above grade at its highest point. Like the assisted living facility, this construction would similarly be visible from nearly every nearby lot. MVS also seeks to construct numerous single-story “villa”-style residences extremely close to the southern boundary of the development site, proposing setbacks appearing to range between a thirty-five (35) feet to approximately thirty-five (35) feet.

Even under a cursory review of the size, square footage, height, and lack of setback of the proposed development in light of the nature of the surrounding ranch-style single-family residential homes, the fact that the Mission Chateau Development will have a negative impact on surrounding home values is undeniable. While MVS asks the City’s residents to “[k]eep in mind that the school gym is 38 feet tall” in a “FAQ Supplement” dated March 15, 2013, it fails to note that the school gym is set back on the middle portion of the lot and is not a housing and/or hospital unit operating around the clock. As proposed, the Mission Chateau Development would dominate the area neighborhood. The Planning Commission should deny such a proposed special use that is so clearly injurious to the value of neighborhood properties.

To demonstrate to the Commission the negative financial impact that would be caused by MVS’ proposal, a neighbor has obtained, at a significant personal cost, the written opinion of a

Kansas licensed real estate appraiser. That opinion will be presented to the Planning Commission by the homeowner that obtained the report. The homeowner has nonetheless authorized the Mission Valley Neighbors to report that construction of the Mission Chateau Development would result in a significant “external obsolescence,” or property depreciation caused by negative external influences, of the surrounding neighborhood. Specifically as to that homeowner, the real estate appraiser expects that the special use proposed by MVS would result in a diminution of at least 10% of the current market value of his home.

The Mission Valley Neighbors are in possession of the Staff Report issued to the City in this matter, in which it reports, in support of its conclusion that the proposed development will not adversely affect surrounding property, that “[t]he property to the north and northwest is high density development.” *See* Staff Report at 6. In support of that conclusion, it should be highlighted that the Staff Report relies solely on a “living units per acre” comparison. *See id.* The Mission Valley Neighbors respectfully submit, however, that such a statistical comparison is merely a red-herring that only belies the clearly disparate densities of the proposed development and such apartment buildings. The more appropriate comparison the Planning Commission should consider is in square feet of development per acre. Indeed, the Staff Report’s “living units per acre” figure entirely overlooks that the Mission Chateau Development does not merely consist of “living units.” To the contrary, as an assisted living center and non-acute hospital, the proposed development would necessarily contain considerable support services and facilities (i.e. hospital facilities, banquet rooms, kitchens, convenience shops, security facilities, meeting rooms, etc.) that are simply not in the apartment buildings to the north and north-west. As such, a “living units per acre” statistical comparison is a misnomer. Given the unique nature of MVS’ proposed special uses, the Planning Commission should instead consider the “square foot per

acre” comparison in assessing the density of MVS’ proposal. As set forth above, such a comparison demonstrates that the Mission Chateau Development would be almost *two times more intense* than the Corinth area office and retail development. The construction of such a high-density development amongst a single-family residential community would surely negatively impact property values.

Given the heavy financial damage to the surrounding properties that would be caused by MVS’ proposal, the Planning Commission should deny the proposed special use application.

D. The proposed special use would “dominate” the neighborhood.

Factor “D” weighs heavily in favor of the Planning Commission disapproving MVS’ requested special use permit. MVS seeks to construct a 388,620 square foot non-acute hospital and assisted living facility in the middle of a single-family residential neighborhood. The scale of the Mission Chateau Development is unprecedented in Prairie Village. To find a larger development in the City, one must look even further than the entire Corinth area office and retail development. Indeed, the Mission Chateau Development is larger, in terms of square feet, than all of the following Corinth-area buildings combined: (a) Corinth South (Panera, First Watch, and the Mission Antique Buildings); (b) *all* of the Corinth Square Buildings; (c) the Corinth Office Building; and (d) the Corinth Executive Building. *See Corinth Area Office and Retail data, attached hereto as Exhibit A.* Moreover, the individual buildings would be some of the largest in the City; the proposed 271,140 square foot assisted living and independent living facility, for example, would rank as the largest residential building in Prairie Village. Both the assisted living facility and the non-acute hospital facility would tower above the neighboring ranch-style homes; the proposed drawings indicate that both structures would stretch at least forty (40) feet above grade.

The astonishing size of the development is only matched by its intensity. At 21,122 square feet per acre, the proposed Mission Chateau Development is almost two times more intense than the Corinth area office and retail development. *See Corinth Area Office and Retail* data, attached hereto as **Exhibit A**. Aside from the sheer size and intensity of the assisted living facility and the non-acute hospital facility, MVS seeks to construct certain “villa”-style residential buildings thirty-five (35) feet from the property lines of the adjoining single-family homeowners.

MVS’ special use permit seeks to place its massive development in a lot surrounded on three sides by single-family residential, and largely ranch-style, homes. Unlike other comparable Prairie Village buildings, such as the Corinth area office and retail buildings or the City’s other retirement facilities, the Mission Chateau Development would be constructed in the middle of a residential lot and would not be buffered by any noteworthy green space or city streets.

Finally, MVS’ proposed landscaping plans fail to provide an adequate screen or buffer between adjoining property lines. While it may be impossible to block off such large structures from area single-family lots, the Mission Valley Neighbors respectfully submit that MVS’ current landscaping proposal is entirely inadequate.

In sum, and in the words of the Zoning Ordinance, the Mission Chateau Development would “dominate the immediate neighborhood.” *See Zoning Ordinance* § 19.28.035(D). Based on such considerations alone, the Planning Commission should deny MVS’ proposed special use permit.

E. MVS’ proposed off-street parking and loading areas should be carefully scrutinized by the Commission and additional screening should be required.

Under Section 19.28.035(E), MVS is required to demonstrate that its proposed special use accounts for adequate off-street parking and loading areas and that such areas are “screened

from adjoining residential uses and located so as to protect such residential uses from any injurious effect.” The Mission Valley Neighbors request that the Planning Commission carefully scrutinize the adequacy of the proposed parking and loading areas. Inadequate parking accommodations have become an issue for certain other Prairie Village developments, such as the Claridge Court retirement facility, where employees are required to park at off-site locations, including but not limited to at the Corinth Library parking lot.

Moreover, it should be highlighted that MVS’ landscape plans fail to provide for the planting of any vegetation on the north-west property line that abuts a proposed parking lot of the 92,565 SF Nursing Facility. Notably, MVS seeks to rely on the “existing trees at property line” to fulfill its duty to screen the parking lot. The Planning Commission should not accept such attempts to sidestep the Zoning Ordinance’s requirement that any parking or loading areas be sufficiently screened. Indeed, those residents on the north-west property line currently abut an open grass recreation field. If constructed, the parking lot to the 92,565 SF Nursing Facility would be active literally twenty-four hours a day, given its nature as a non-acute hospital and around-the-clock shifts of employees. MVS’ failure to screen should not be permitted and its special use application should be denied.

F. The proposed drainage pond should be buried for health and safety purposes.

Section 19.28.035(F) states that MVS’ proposed special use must provide “[a]dequate utility, drainage, and other necessary facilities” *Zoning Ordinance* § 19.28.035(F). At present, the Mission Chateau Development drawings call for the construction of an exposed ditch on the south-west property line that would serve as a rain retention pond.

MVS’ proposed ditch, however, would constitute an attractive nuisance, especially given the large number of young children residing in the neighborhood. Area children have long

grown accustomed to the recreational benefits of the Mission Valley lot. If allowed to construct the Mission Chateau Development in the middle of a residential neighborhood, MVS should be required to protect against such apparent injury risks. As such, the Planning Commission should deny the proposed special use or, in the alternative, and without waiving its strenuous objections outlined herein, should require MVS to bury its retention pond based on such health and safety issues.

G. The proposed cul-de-sac entrance presents an unreasonable risk of traffic congestion.

At present, MVS' proposed site plans indicate that the facility will be served by two points of entrance. Both entrances funnel into a central cul-de-sac which apparently will constitute the main entrance of the 271,140 square foot "assisted living" facility. This design presents a real danger of traffic congestion and, thus, a potential for inaccessibility in the case of emergency.

H. Adjoining properties and the general public would not be adequately protected from intrusive noises.

MVS' proposed special use seeks to construct a residential and hospital complex unprecedented in size in a lot that is currently home to a school with sprawling green spaces, a nature trail, and recreation fields. Area home-owners have made substantial investments in reliance on their reasonable assumption that the Mission Valley lot would maintain its character as a compatible element of the surrounding single-family home district. Indeed, Mission Valley Middle School operated largely only during school months and hours. In its place, MVS seeks to construct a major assisted living and non-acute hospital facility of unprecedented proportions which would operate at all hours, 365 days a year.

If accepted, the proposed special use would introduce a total of 356 living units into the Mission Valley lot. Given the nature of the proposed “assisted” living and hospital services offered by the development, MVS would be required to employ a large substantial support staff, in addition to necessarily requiring a large number of trips by delivery vehicles, emergency vehicles, and other support services. In all, the Mission Chateau Development would bring approximately 1,153 daily vehicular “trips.” Unlike the Mission Valley Middle School, however, the traffic, noise, and lights would be virtually incessant, with daily spikes in traffic activity at 6:45 – 7:15 a.m. and 10:45 – 11:15 p.m.

Given the extensive nature of the proposed special use, the noises, lights, and other nuisances will be unavoidable and will surely negatively impact both the quality of life of area homeowners and home values. As such, the Planning Commission should deny MVS’ proposed special use.

I. The architectural style is not compatible with the surrounding neighborhood.

No amount of architectural finesse can sufficiently mask the proposed Mission Chateau Development which is so clearly disproportionate in size and use to the surrounding neighborhood. The Mission Valley neighborhood, and indeed Prairie Village as a whole, is known for its attractive ranch-style or two-story single-family residential homes. It should not be known, however, for its two to three-story assisted living and non-acute hospital facilities.

In sum, the Mission Valley Neighbors respectfully submit that MVS’ proposed special use fails under each of the factors for consideration under Section 19.28.035. At its core, the uses proposed by the Mission Chateau Development would represent an alarmingly dissimilar and incompatible departure from the surrounding single-family residential neighborhood. Based on all the foregoing reasons, MVS’ special use application should be disapproved.

II. Consideration of the *Golden* Factors Similarly Demand a Denial of MVS' Proposed Special Use.

The Kansas Supreme Court has long held that special use permits essentially seeks a rezoning and thus may only be issued in conformity with the statute and rules which authorizes the zoning. See *Crumbaker v. Hunt Midwest Mining, Inc.*, 69 P.3d 601, 611 (Kan. 2003). As such, the factors announced in *Golden v. City of Overland Park*, and codified by Zoning Ordinance § 19.52.030, have become required considerations for planning commissions charged with considering special use permit applications. See *McPherson Landfill, Inc. v. Bd. of Cty. Com'rs of Shawnee Cty.*, 49 P.3d 522, 525 (Kan. 2002). As set forth below, MVS cannot justify approval of its proposed special use under the following *Golden* factors.

A. The Residential Character of the Mission Valley Neighborhood.

MVS' reliance on the apartment buildings on the north property line only belies the true impact the proposed special use would have on the single-family residential homes on the east, south, and south-west property lines. Since the construction of each one of these homes, its owners have enjoyed the relaxed, residential character of the neighborhood and the significant buffer provided by the green space of the Mission Valley lot. The unimposing, suburban environment of the Mission Valley neighborhood has made the area an ideal place to raise a family. The charm and character of the neighborhood has attracted exceptional residents and the construction of many quality and extraordinary homes over the years. If constructed, area homeowners would face an impossible choice: sell their homes and relocate to a more residential neighborhood or simply accept that their once quaint neighborhood will be yielding to a high-density institutional development. Indeed, the Mission Valley Middle School's open spaces and unimposing structure adequately compliments the residential nature of the neighborhood. The

institutional nature of the Mission Chateau Development proposal, on the other hand, pays short-shrift to the residential character of the neighborhood.

The Planning Commission should act to preserve the residential character of the Mission Valley neighborhood and disapprove MVS' requested special use.

B. The Mission Valley Area is Predominantly Zoned as Single-Family Residential Homes and The Few Small-Scale Apartment Homes Nearby are Buffered by the Significant Green Space of the Mission Valley Lot.

Simply put, the Mission Valley neighborhood consists of single-family residential homes. While MVS will certainly attempt to emphasize the apartments on the north and northwest property lines of the Mission Valley lot, not a single Mission Valley area single-family property currently abuts anything other than a city street or the open grass fields of the Mission Valley lot. MVS' proposal would not only effectively destroy the natural buffer created by the Mission Valley lot, it would bring a high-density development unprecedented in scope up to the property lines of the area single-family residential lots. Moreover, there is no comparison between the proposed density of the Mission Chateau Development as compared to the apartments, which consist merely of living units and do not contain the substantial support buildings, services, and square footage required by the proposed senior living facilities.

C. The Mission Valley lot is Suitably Zoned as a R1-A Single-Family Residential District.

The uses allowed by the Zoning Ordinance applicable to single-family residential districts are properly suited to the character of the community. Single-family dwellings, parks and recreation areas, churches, certain governmental buildings, libraries, museums, art galleries, educational facilities would all provide a much closer match to the residential and family character of the neighborhood as compared to a large-scale retirement and non-acute hospital facility.

D. The Astonishing Size, Square Footage, Height, And Neighborhood Footprint of the Proposed Mission Chateau Development Will Detrimentally Affect Neighboring Home-Owners.

As discussed at length herein, MVS' proposed special use would be unprecedented in size and scope in Prairie Village, especially in light of its placement in the middle of a residential neighborhood. To review:

- The square footage covered by the entire Mission Chateau Development would constitute the largest residential building in Prairie Village.
- The Mission Chateau Development is larger, in terms of square feet, than all of the following Corinth-area buildings combined: (a) Corinth South (Panera, First Watch, and the Mission Antique Buildings); (b) *all* of the Corinth Square Buildings; (c) the Corinth Office Building; and (d) the Corinth Executive Building. *See Corinth Area Office and Retail* data, attached hereto as **Exhibit A**.
- At 271,140 square feet, the “assisted living and independent living facility” proposed for construction in “phase 2” of the development would itself be the largest residential building in the City. *See Top 10 Residential Building Data*, attached hereto as **Exhibit B**
- The proposed Mission Chateau Development would be almost *two times more intense*, in terms of square foot development per acre, than the Corinth area office and retail mixed use development. *See Corinth Area Office and Retail* data, attached hereto as **Exhibit A**.
- The 92,565 SF Nursing Facility alone would be larger⁹ than any of the following: (a) the Corinth South property (i.e. Panera, First Watch, and Mission Antique Mall

⁹ Comparisons are made in terms of square feet.

buildings); (b) the Corinth Office Building; and (c) the Corinth Executive Building. See *Corinth Area Office and Retail* data, attached hereto as **Exhibit A**.

- The 92,565 SF Nursing Facility would constitute over half of the square-foot area of *all* the buildings in the Corinth Square retail center.
- MVS' proposed site plan indicates that several buildings on the south perimeter of the Mission Chateau Development will only be set back thirty-five (35) feet from the property lines of the abutting single-family residential homes.
- The proposed 271,140 square foot "assisted living and independent living facility" would be two to three stories and forty feet and ten inches (40' 10") in height at its highest point. See *Top 10 Residential Building Data*, attached hereto as **Exhibit B**.
- The proposed two to three-story 92,565 SF Nursing Facility constructed in "phase 1" of the project is proposed to similarly extend approximately forty (40) feet above grade at its highest point.
- A real estate appraisal commissioned by an area homeowner indicates that the special use proposed by MVS would result in a 10% diminution in the market value of his home.

Taken together, such facts clearly demonstrate that MVS' special use would detrimentally impact the neighboring property owners.

E. The Mission Valley property has only been vacant due to various delays in development.

The Mission Valley property is a highly valuable piece of real estate that may be profitably developed for a variety of uses. The "vacancy" of the building since the spring of 2011 is attributable to a variety of delays in development and is not due to some inherent flaw in the property's marketability.

F. The hardship threatened to area property owners by virtue of the proposed special use far outweighs any purported “destruction of value” that might be caused by the denial of MVS’ special use permit.

The balancing analysis presented under the sixth *Golden* factor should offer the Planning Commission a crystal-clear view into one of the central issues presented by MVS’ special use permit. On one hand, it is uncontroverted that the Mission Valley property is one of the most valuable tracts of real estate available for development in Prairie Village. Given its unique size and location in a high-demand residential area, MVS is positioned to make a substantial profit no matter which sort of development it seeks (and is permitted) to pursue. As such, the Planning Commission’s denial of the instant special use permit application would have little, if any, effect on the “value of the [MVS’] property.”

On the other hand, approval of the proposed special use would immediately and permanently cause a significant diminution in the values of area homes. Unlike MVS, who has many economically viable options at its disposal, area homeowners do not enjoy any such freedom of choice. Indeed, the monetary (i.e. home values) and intangible (i.e. quality of life, welfare, etc.) damages caused by the proposed special use would be unavoidable. As between MVS and area homeowners, the financial consequences at stake are clearly unequal. As such, the “health, safety, and welfare” would be surely served by the Planning Commision’s denial of MVS’ application.

G. The City staff’s recommendations.

The Mission Valley Neighbors respectfully submit that the City staff recommendations unfortunately overlook a number of negative impacts threatened by MVS’ proposal, some of which are set forth herein. Merely by way of example, however, the analysis of the above sixth *Golden* factor entirely overlooks the fact that area home values will be negatively affected by the

proposed special use. Instead, it appears to fixate on only “the loss of open space and use of the area for recreational purposes.” Nonetheless, such recommendations should not otherwise prevent this Planning Commission’s due consideration of the arguments presented by the Mission Valley Neighbors.

The Mission Valley Neighbors further state that it joins in the City staff recommendation that the Planning Commission continue the Public Hearing until June 4, 2013, in order to require MVS to submit drawings that adequately depict the size and mass of the proposed development.

H. The Proposed Special Use is Incompatible with Village Vision.

While the discrepancies between the proposed special use and the stated goals of the City’s comprehensive Village Vision Strategic Plan (“Village Vision”) are numerous, the Planning Commission should especially consider two themes left unaddressed by MVS: (1) the Mission Chateau Development does not incorporate “open space” or adequately transition between the high-density proposed special use and neighboring single-family homes; and (2) the proposed development constitutes an “isolated project” incompatible with the existing neighborhood.

First, Village Vision states that developments “should incorporate open space in the form of plazas, squares, and parks that may include civic uses.” *See* Village Vision at 3.19. MVS’ proposal makes no identifiable effort in this regard. Indeed, while proposing the construction of two of the largest residential buildings in Prairie Village, it has not provided any sort of buffer or transition between those buildings and the surrounding single-family homes. Amazingly, it has instead proposed the construction of additional “villa”-style residences to line such borders to the south and south-west. As set forth above, several cities, including the City of Olathe, have codified Village Vision’s goal of providing “open spaces” so as to adequately transition between

areas of varying densities. The Mission Valley Middle School design, for example, did just that. Indeed, the existing lot provides significant open green space between the middle school and the adjoining single-family lots. MVS' proposal both expands the density of the buildings while seeking to altogether eliminate the lot's transition space.

Second, as stated by the Village Vision's "development principles," Prairie Village developments should be sufficiently "integrated" by ensuring that they "enhance existing neighborhoods" and do "not take the form of an isolated project." *See* Village Vision at 3.19. MVS' proposal seeks to construct a 92,565 square foot non-acute hospital, a 271,140,140 square foot assisted living facility, and 24,915 square feet of "villas" in what is now open green space and recreation fields. With peaks of approximately forty feet ten inches (40' 10") in height, the proposed development does not even attempt to "integrate" itself in the existing, residential neighborhood. While the lot is bordered to the north and northwest by small apartment homes, such buildings pale in comparison to the scope of the Mission Chateau Development. To the extent that the proposed special use would be unprecedented in Prairie Village, and given the single-family homes surrounding it on three sides, MVS' development is truly an "isolated project."

Such apparent failures to consider the stated goals of Village Vision should further support the Planning Commission's denial of MVS' special use permit application.

CORINTH AREA OFFICE AND RETAIL

<u>Property</u>	<u>Acres</u>	<u>Square Footage¹</u>
1. Corinth South (Panera, First Watch, and Mission Antique Mall buildings)	6.92	89,076
2. Corinth Square (All buildings)	17.76	167,351
3. Corinth Office Building	2.01	51,818
4. Corinth Executive Building	3.64	52,752
TOTAL	30.33	360,997

Square footage/acre of existing mixed use (properties 1-4 above) = $360,997/30.33 = 11,902$

	<u>Acres</u>	<u>Square Footage</u>
Development Proposal ²	18.4	388,640

Square footage/acre proposed = 21,122

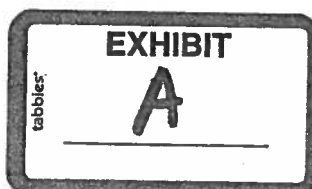
The proposed development is almost two times more intense a development than the mixed use development to its north.

Square footage/acre proposed	21,122
Square footage/acre existing mixed use	11,902

$21,122/11,902 = 1.78$

¹ The square footage information comes from the Johnson County Appraiser's office and is virtually identical (for buildings then in existence) to information from a registration statement filed by the JC Nichols Company with the Securities and Exchange Commission in 2003. The Commerce Bank building and the CVS building have been built since, and the Tippins building has been removed. All of those adjustments are included in the information above.

² This square footage does not include the developer's proposed construction of car ports throughout the development.

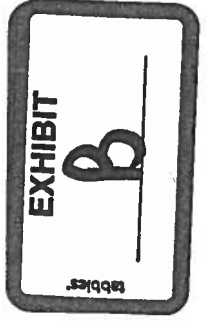


Top 10 Residential Building Data

Year	Property Status	Quick Ref ID	Property Address	LBCS Code	Building Name	Total Sqft
2013	A	R209921	013800 W 116TH ST, OLATHE, KS	1240	SANTA MARTA MAIN BUILDING	294,284
2013	A	R135608	008101 MISSION RD, PRAIRIE VILLAGE, KS	1240	CLARIDGE COURT RETIREMENT	241,073
2013	A	R75578	006565 FOXRIDGE DR, MISSION, KS	1170	THE FALLS APTS	230,826
2013	A	R401623	009100 PARK ST, LENEXA, KS	1240	Lakeview Village (Southridge)	194,500
2013	A	R214792	005901 W 107TH ST, OVERLAND PARK, KS	1230	PARK MEADOWS SENIOR LIVING	193,569
2013	A	R105647	007300 W 107TH ST, OVERLAND PARK, KS	1230	THE ATRIUMS	183,456
2013	A	R95583	003501 W 95TH ST, OVERLAND PARK, KS	1240	THE FORUM OF OP	183,445
2013	A	R115213	008101 SANTA FE DR, OVERLAND PARK, KS	1176	SANTA FE TOWERS	181,452
2013	A	R105066	006555 W 75TH ST, OVERLAND PARK, KS	1210	OVERLAND PARK PLACE	162,431
2013	A	R214623	013750 METCALF AVE, OVERLAND PARK, KS	1210	Building 1.2 (Redtail View)	156,840

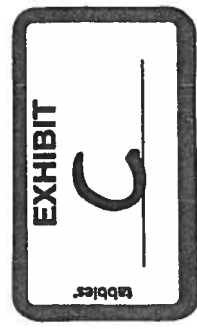
These are the LBCS codes I searched for:

Code	Description
1170	Garden apartment complex (1-3 stories)
1171	Federally subsidized apartment complex
1172	Low Rise (Walk-up) apartment
1175	Mid-rise apartment (4-7 stories)
1176	High-rise apartment (8+ stories)
1179	Single room occupancy housing
1180	Dwelling converted to apartments



- 1190 Temporary residential use
- 1199 Accessory residential support use (garage/shed)
- 1210 Retirement housing
- 1220 Congregate living facility
- 1230 Assisted-living facility
- 1240 Life care or continuing care services
- 1250 Skilled-nursing services

Retirement facility	Independent units	Assisted Liv units	skilled nursing beds	total
Benton house		47	12	59
Claridge Court	132		45	177
Brighton Gardens		84	70	154
The Forum	117	30	60	207
Mission Chateau	160	60	136	356
<hr/>				
Total Prairie Village				
Proposed Retirement	409	221	323	953
Prairie Village population				21447
number of units in pv per population				22 units per every one citizen
Johnson County retirement	3260	1542	3338	8140
johnson county population				545,741
number of units in joco per population				67 units per every on citizen





May 6, 2013

MVS, L.L.C.
 c/o Tutera Group
 7611 State Line Rd.
 Kansas City, MO 64114

RE A Letter of Professional Opinion Regarding the Viability of the 351 Unit Mission Chateau Senior Living Project in Prairie Village, KS.

Dear Joe:

Background. Jeff Green Partners completed a report entitled “*The Feasibility of Retail, Residential and Office Uses at the Former Mission Valley Middle School Site in Prairie Village, KS*”, dated October 7, 2011. The conclusion of that report recommended 84,700 sf of retail along with a residential (senior living) component (210 Independent and Assisted Living units along with a 45 bed Skilled Nursing facility) and up to 55,000 square feet of Class A Office space.

Since that time the site has been zoned entirely for R1-A residential of which senior living is proposed for the entire parcel. Plans now call for a 351 unit senior living project with a potential for 450 total residents. The following table highlights the breakdown of units and occupancy by care type as proposed:

	Unit Count	1 BR	2 BR, Semi private or units with dens	Potential Occupancy
Assisted Living	60	48	12	72
Memory Care	36	36	0	36
Independent Living	160	100	60	220
Skilled Nursing and Rehabilitation	84	68	16	100
Total without Villa	340	252	88	428
Villas	11	0	11	22
Total	351	252	99	450

You have asked that we develop Letter of Professional Opinion that addresses the supportability and viability of this project.

Conclusions. Based on our analysis, Jeff Green Partners concludes that the Mission Chateau project as proposed is viable and supportable and represents a favorable use for the City of Prairie Village.

The population in Prairie Village as well as throughout the US is aging at an increasing rate. The need for additional new senior living facilities is at an all-time high. In addition, the Prairie Village market currently has a shortage of close-in, new, state-of-the-art, higher end senior living facilities. The community has three other facilities. One developed in the early 1990's, one in the late 1990's and a third smaller property that serves assisted and memory care resident that opened in 2013. The two mature properties are effectively 100% occupied. The newest property is reported at 50% occupancy. This has required former Prairie Village residents to find senior housing in areas other than Prairie Village, especially to the south in Johnson County. This forces those seniors away from their familiar surroundings; be it family, friends, community and faith services, shopping, doctor's offices and other medical facilities.

One of the more unique characteristics at the Mission Chateau project are the 11 proposed villas, a product not typically found in senior living projects. By offering a broader continuum of housing product, from traditional large, stand-alone villas (much like a house) to Skilled Nursing and Memory Care spouses/partners can more easily remain within close proximity of one another causing less disruption to an already changing lifestyle.

Another unique feature of the Mission Chateau project is fact that it will not require a buy-in; whereas the Claridge Court, the only senior community that offers independent living apartments (135 units) in Prairie Village, requires a buy-in and a life care contract. The buy-in has been as high as \$900,000. The entry level apartment starts at just under \$400,000. Therefore, Mission Chateau will be more accessible to a broader demographic.

Finally, we concur with the conclusion that was reached by the Prairie Village Parks and Recreation report completed in 2009. That report highlighted that given both the aging of the Prairie Village resident and their housing stock, a broad-based higher-end senior living project would be beneficial to the community. It would allow 1) the addition of Senior Living residences not available and or underserved in the community as well as 2) the ramping up of the conversion of the residential base to a younger, family-oriented household, stemming the tide of continued population decline in the City.

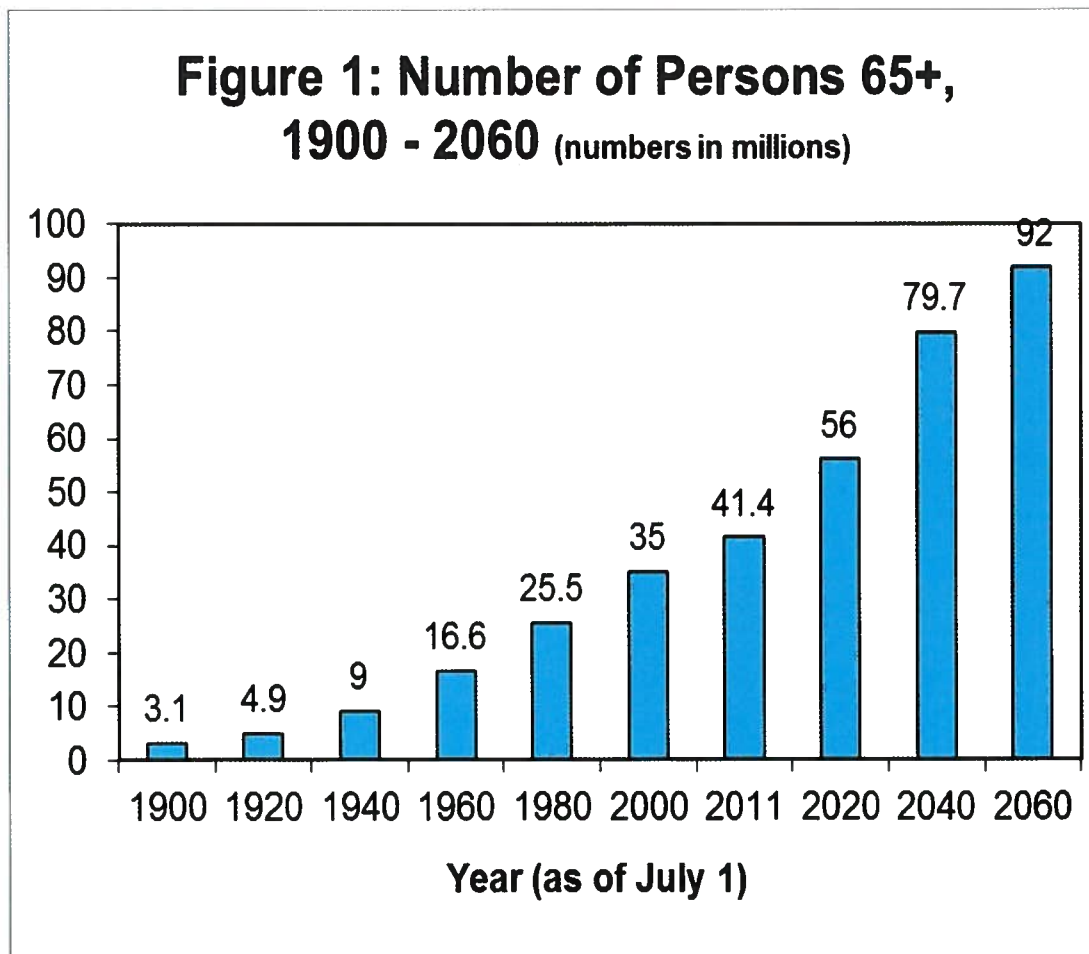
Analysis. The following rationale led to conclusions presented above:

1. **An Aging Population Nationally will Result in Increased Need for Senior Living Facilities.** According to data from the US Department of Health and Human Services - Administration on Aging in a report entitled "*A Profile of Older Americans: 2012*", the older population--persons 65 years or older--numbered 41.4 million in 2011 (the most recent year for which data is available). They represented 13.3% of the U.S. population, over one in every eight Americans. The number of older Americans increased by 6.3 million or 18% since 2000, compared to an increase of 9% for the under-65 population.

However, the number of Americans aged 45-64 – who will reach 65 over the next two decades – increased by 33% during this period.

The older population in the US will continue to grow significantly in the future (Figure 1). This growth slowed somewhat during the 1990's because of the relatively small number of babies born during the Great Depression of the 1930's. But the older population is beginning to burgeon as the "baby boom" generation begins to reach age 65.

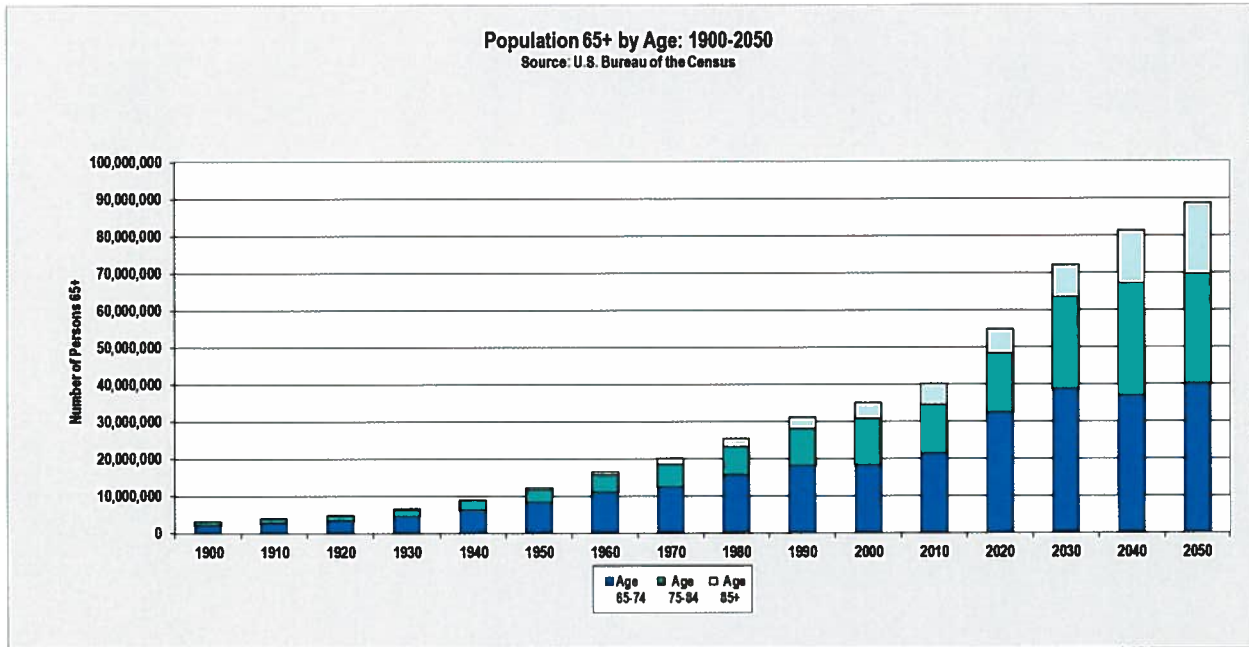
As mentioned above, the population 65 and over has increased from 35 million in 2000 to 41.4 million in 2011 (an 18% increase) and is projected to more than double to 92 million in 2060. By 2040, there will be about 79.7 million older persons, over twice their number in 2000. People aged 65+ represented 13.3% of the population in the year 2011 but are expected to grow to be 21% of the population by 2040. The 85+ population is projected to triple from 5.7 million in 2011 to 14.1 million in 2040.



Other relevant highlights from the Profile of Older Americans report are presented below:

- Over one in every eight, or 13.3% of the population is an older American.

- Persons reaching age 65 have an average life expectancy of an additional 19.2 years.
- The 85+ population is projected to increase from 5.7 million in 2011 to 14.1 million in 2040.



*Principal sources of data for the Profile are the U.S. Census Bureau, the National Center for Health Statistics, and the Bureau of Labor Statistics. The Profile incorporates the latest data available but not all items are updated on an annual basis.

2. An Aging Population and Small Household Size in Prairie Village and Johnson County. As mentioned in our October 2011 report, the average age of Prairie Village resident is older and comprised of smaller households

According to the latest statistics (estimated 2013 data from Nielsen/Claritas), the median age of the City of Prairie Village resident is 41.9 years of age, with a persons per household of only 2.14 persons. The following table highlights that Prairie Village is an older community with small household sizes (i.e. fewer children) when compared to Johnson County, the State of Kansas and the United States:

Variable	Prairie Village	Johnson County	State of Kansas	United States
Median Age	41.9 years	37.2 years	36.2 years	38.3 years
Persons per Household	2.14 persons	2.53 persons	2.49 persons	2.57 persons

3. Proposed Format Meets a Broader Need of an Aging Population. One of the benefits of the proposed Mission Chateau is that it appeals a broader group of aging seniors. Besides the typical continuum of care, Independent Living through Skilled Nursing, the 11 proposed villas offer an additional step between

moving from the family home into smaller Independent units. Instead of moving from the larger family home to the typical apartment, these seniors can move to the villas where they have a much larger footprint (2,265 sf) than typical Independent Living facilities and can choose to live as independently as they wish. They will have the same amenities, if not more than any typical new two bedroom apartments found in the greater Johnson County area.

By offering a broader continuum of care than other nearby facilities the proposed Mission Chateau it allows for couples to split up depending on the need of care while also allowing them to be in the same community as their loved one to share visits, meals, activities, etc.

4. **An Older Housing Stock.** The older age noted above is indicative of an older housing stock. The estimated median year all Prairie Village housing units were constructed is 1959. In fact, only 1.4% of the housing base has been built since 2000 and only 7.1% was built in the 1980s or 1990s. By structure, most of those in the defined study area are reported as single-family units (86%). Multi-family units account for 16% of the housing stock. Thus, many of the close-in older homeowners in older housing stock represent a strong demand segment for additional senior facilities at in Prairie Village.

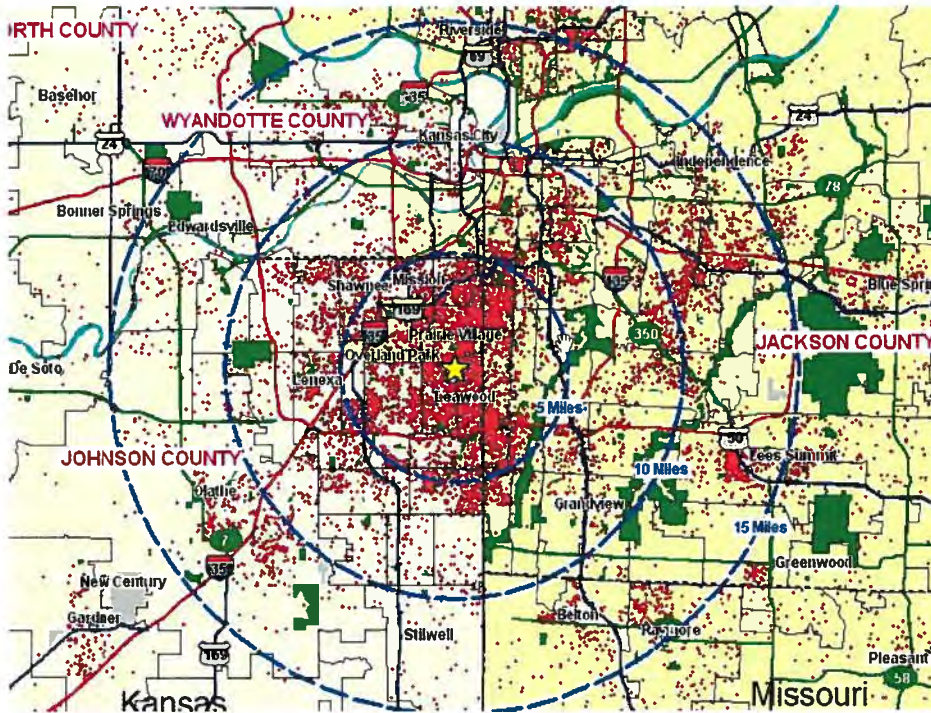
5. **Strong Household Incomes.** The primary reason that a higher quality facility at the proposed site is favorable, viable and supportable is the fact that Prairie Village households are higher income households. The 2013 estimated *average* household income reported for Prairie Village is \$96,120. This compares to an average house income of \$92,760 for Johnson County, \$64,007 for the State of Kansas and \$69,637 for the United States.

By radius, incomes are especially high close-in with average income estimated at \$107,959 with one mile of the proposed Mission Chateau project.

The Dot Density Map for Households age 75+ with \$50,000+ Annual Income is attached which illustrates the concentration of age and income qualified residents at the subject site.

Prairie Village, KS- Dot Density Map

Households age 75+ with \$50,000+ Annual Income



- Each dot represents one household, age 75+ with annual income of \$50,000 or more. (Age- and Income-Qualified Households "AIQ HH")
- There are approximately 4,856 households that meet this criteria within a 5 mile radius.
- There are approximately 8,464 households that meet this criteria within a 10 mile radius.
- There are approximately 11,677 households that meet this criteria within a 15 mile radius.

6. **Close-In Competition is Smaller, Dated and Fully Occupied.** There are three senior living facilities located in Prairie Village: *Claridge Court*, just north of the proposed Mission Chateau site, *Brighton Gardens at Prairie Village*, in the northern part of the City and *Benton House* to the east.

Both Claridge Court and Brighton Gardens are older facilities, built in the late early and late 1990's. Both are also almost fully occupied and effectively operate at capacity. The newer, Brighton Gardens is a prototypical chain-oriented senior living facility consisting of 119 assisted living and memory care units and 45 beds skilled nursing, while the older facility, Claridge Court is an upscale facility with 135 Lifecare buy-in, independent living units starting at just under \$400,000 to as high as \$900,000, with a monthly maintenance fee starting at \$3,500 per month for a private occupancy unit. Claridge Court also contains a 45 bed skilled nursing unit, however, access is available only after the life care needs of the existing and former independent living residents are met. Benton House which opened in 2013 is consisting of 59 assisted and memory care units in a mix of private and semi-private studios. The facility is approved for an additional 12 memory care units. The facility administration reports 50% occupancy after only a few months of operation.

The lack of immediately available, state-of-the-art, modern facilities in Prairie Village forces Prairie Village seniors to look elsewhere (Overland Park, Leawood and Shawnee being likely alternatives). The multi-tier senior living facility as recommended will secure many from the nearby area. This will allow those

entering the facility to be near familiar surroundings; be it family, friends, faith services, shopping, their doctor's offices and other medical facilities.

7. **Competition in Prairie Village Requires a Buy-In: Whereas No Buy-In is Required at Mission Chateau.** The proposed Mission Chateau project will be unique in Prairie Village as it will be the only independent living facility that does not require a buy-in. No upfront money will be required to become a resident of the project. Because of this lack of buy-in cost Mission Chateau will likely have a much broader appeal.

In complete contrast, it can cost up to \$900,000 just to get into Claridge Court and a minimum of \$380,000 combined with a monthly fee that would approximate the cost of a rental unit.

8. **Comparison of This Letter to the Jeff Green Partners Report of October 2011.** As mentioned previously, in October of 2011 Jeff Green Partners completed a report entitled "*The Feasibility of Retail, Residential and Office Uses at the Former Mission Valley Middle School Site in Prairie Village, KS*". The conclusion of that report recommended 84,700 sf of retail along with a residential (senior living) component (210 Independent and Assisted Living units along with a 45 bed Skilled Nursing facility) and up to 55,000 square feet of Class A Office space.

The 2011 report addressed the supportability of mixed uses on the property. More specifically, we were asked to first evaluate the supportability of retail, then given that conclusion (the amount of retail supportable) assess the viability of senior residential and office uses for the balance of the site. That is, once we identified the amount of retail supportable, we evaluated the mix of senior living as proposed by RED Development and MVS, LLC.

The type of units proposed has changed from 2011 to 2103 offering a broader continuum of care which makes Mission Chateau unique in the market. First, the 11 villas provide a housing type not earlier contemplated. The 36 memory care units were also not originally contemplated in the mixed use plan. The villas and memory care are needed to complete the continuum of care. Therefore, we now have only 10 more assisted and independent care units and 39 additional skilled nursing care units when compared to the original 2011 report. Brighton Gardens and Claridge Court have about one-quarter of their units as skilled nursing and Benton House has no skilled nursing; Mission Chateau has right sized the percentage of skilled nursing product at 24% of total facility beds. The primary market examined in the feasibility study supports the number and type of senior living services proposed.

9. **The City of Prairie Village Needs a Housing Turnover.** Based on a report done by the City of Prairie Village Parks & Recreation Department for the proposed Community Center/Natatorium (2009), Prairie Village needs to attract new younger families in order to stem the population decline that is occurring in the City.

In summary the Prairie Village Parks & Recreation Department's report highlighted the following as it relates to the aging population in Prairie Village (taken directly from the report):

- The total number of households has been increasing since 1990 from 9,734 to an estimated 10,013 in 2008.
- Family households with children have been declining from 6,936 in 1990 to an estimated 6,038 in 2008. This is a loss of 898 family households or a 13 percent loss since 1990.
- The non-family household has been increasing from 2,798 in 1990 to an estimated 3,975 in 2008. This indicates a gain of 1,177 nonfamily households or a 42 percent gain since 1990.
- The non-family householder age 65 and over has grown from 1,010 in 1990 to 1,353 in 2000.

Based on data from Nielsen/Claritas and analyzed by Jeff Green Partners, the 2018 population projection for Prairie Village is 21,802, which is a loss of 193 persons from the 2000 census population of 21,995. This is indicative of a city with little vacant or underutilized land. It is also indicative of a close-in suburb, many of which nationally have older and aging populations.

The 2009 Parks & Recreation report assumed that the Meadowbrook senior living represent a good addition to the City as it would add living units; thus population. The proposed Meadowbrook facility, however, was never constructed, thus paving the way for the Mission Chateau project.

The conclusion reached from the Parks & Recreation report as presented in 2009, and italicized below, remains the same today as it succinctly highlights the need for additional senior housing so that younger families can move in:

"To conclude, unless there is a shift in the market to attract new families with children to Prairie Village, along with a growth in new housing options for elderly citizens to remain in Prairie Village or attract new households, the population of Prairie Village is not expected to see an increase in total population":

10. **Mission Chateau Need Not Serve Only Prairie Village Residents.** Given the need for Prairie Village to increase its population as presented in the previous point, it is favorable for Prairie Village to offer senior living facilities that are unique enough to appeal both to its existing residents as well as the surrounding communities. The many communities in the US experiencing the same population decline as Prairie Village are finding that increasing the housing density in a portion of the town can both stem the leakage of population to other communities as well as bring non-residents to the City, thus reversing population decline.

Biography.

The Firm. Jeff Green Partners is a nationally and internationally recognized land use planning firm focusing on commercial feasibility, to include office, hotel and retail uses, as well as residential feasibility.

With over thirty-five years of service to the development community, Jeff Green Partners has assisted many commercial developers with their site location and feasibility decisions. The firm is recognized throughout the industry for our understanding of the marketplace, as well as our leadership in market research techniques and strategic planning. Jeff Green Partners is considered a valued partner in researching, compiling and analyzing the complex demographic and economic issues faced by commercial developers and investors, as well municipalities.

All of our services are available to assist municipalities or developers in creating plans which include the latest in traditional town planning for reviving depressed urban areas or for developing new communities as neo-traditional (New Urbanism) towns.

Jeff Green, President and CEO. Jeff Green is a nationally recognized real estate development expert whose strategic analysis, penetrating insights and visionary perspective have made him one of the most respected figures in the industry. His innovative approach to real estate development is shaped by a keen grasp of emerging national and global development trends and an ability to incorporate market- and site-specific details into a broader contextual portrait. In a dynamic, rapidly evolving industry, Green's demonstrated commitment to examining the intersection of real estate and *lifestyle* has led him to challenge fundamental assumptions about how and where we live, work, play and shop.

As the founding principal, President and CEO of Jeff Green Partners, Green's professional philosophy is readily apparent in the firm's comprehensive portfolio of services. Jeff Green Partners is an agile, assignment-focused real estate consulting firm that provides prominent retail clients, municipalities, and a number of leading commercial and residential real estate developers with the in-depth analysis and comprehensive strategic support needed to succeed in today's climate. The firm consults with clients nationally and internationally in all phases of real estate development, project feasibility, site selection, redevelopment, planning and long-term viability. Clients like Lennar Homes, Shea Homes and RED Development all look to Jeff Green Partners for a better understanding of how diverse factors such as changing design priorities, shifting usage patterns, and evolving consumer social and lifestyle trends will impact the real estate industry. These firms rely on Jeff Green's proven ability to translate that knowledge into cohesive strategy.

Green's more than three decades of industry experience includes time as the President of Sausalito, CA-based Market Insite Group, as well as the President and Owner of The Green Group, a firm with a 35-year history of providing consulting services to retail, restaurant and entertainment tenants. Green currently is an investor in and serves on the Board of Directors for US Retail, the largest Pet Supplies Plus franchisee in the United States.

A graduate of Michigan State University, Green is a frequent public speaker and author. The nation's leading real estate and retail industry trade publications and major national

media outlets, including Fox Business News, look to him for insights and observations on industry trends and new developments. Green is a regular ongoing columnist for Chain Store Age. In his column, *Retail Rap with Jeff Green*, Green shares his in-depth analysis and expertise on the latest trends affecting the retail industry.

A frequent, well-received contributor to industry panels and continuing education programs, Green's ability to express complex ideas with clarity and force has made him a valuable resource for investors, national and local tenants, consumers and municipalities. For many years, he taught market research techniques with the International Council of Shopping Center's (ICSC) School of Professional Development, and his professional engagements include presentations before regional and national ICSC conventions, the Food Marketing Institute and the Urban Land Institute.

Joe, should you, your associates or the City of Prairie Village have any questions on this letter, please do not hesitate to contact me.

Cordially,

A handwritten signature in black ink, appearing to read "Jeffrey S Green", with a long horizontal line extending to the right.

Jeffrey S Green
President



LARKIN
LAMP RYNEARSON

9200 Ward Parkway, Suite 200
Kansas City, Missouri 64114
[P] 816.361.0440
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www.LRA-Inc.com

May 1, 2013

Mr. Keith Bredehoeft
Project Manager
City of Prairie Village, KS
3535 Somerset Drive
Prairie Village, KS 66208

Re: Mission Chateau Retirement Community
Preliminary Stormwater Management Plan
2nd Submittal
Prairie Village, KS.
LLR Project No. 0313007.01
OA Project No. 2012-2388

Dear Mr. Bredehoeft:

Larkin Lamp Rynearson has completed review of the Preliminary Stormwater Management Plan for the Mission Chateau Retirement Community at 85th & Mission. The plan was prepared by Olsson Associates and is dated of April 5, 2013.

The preliminary plan has addressed all requirements regarding storm runoff peak discharges, water quality and level of service calculations. Therefore, Larkin Lamp Rynearson recommends approval of the revised Preliminary Stormwater Management Plan. When a Final Stormwater Management Plan is prepared calculations and printouts showing inputs into models should be included in the plan. It should be noted that a Floodplain Development Permit may be required if fill is placed within the floodplain.

Please feel free to call should you have any questions or need additional information.

Sincerely,

Larkin Lamp Rynearson, Inc.

Curtis R. Talcott, P.E.

cc: Project File