

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
January 6, 2014**

The City Council of Prairie Village, Kansas, met in regular session on Monday, January 6, 2014 at 7:30 p.m. in the Fellowship Hall at Village Presbyterian Church, 6641 Mission Road, Prairie Village, Kansas.

ROLL CALL

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Dale Warman, Ruth Hopkins, Steve Noll, Andrew Wang, Laura Wassmer, Brooke Morehead, Charles Clark, Courtney McFadden, Ted Odell and David Belz.

Also present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Director of Public Works; Katie Logan, David Waters & Jennifer Hannah, City Attorney; Quinn Bennion, City Administrator; Kate Gunja, Assistant City Administrator; Lisa Santa Maria, Finance Director; Danielle Dulin, Assistant to the City Administrator; Nic Sanders, HR Specialist and Joyce Hagen Mundy, City Clerk. Also present was Ron Williamson, City Planning Consultant.

Mayor Shaffer led those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Chuck Dehner, 4201 West 68th Terrace, addressed the Council regarding the CID agreements for the Prairie Village and Corinth Shopping Centers which adds an additional 1% sales tax to purchases made at the centers, which he states, makes the sales tax at these centers among the highest in Kansas. The funds raised by this increased sales tax is being used to pay legal fees of developers, real estate managers

and the construction of the new retail building. The CID's are a perversion of free market capitalism. Mr. Dehner noted that some individuals involved in the Village and Corinth projects are listed as donors in the Mayor's last re-election campaign. He estimated the CID's will be required to pay \$100M in sales taxes. He said the CIDs are simply wrong.

Ruth Hopkins responded that "Public Comment" time is meant to be a time for residents to talk about concerns and issues in their neighborhood or in the City. It is not meant to be an open forum to stage attacks on staff members or to discuss personnel issues. She noted that over the past several months some very inappropriate things have been said over and over again.

With regard to recent comments, it was the City Council who made the ultimate decision to approve the CID Tax. The decision was made after a thorough review of the positives and negatives. She feels the redevelopment of the Corinth Shops has been wildly successful and doubts that it would have happened "but for" the CID tax.

Mrs. Hopkins expressed her support of City staff and stated that the Council should not allow the "Public Comment" opportunity at Council meetings to be used to make unprofessional and inappropriate comments directed at specific staff members.

Mayor Shaffer closed public participation at 7:40 p.m.

CONSENT AGENDA

Dale Warman moved the approval of the Consent Agenda for Monday, January 6, 2014:

1. Approve Regular Council Meeting Minutes - December 16, 2013
2. Approve Claims Ordinance 2913
3. Approve the agreement between the City of Fairway and the City of Prairie Village for Multi-Jurisdictional Building Inspection Services

A roll call vote was taken with the following members voting “aye”: Weaver, Warman, Hopkins, Noll, Wang, Wassmer, Morehead, Clark, McFadden, Odell and Belz.

MAYOR’S REPORT

No Mayor’s report was given.

Mayor Shaffer asked those wishing to address the Governing Body during public comments on the Mission Chateau application to sign in at the back of the room with City staff and receive a number. He thanked Village Presbyterian Church for its cooperation in allowing the City to use their facilities for this and past Planning Commission meetings in order to accommodate the number of individuals wishing to attend and participate in these meetings. Mayor Shaffer outlined the process and timetable to be followed in consideration of this application.

COMMITTEE REPORTS

Planning Commission

PC2013-11 Consider Request for Special Use Permit for the operation of an Adult Senior Dwelling Community including an Independent/Assisted Living and a Skilled Nursing/Memory Care Facility at 8500 Mission Road

Staff Presentation

Mayor Shaffer called upon the City’s Planning Consultant Ron Williamson for the Planning Commission Staff Report.

MVS, LLC acquired Mission Valley Middle School site and is proposing to construct Mission Chateau which will be a senior residential community. Mission Chateau will be owned, managed and operated by the Tutera Group who owns and operates 40 senior living communities in eleven states.

The application covers an area of 12.8 acres and includes the construction of 136 Independent Living Apartments and 54 Assisted Living Apartments in one building; 84 Skilled Nursing Units (100 beds) and 36 Memory Care Units in a second building. The total of 310 units creates a density of 24.2 units per acre which is approximately the same as the adjacent apartments and condominiums to the northwest. The footprint of the project is 119,165 feet which provides 21.4% lot coverage, below the maximum 30% lot coverage allowed by code. The Independent Living/Assisted Living facility is 107.5 feet from Mission Road and 255 feet from the existing residents adjacent to the south property line.

The Skilled Nursing/Memory Care facility contains 97,550 square feet and is a three story building. It will set back 317 feet from the existing residents adjacent to the southwest property line and 91 feet from the northwest property line. A row of single-family lots is proposed along the south property line to provide a 200-foot buffer or transition to the buildings that will be built on the north portion of the site. The total complex will include 310 units with a maximum number of 378 residents, at full occupancy.

The current middle school will be demolished and the site will be cleared. Currently there are three driveways that access the site from Mission Road. The proposed plan reduces the number of access points to one which will align with 84th Terrace on the east side of Mission Road. A public street, 85th Circle, is proposed to be dedicated in alignment with 85th Street to serve the single-family lots. It will provide two access points to Mission Chateau. There will be no vehicular access to Somerset Drive and the interior of the project will be served with private drives.

A preliminary stormwater management plan has been submitted, reviewed and approved. Peak stormwater flows will not be increased and a detention basin will be constructed in the northeast corner of the site to release stormwater at a designated rate.

The 17 villas proposed on the earlier plan have been removed from the plan and replaced with owner occupied single family lots. The applicant will be platting nine single family homes on the south side of the property of size and area similar to the adjacent properties.

City Legal Counsel Comments

City Attorney Katie Logan stated that communications, including communications to the Planning Commission until its December 3, 2013 meeting, have been periodically posted on the Mission Valley Project page on the City's website as "public comments" with the date span indicated. The final posting occurred on January 2nd at approximately 5 p.m. as the agenda packet for the January 6th City Council Meeting.

In order to insure that ex parte information has been publically shared in a timely fashion so that the applicant and the opponents have an opportunity to respond, communications received by the City after 5 p.m. on January 2, 2014 were not distributed to Council members and should not be considered for this application.

Mrs. Logan asked each Governing Body member the following questions:

- "Have you accepted any communications oral or written, from any persons regarding the above application after 5:00 p.m. on Friday, January 2nd?"
- If yes, "Did any of those communications included information which was not merely repetitive of information posted on the Mission Valley Project page of the City's website?"
- If yes, "Please share that information with the Governing Body at this time."
- If you have had ex parte communications, have they affected your ability to fairly and impartially consider this matter?"

Councilman Andrew Wang responded that he had not accepted any communications. All other Council members and the Mayor responded that they had accepted communications after 5 p.m. on Friday, January 2; however, those communications included information which was merely repetitive of information posted on the Mission Valley Project page of the City's website and that the ex parte communications received have not affected their ability to fairly and impartially consider this matter.

City Attorney Katie Logan noted also two primary legal issues have been raised by John Duggan, the attorney representing the Mission Valley Neighbors Association and individual plaintiffs in an injunction lawsuit filed against the City. Mr. Duggan suggests in the Injunction Lawsuit that the Second SUP Application is not substantially different from the First SUP application and that therefore the City is "without jurisdiction" to consider the Second SUP application. She agrees with the City staff that the Second SUP is substantially different. The area has been reduced by 5.6 acres from 18.4 acres to 12.8 acres. The duplex rental villas which would have been located on the 5.6 acres have been eliminated. There are no Kansas statutes requiring cities to prohibit subsequent zoning applications, whether or not substantially different from a prior application. Although some cities impose waiting periods, Prairie Village does not. There is nothing in the Prairie Village Code to preclude the Governing Body from considering subsequent applications.

The second legal issue is the boundary of the 200 foot notice area for the purpose of establishing the area to receive notice and the opportunity to file a protest petition. Mr. Duggan asserts that the second application cannot change the

Notice/Protest area which applied to the First SUP application by reducing the area of the SUP application and excluding the south 5.6 acres from the Second SUP application. Ms. Logan stated the issue of what the notice boundary is when a rezoning applies to a smaller tract within a larger tract has been addressed in a 2007 Attorney General Opinion KS Atty. Gen. Op. No. 2007-16: “We have been advised by some planning departments that a rezoning application identifies the property proposed to be rezoned - not the entire tract within which the property is located. Finding no Kansas appellate court decisions interpreting the notice provisions of K.S.A. 12-757 and applying the rules of statutory construction, it is our opinion that ‘the area proposed to be altered’ is the property identified by the legal description in the rezoning application. Thus the notification area should be measured from that description rather than the legal description of the tract within which the subject property is located.” Ms. Logan also stated that in her opinion the Crumbaker case cited by Mr. Duggan does not support his legal position, and that the City code and the state statute KSA 12-257 specify that the 200 foot boundary applies to the “application area” and the “area proposed to be altered,” in this case the boundary of the 12.8 acre tract.

Ms. Logan stated she is prepared to address the other, more minor legal issues, at the conclusion of the meeting to the extent it is necessary to do so.

Applicant Presentation

John Petersen, with Polsinelli and attorney for the applicant, appeared before the Governing Body. Mr. Petersen noted that also present were Joe Tutera, and Dr. Randy Bloom with Tutera, along with representatives of Olsson & Associates and Hoefler Wysocki Architecture, the architects and engineers for this project. The plan before you represents the continued effort to bring a first class, state of the art neighborhood

community for seniors providing for a continuing level of care - a plan that has the support of the professional planning staff and Planning Commission. Mr. Petersen noted they have over 300 e-mails and letters of support for this project and more than 150 individuals on a waiting list to move into the project once completed.

Mr. Petersen stated it is his intent to address the following five fundamental components: 1) Appropriateness of use, 2) Character of Neighborhood, 3) Overview of the Project, 4) Transitional nature of the area and 5) the appropriateness of plan design in view of city requirements.

He would not address opinions that have already been documented by professionals regarding stormwater, traffic, parking and impact on property value. He would not address commercial vs. residential measurement of the project, including references to other projects. Nor will he debate snippets of court cases taken out of context and based on unrelated situations.

Appropriateness of Use. Mr. Petersen noted that Village Vision and the 2012 amendment to Village Vision identify both the need for this project and the appropriateness of a senior housing development. Village Vision has pointed out in several areas of the plan that more housing choices should be available to residents, particularly in the area of senior living. Staff has stated "The proposed senior housing community provides a good transition between the low density residential development to the south and southwest and the higher density residential area, office area, office and retail to the north and northwest. The amendment dealing with this specific piece of land limits its use to uses allowed in a single-family district, conditional use and special use permits--no mixed use, no patio homes or condominium units. Mr. Petersen acknowledged that consensus has not been reached on all issues; however, he noted

that during the course of the past year six neighborhood meetings were held, countless meetings with small groups and with City Staff have resulted in more than 20 changes to the initial plan presented to the City.”

Character of Neighborhood. Mr. Petersen noted that when looking at a large tract, you look at the entirety of the area. If you were to ask the travelling public that uses Mission Road to describe this area, he would venture to say that most would say it is a mixed use area. Those viewing it from the west and north would say it is a multi-family use area and those viewing it from the south would say it is a single family residential use area. This is a transitional area and should be treated as such.

Of the uses abutting the 12.8 acre site containing the proposed special use permit 27% is Mission Road, 38% is multi-family residential and 35% is single family residential. The breakdown of uses within 1000 feet of the proposed Mission Chateau Residential Community has 43% as multi-family, commercial or roadway with 57% being single family residential.

Overview of the Project. Mr. Petersen stated the Independent Living and Assisted Living Components of the project are exactly the same. The Skilled Nursing Facility and Memory Care Facility, which were two separate buildings have been joined together by placing the Memory Care Facility beneath the Skilled Nursing Facility. This has decreased the footprint for these facilities by 26,468 square feet opening up significantly more green space. The setback from the southwest property line is now 317.5 feet compared to a setback of 163 feet on the previous plan. The developer felt the villas included on the earlier plan offered a good option for seniors who want more room and independence; however, the neighborhood strongly stated they wanted owner occupied single family homes similar in size and character to the adjacent properties.

Transitional Elements. This is a transitional site. The location and size of the Independent and Assisted Living Components is the same as that presented in the original application. Moving to the north and northwest is the proposed Skilled Nursing Facility and Memory Care Facility with the identical number of units as originally presented. However, the two facilities have been combined with the placement of the Memory Care Facility beneath the two-story Skilled Nursing Facility creating more green space with an increase in height of only eight feet.

All the parking on the site is directed away from the residential area to the south. The building area fronting Mission Road covers 348 feet, for 34% of the Mission Road frontage. The sidewalk system along Mission Road has been improved and more green space has been added.

As transitional elements the site plan has been designed placing similar heights together. The buildings to the north and northwest of the site are at elevations of 988' and 994' in height, so the three-story 989.5 foot skilled nursing/memory care facility has been located on the northwest corner of the site. The homes to the south of the site are 980.5', 995' and 979' across from the 991.5 foot south side of the skilled nursing/memory care facility. Another transitional element used to minimize the height differential is the separation of the structures. The distance between the existing homes to the south and structures in the senior housing residential community are 317 feet, 278 feet, 312 feet and 255 feet. The distance from the skilled nursing/memory care facility to the condominiums is approximately 200 feet. The Independent/Assisted Living Facility is located 334 feet and 378 feet from the homes to the south.

Greenspace is another tool used in transitional design. Lot coverage allowed by the City's code is 30%. The lot coverage for this project is 21.4%. The 12.8 acre

residential community has 6.45 acres of green space. On the south side of the site is a 1.52 acre Central Park near the Independent/Assisted Living facility; a .66 acre Memories Park is located off the Skilled Nursing/Memory Care Facility in the west corner. The north side of the site contains 1.3 acre North Lawn park, in addition to creek and detention areas. These “pocket parks” are the approximate size of Prairie Village’s smaller neighborhood parks. The setbacks for this project all exceed the minimums required by code.

Appropriateness of Design per City Code. Mr. Petersen addressed criteria #1 that the proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations and use limitations. He noted that throughout the hearings the opposition has stated that the project “just hits the minimum” code. A comparison of the code requirements and the plan revealed the plan far exceeds the city’s code requirements.

The total land area required for the proposed use by ordinance based on the number and type of units is 237,400 square feet. The site area is 557,632 square feet (2.3 times greater than the proposed use). The setbacks are at least 3.5 times greater than what is required by code with the side yard setback on the north property line being 32 times greater. The maximum height allowed is 45’ and the maximum height of the proposed development is 40’. Maximum lot coverage allowed is 30% and the proposed lot coverage is 21.4%. Off-street Parking setbacks are more than twice that required by code.

Regarding Criteria #3, Mr. Petersen stated that a revised property appraisal has been completed by Todd Appraisal and submitted for the record. The new appraisal addresses the impact from with the plan submitted 07/30/2013 and the plan submitted

10/11/2013. The study found that “The development of single family homes is more likely to maintain value than to act as a hindrance to market acceptance. There is little doubt that the purpose of creating an additional buffer between the prospective Mission Chateau development will have been well served.”

The staff report states the key to protecting the value of property in the neighborhood is to insure that the quality of design and construction is compatible with the neighborhood and the completed project is visually attractive. Landscaping is a major factor and it is important that the project be landscaped to the same level as the residential properties.

Mr. Petersen stated the architectural style and design will continue to be refined as detailed site plans and construction documents are created to be more residential in character. In response to the Golden Factors, this plan conforms to the City’s Comprehensive Plan. It retains the required R-1a zoning, provides for more density and addresses the needs for additional senior residential communities. This site is in the middle of an area of mixed uses and at the request of the neighbors, the south end of the property will be developed with single family homes of similar size and value as those adjacent to it.

Mr. Petersen stated they have read and accept the stipulations for approval set by the Planning Commission and ask that the City Council follow the recommendation of its Planning Commission in the granting of the requested Special Use Permit.

Mayor Shaffer opened the meetings to questions from the City Council.

Courtney McFadden asked for clarification on how “full occupancy” is determined. Joe Tutera responded that full occupancy has every unit and every bed occupied. His

experience in the industry is that most facilities operate at 90% occupancy. Many of the two bedroom units will have only one occupant.

Ruth Hopkins noted the villas proposed in the previous plan met a need and asked if this need can still be accommodated. Mr. Petersen stated they could rent apartments in the Independent Facility. Mr. Tutera added of the 136 units in the Independent Living Facility 40 are two bedroom units of a size similar to many apartments. Many of those previously interested in the Villas have asked to be put on the waiting list for two bedroom units.

Brooke Morehead noted that although the footprint was reduced the square footage was increased. John Petersen responded that sliding the Memory Care Facility under the Skilled Nursing Facility required the addition of stairwells and elevators that were not included in the previous buildings. Mrs. Morehead questioned the additional height. Mr. Petersen responded the additional height of eight feet allowed for the opening up of 26,000 square feet of green space. They felt this was a valuable exchange addressing the request from neighboring residents for additional greenspace.

Mrs. Morehead noted in the staff report Mr. Williamson asked for an explanation of the additional square footage. Mr. Petersen noted this issue was discussed in detail at the Planning Commission meeting and once the rationale was explained to the Commission noting the additional square footage would allow for the additional stairwells, etc without decreasing the size of the individual residential units. He noted that if the additional 6,000 square feet were removed, the building would be decreased by approximately 18" all around the perimeters of the units reducing the size of the units and making it difficult for the residents to accommodate their furnishings. The

Commissioners in their approval removed the recommended staff condition to return to the original square footage and approved the plan as presented.

Brooke Morehead asked how overflow parking from 85th Circle would be handled. Mr. Tutera responded the design of the street has a parkway and will not allow for off-street parking.

Ted Odell asked if the single family lots would be sold or retained by Mr. Tutera. Mr. Petersen stated they would be sold. He has not decided if he would sell them individually or as a group to builders. There has been interest expressed by several area builders in the property. Mr. Odell confirmed that the lots will be reflected on the Plat.

Courtney McFadden confirmed single bedroom units have single occupancy and two bedroom units could have one or two occupants. Mr. Tutera responded approximately half of the two bedroom units are usually occupied by one person.

Mission Valley Neighborhood Association Presentation

John Duggan, Duggan Shadwick Doerr & Kurlbaum, LLC, 11040 Oakmont, representing the Mission Valley Neighborhood Association stated he disagreed with the opinion of the City Attorney. Mr. Duggan stated the most significant and glaring difference between this proposal and the one denied by the City Council in September is that the adjoining property owners' rights have been denied. The developer, along with the city, embraced that the developer could draw an arbitrary line across his property to cut off the rights of the adjacent property owners. He stated the Council has the broader responsibility in considering this application than looking only at the planning issues, but to consider the due process rights of its citizens. Mr. Duggan stated that everyone knows the 200 foot line was drawn to deny the property owners to the south the right to

file a protest petition. In order to get the 200 feet, the skilled nursing and memory care facilities were combined to become a three story structure.

Mr. Duggan stated the developer miscalculated and didn't realize that six council members would oppose this development, so he sued the city and resubmitted the project with one exception - the 200 foot line to deny the neighbors to the south from being able to file a protest petition. He asked if the Governing Body will participate in this ruse and disenfranchise the voting constituents by allowing this to occur.

Mr. Duggan reviewed the comments made by the council members voting in opposition to the first application and Planning Commissioner Gregory Wolf who voted in opposition to this project.

Mr. Duggan noted that K.S.A. 12-757 states "Notice and right to file a protest petition must be afforded to all property owners within 200 feet of the area proposed to be altered. . ." He believes the Council can determine the area to be altered and argued that since the roadway and the nine single family lots are conditions of approval they should be included in the area. He believes the new public road providing access to the senior living campus should be included. If included in the protest petition, which was ruled by the City to fall short of the required square feet by 10,832.20 feet would have exceeded the required 200,000 square feet. Mr. Duggan argued that the 200 foot buffer zone is part of the affected area. He noted that the 200 foot buffer was mentioned 19 times in the minutes of the Planning Commission as a reason for approval. It was mentioned more than any other item in the staff report and noted the landscape plan is required for the entire area. The new public street is necessary for the operation of the proposed project, but is not included as part of the project.

Mr. Duggan stated that the Kansas Supreme Court has specifically recognized the validity of a protest petition which measured the requisite distance from the outer boundary of the lot, despite that only a limited portion of such lot was subject to a special use permit. In *Crumbaker v. Hunt Midwest Mining, Inc.* the “area proposed to be altered” by the special use permit application in *Crumbaker* was limited to an area “within 750 feet from the north property line, and . . . to within 3,390 feet from the quarry’s east property line.” *Id.* At 877. Nevertheless, the Court found that the failure to provide those property owners within 1,000 of the outer boundaries of the quarry land proper notice or the opportunity to file a protest petition as required by K.S.A. 12-757 rendered the City’s actions invalid.

The following legal challenges were presented by Mr. Duggan:

- The applicant’s refusal to recognize the south and southwest adjoining landowners’ property right to both the receipt of the statutorily-required notice and to file a protest petition must fail for the additional reason that the City’s subdivision regulations make clear that purported lot lines not approved by the Planning Commission and City Council, or reflected in the public records, are legally invalid.
- Refusal to recognize any common areas of the Chateau Condominium as subject to a protest petition.
- Permitting withdrawal of signatures on a filed protest petition under a statute which plainly applies, as the title of the Chapter dictates, to “Elections.” (Chapter 25 of the Kansas Statutes Annotated.)
- Failure to “except public streets and ways” from the protest petition calculation under Zoning Ordinance 19.28.020.
- A majority of states have adopted preclusion or “successive application” doctrines. Under this rule a City “may not entertain a second application concerning the same property after a previous application has been denied, unless
 - A substantial change of conditions has occurred other considerations materially affecting the merits of the request have intervened between the first and second applications.”
- The proposed development cannot be approved in a piecemeal fashion; at base, the entire “Mission Chateau Senior Living Community” constitutes a Planned Mixed Use Development which must be considered as one application under zoning regulation 19.23

- This application interferes with the existing MVS,LLC lawsuit. By appealing the City's decision, MVS has terminated the City's power to reconsider MVS' application for a Special Use Permit.

Mr. Duggan stated this project is too large for this site with a total square footage of 325,890 square feet on 12.4 acres comparing the structure to other structures within the City. The proposed skilled nursing facility is not a residential use - people do not reside there. It is liken to a hospital where people stay while getting medical care and should be considered and evaluated as a commercial use. The neighborhood is not opposed to senior housing and would be supportive of a project in the scope of the Benton House Development on the previous Somerset Elementary School site.

Mr. Duggan closed urging the City Council to vote against this project and not disenfranchise the residents who have played by the rules by allowing this attempt to deny the neighboring residents their protest rights.

Mayor Shaffer declared a ten minute recess.

Mayor Shaffer reconvened the meeting at 9:33. He reviewed the procedures for public comment which will be limited to three minutes per individual and called upon the first speaker.

Public Comment

Christina Hoffman, 5304 West 72nd Street, spoke on the need for a continuing care community sharing her own experiences with getting care for her parents. She supports the application and urged the council to do so also to allow their parents to be able to have a place where they can be together even as their health needs change.

Jim Blackwell, 4200 Homestead Drive, spoke in support of the project noting a need for the facility by Prairie Village residents. He urged the Council to let it be built.

John Anderson 4402 West 63rd Terrace, also spoke in support of the project. He noted the properties surrounding the facility where his mother currently resides is surrounded by beautiful residential homes that have not decreased in value. As a long-time resident of Prairie Village, he talked about how the city has grown and changed over the years and stated the city needs to address the needs of its growing senior population. The proposed project will provide safe and comfortable surroundings for area seniors. Prairie Village needs Mission Chateau - Mr. Anderson stated it is time to move forward.

Todd Cannon, 7223 Mission Road, noted that residents residing in the type of development being proposed gain seven years of life due to the provision of monitored medications, healthy regular meals and the socialization with other residents. He strongly supports the application and expressed appreciation to the City for the time and consideration it has given.

Barbara Dooley, 5301 West 69th Street, stated when the protest petition was filed with the last application, a very small part of the entire city was able to determine the outcome of this application. She went door to door throughout her neighborhood to get opinions on the project and most were disappointed that the first project had been denied, only one resident was against the project. She asked the Council to consider all residents in making their decision and to approve this project that will allow for senior residents not only to remain in the City but couples to remain together even when they have different care needs.

Whitney Kerr, 4020 West 86th Street, asked why if the project meets and conforms to code does it have 17 conditions of approval. Benton House did not have 17 conditions of approval. This project is four times the density of Benton House. He

has yet to receive an answer to the question as why the project needs to be so big. He questioned who would enforce the conditions of approval and questioned that they would be enforced and what recourse will the residents have when Claridge Court mistakes are remade with insufficient parking. He asked why would the city allow a rehab hospital in the highest quality residential neighborhood. This will not generate significant tax revenue, yet it will require increased city services. His due process rights are under attack. He urged to Council to listen to the residents and don't let this happen.

Bob Schubert, 3700 West 83rd Terrace, President of Corinth Meadows Homes Association located directly across Mission Road from the project. Seventy of the 71 homes oppose this project that they will view this massive development every day as they leave their street. His neighborhood will suffer the most because there is insufficient parking and overflow parking will be in their neighborhood. He opposes this application and is very disappointed that the ruse has been allowed by the City to replace the opposition votes. Mr. Tutera has failed to get neighborhood buy-in. The project is still too large. The elephant is still in the room. He asked why would you put an elephant in the middle of your living room.

Brenda Satterlee, 8600 Mission Road reviewed the residential unit parking and visitor parking spaces of other senior living facilities in Johnson County. Based on her research, the proposed project has a shortage of 90 parking spaces.

Craig Satterlee, 8600 Mission Road, stated the amendment to Village Vision specifically addressing this site states "To successfully execute a project on this site, it will require creative and unique design talent and buy-in from the neighborhood and the community at large." This plan does not have buy-in. Turn it down.

Michael Grossman, 3731 West 87th Street, (Leawood), noted this plan is not smaller as directed by the Council in their denial of the first plan - it is larger. He questioned how an area required as a condition is not part of the affected area. He feels the City Attorney made an arbitrary decision in her ruling on the protest petition and is disappointed in the bias shown by the planning commission staff review and action by the Commission. He reminded the Council that the Commission can make a recommendation, but the Council can decide what is right for Prairie Village and urged the Council to unanimously deny the application.

Tom Creal, 3915 West 89th Street, asked what the city was investing in. What is the quality of Tutera projects? Does the memory care unit have outside windows? Joe Tutera responded, yes. City Attorney Katie Logan ruled the question was not relevant to the zoning question before the Governing Body.

Rex Sharp, 3404 West 83rd Street (Leawood), stated he supports senior living communities, but not this project - it is too large. As an attorney and past city attorney, he stated the legal issues will be resolved by a court. He feels the action being taken is classic "spot zoning". He stated that withdrawal from a protest petition has never been done before in Prairie Village or Kansas. The common area of the condominium is not being interpreted correctly. He urged the Council to not disenfranchise its residents and avoid even deeper legal costs by denying this application.

Jim Starcev, 3507 West 87th Street (Leawood), stated there are 190 Independent/Assisted Living Units and 84 skilled nursing units. The average ratio for continuing care communities is to have 23% of the units for skilled nursing. This project has more than twice the average. The developer is planning on a significant number of patients from outside the community. The council's intelligence should be insulted by

the developer's presentation. He uses the 200 feet when it is to their advantage and excludes it when it is not to their advantage.

Cameron Jones, 3605 West 85th Street (Leawood), felt this is not a senior living facility it is basically a hospital where people go to recover for short periods of time - people do not reside in it. They are placing a commercial use in a residential district. The skilled nursing facility accounts for approximately 40% of the project, if removed, it would be a successful size for a true residential senior living community.

Milburn Hobson, 5467 West 85th Terrace, stated that he has only heard good things about Tutera facilities and their operations. He noted several of his friends have had to move out of Prairie Village into other senior living facilities. He would like to see Prairie Village have a continuing care community available to its residents. This is not available in Brighton Gardens or Benton House. This would not be a mass of concrete as Claridge Court is, but a beautiful landscaped community. Prairie Village needs this project.

Courtney Kounkel, 8424 Fontana, lives less than two blocks from this site and is thrilled that Tutera wants to provide this opportunity. Residents deserve to be able to live together and near their families. She respectfully asked the Council to represent the majority of its residents and support the recommendation of the Planning Commission and approve the requested Special Use Permit.

Eric Ronning, 4324 West 87th Place, stated he has followed the proposed development of this site. The original plan was denied as it was too dense. He asked why is the Council considering a plan with even greater density.

Mark Barratta, 8335 Mission Road, noted that he spoke in opposition to the last plan. This land is one of the most valuable pieces of land in land-locked Prairie Village.

After research and thought, he realized that he made an emotional decision. He has objectively looked at the project, reached out for more information and has determined that many of the rumors/statements made have been false. He originally signed the protest petition; however, as he battled over doing what his neighbors wanted and what he felt was right, before the petition was even filed, he requested that his name be withdrawn from the petition. The rumors that he was somehow compensated by Mr. Tutera for removing his signature are totally false and borderline scandalous. It is time to move forward. The school is not coming back and is beginning to become an eyesore. He apologized to his neighbors, but stated he had to do what he felt was right.

Jessica Priestland, 8005 Fontana, expressed concern on a possible drain on police and fire resources and an increase in response times for the calls within the City. She questioned the cost of these units and if they would indeed be affordable for Prairie Village residents. She would love to see something built that could support a spectrum of ages, possibly a community center.

With no one else wishing to speak, the public comment was closed at 10:36 p.m.

Rebuttal and final statements from Mission Valley Neighborhood Association

John Duggan stated his clients are not against senior living communities and would support a community of 150,000 square feet. They are not against the applicant making a profit, however, good planning does not dictate a 350,000 square foot project. The proposed project is not a residential use - it is a commercial use and should be treated as such. The skilled nursing facility is similar to a regional hospital and the individuals using it will not be residents, but individuals coming in for short periods of time for care and treatment. Not only is this a commercial project - this is twice as dense as the commercial development to the north and Corinth Square.

Parking will be an issue and condition #11 is toothless and unenforceable. The neighboring residents will bear the brunt of overflow parking. He questioned who would want to build a \$400,000 - \$750,000 home across the street from a skilled nursing facility. It would be financial suicide.

The property affected is not only the 12.4 acres the staff and developer want you to believe. If you need a buffer zone to approve the project, it is part of the project. This is an end-run on due process rights of the constituents. Look at this from the perspective of the credibility of the city not as a simple zoning development. Send a loud and clear message to the community and other developers - use common sense and vote to deny this application.

Rebuttal and final statements from MVS, LLC

John Petersen stated he had to address the comparison to Benton House. You cannot simply pick up one project and put it down on another site. The Benton House project has lot coverage of 27% whereas this project has lot coverage of 21%; the height of the structure is six feet above the height of the surrounding single family homes, Mission Chateau is four feet below the height of the adjacent structures; Open Space for Benton House is 60% as approved and 46% with four-plexes. Mission Chateau Open Space is 50.4%

In response to the 200 feet removed from the project, the first project included villas that were to be rental units as part of the community. The neighbors stated they did not want rental units, they wanted owner occupied single family homes similar to their properties. The new plan removes to 200 feet from the project to allow for the sale and construction of nine owner occupied single family homes of equivalent lot size as the adjacent properties. Regarding the notice requirements, 200 feet is the required

notice for zoning. It is the standard law related to land use development in Prairie Village, Johnson County and in Kansas since statehood. Mr. Petersen stated he has never heard the concept of “affected area” before. As presented it would require all of Mission Road to be included.

MVS, LLC. has played by the rules. When the moratorium on applications was approved days before the anticipated filing of their application, they waited. They met with city staff on several occasions to review the “rules” or city codes related to zoning and development. They have exceeded the minimum requirements for approval. They have followed the rules as adopted by the City of Prairie Village in their code. This has been affirmed by both the recommendation of planning staff and the Planning Commission for approval of this project. Mr. Petersen thanked the City, its Planning Commission, City Council and staff for the time and energy that has been spent on this project.

Planning Staff Recommendation

Ron Williamson stated the required landscape plan is for the Senior Dwelling project area only. The proposed preliminary plat has been submitted and reviewed by staff; however, action on the plat has been tabled until action is taken on the special use permit as the plat reflects the project as proposed and the nine independently platted single family lots. The issuance of a special use permit is not considered “spot zoning”. There are special use permits issued in multiple locations throughout the City, namely Benton House. In regard to the concerns regarding the fire department staffing, the fire department is included in the plan review process addressing both the physical plans and their ability to provide service. The final construction details will be addressed by the Planning Commission and the Planning and Building Staff.

Mr. Williamson reviewed the Planning Commission's evaluation of the application based on the appropriate code and the Golden Factors. The Planning Commission found the city's factors for consideration and the Golden Factors have been met by the application and recommended approval subject to 14 conditions which is not unusual for projects of this magnitude. The findings of the Planning Commission are reflected in the minutes of December 3, 2013, which are attached as "Exhibit A".

Mr. Williamson stated the Governing Body can take any of the following actions:

- A. Adopt the recommendation of the Planning Commission and adopt an ordinance approving the Special Use Permit including the conditions or revised conditions by a simple majority of the Governing Body or 7 affirmative votes, or
- B. Override the recommendation of the Planning Commission by a 2/3 vote of the Governing Body (9 affirmative votes) and deny the Special Use Permit, or revise the conditions of approval; or
- C. Return the recommendation to the Planning Commission by a simple majority vote of the quorum present with a statement specifying the basis for the Governing Body's failure to approve or disapprove the recommendation.
- D. Continue the item to a designated meeting by a simple majority of the quorum present.

City Attorney - Procedural Directions

Mrs. Logan stated it is her job as City Attorney not to advocate for either side of a zoning application, but rather to ensure to the best of her ability that applicable law is applied to the process. Her interpretation of the legal issues which have been raised is based on the law as she reads it after much research and consultation with colleagues. She believes her interpretation of the issues would be supported by a court of law and that ultimately, these issues will be decided by a court if there is an appeal.

Deliberation by Governing Body

Laura Wassmer noted that many of the comments referenced Village Vision and that Village Vision will be the basis on which proposals will be evaluated. Ms Wassmer read statements from Village Vision identifying the following:

- Residents want more greenspace.
- Creating more housing options and more intergenerational neighborhoods that accommodate the young and old, families and individuals alike
- quoted from Village Vision
- Allow for a greater variety of housing types throughout Prairie Village
- Preserve the character of residential neighborhoods

Village Vision does not mention a three story skilled nursing facility. Different housing options desired are patio homes, condominiums, smaller homes for seniors - not a senior living community on each corner. School sites are an integral part of the neighborhood and any reuse should maintain the status as a center of the neighborhood.

Ms. Wassmer said Mr. Tutera asked her what it would take for the project to get approval and she advised him that he would have to work with the neighborhood and get their buy-in and make the project smaller. He has not done that. This has become one of the most divisive issues in city history. It has alienated the residents. Unlike the Benton House application for the Somerset School Site that received unanimous support of the neighborhood, Planning Commission and City Council. This project does not meet Village Vision, it is too dense and out of character of the neighborhood.

Ms Wassmer continued that in regard to redevelopment, Village Vision promotes mixed use districts, one or two story condominiums or duplexes for increased density. It does not reference a three-story project with a hospital. She believes the resubmittal is a deliberate attempt to circumvent the process. She is angry that the new plan submitted by the developer is larger, not smaller as requested by both council members and the neighborhood than the previous plan.

Andrew Wang does not believe the developer drew an "arbitrary line" on his property as stated by the neighbors to deny their ability to file a protest petition. The

independent owner-occupied lots the neighbors requested will be under separate ownership and are not part of this project. The notification and protest petition requirements are the same as the city and state has followed for years. He finds issue with the divisiveness that is truly political in nature and is not allowing for an objective evaluation of the project. An injunction was filed by the neighboring property owners to prevent the City from even considering the application.

He does not believe this project is so incredibly far away from Village Vision. It provides the greater density, it provides housing alternatives to senior residents which will in turn provide housing alternatives for families to move into Prairie Village. He has attended each of the Planning Commission meetings and has seen the evolution of this plan. The developer has received community input and made changes based on that input - including the creation of the single family lots on part of his property. Village Vision states this property is to be developed with R-1a uses. It cannot be developed with condominium or duplexes. This project has the potential to be a great asset to the City.

Ted Odell agreed with Ms Wassmer and was hoping the new plan would have more changes. He is concerned with the impact of the action taken today will have on the future. He feels it is important for surrounding property owners to have a voice.

He noted that staff has the ability to increase the size of the project by 5% through the site plan process and hopes that does not occur. Mr. Odell asked Ms Logan for clarification on the exclusion of streets and public right-of-ways in the 200 foot notification area.

Dale Warman noted this project has been an emotional roller coaster since it began almost a year ago. Both sides have drawn a line on their expectations and

neither one wants to move. The school is gone. He cannot vote on emotion - it is his responsibility to represent the 20,000 people in Prairie Village and will base his vote on the Golden Factors.

Dale Warman moved the Governing Body accept the recommendation of the Planning Commission and adopt Ordinance 2301 granting a Special Use Permit to allow the operation of an Adult Senior Dwelling Community with an Independent/Assisted Living Facility and a Skilled Nursing/Memory Care Facility at 8500 Mission Road subject to the 14 conditions recommended by the Planning Commission. The motion was seconded by Ruth Hopkins.

Mrs. Logan outlined directions for the Governing Body as they consider this item. Stating that after their vote, Council members shall state the reason for their vote.

Mayor Shaffer called for a vote on the motion. A roll call vote was taken with the following votes cast:

- Ashley Weaver - No - The project is too dense and not compatible with the surrounding neighborhood
- Dale Warman - Yes - The Planning Commission has done its due diligence and he supports their recommendation and accepts their findings. (Planning Commission findings referenced are attached to these minutes and identified as Exhibit A).
- Ruth Hopkins - Yes - She supports the findings of the Planning Commission. Steve Noll - Yes - He agrees with the findings of the Planning Commission.
- Michael Kelly - Not Present - Counts as a "No" vote.
- Andrew Wang - Yes - He agrees substantially with the findings of the Planning Commission and views this project in keeping with the intent of the comprehensive plan.
- Laura Wassmer - No - Golden Factor #1 the proposed density is not in character with the surrounding neighborhood and she feels it will adversely affect the neighboring property owner and Factor #6.
- Brooke Morehead - No - Golden Factor #1 - she is opposed to the density and does not feel there is sufficient space for the project as proposed. She also referenced factors #4 & #8
- Charles Clark - Yes - He agrees with the findings of the Planning Commission.
- Courtney McFadden - No - She feels it is too dense and violates the Comprehensive Plan.

- Ted Odell - No - Golden Factor #1 Density and the proposed material/design. He did not think the plan fit the character of the neighborhood nor the Comprehensive Plan.
- David Belz - Yes - He agrees with the findings of the Planning Commission.
- Mayor Ron Shaffer - Yes - He agrees with the findings of the Planning Commission.

The motion received 7 votes in favor (Warman, Hopkins, Noll, Wang, Clark, Belz, Shaffer) and 6 votes in opposition (Weaver, Kelly, Wassmer, Morehead, McFadden, Odell).

The motion carried with majority vote.

Mayor Shaffer thanked the public for their input on this important issue.

STAFF REPORTS

Staff Reports were given at the earlier Council Committee of the Whole meeting.

OLD BUSINESS

There was no Old Business to come before the City Council.

NEW BUSINESS

There was no New Business to come before the City Council.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	01/07/2013	6:30 p.m.
Planning Commission	01/07/2014	7:00 p.m.
Parks and Recreation Committee	01/08/2014	7:00 p.m.
Sister City Committee	01/13/2014	7:00 p.m.
Prairie Village Arts Council	01/15/2014	7:00 p.m.
Council Committee of the Whole	01/21/2014	6:00 p.m.
City Council	01/21/2014	7:30 p.m.

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The Prairie Village Arts Council is pleased to present Diana Werts' "Painting from Nature" as the January exhibit in the R. G. Endres Gallery. The artist reception will be on Friday, January 10, from 6:30 - 7:30 p.m.

The City offices will be closed on Monday, January 20, in observance of Martin Luther King, Jr. Day. Deffenbaugh observes this holiday so pick-up will be delayed by one day.

The City is offering holiday tree recycling sites from December 16 - January 20 at Porter, Franklin, and Taliaferro Parks.

City Hall Day will be Wednesday, February 5, 2014 in Topeka, KS.

The 2014 annual large item pick up has been scheduled. Items from homes on 75th Street and north of 75th Street will be collected on Saturday, April 5. Items from homes south of 75th Street will be collected on Saturday, April 12.

ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 11:25 p.m.

Joyce Hagen Mundy
City Clerk

EXHIBIT A

PLANNING COMMISSION MINUTES

December 3, 2013

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, December 3, 2013, in the Shawnee Mission East Cafeteria at 7500 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Bob Lindeblad, 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; David Waters, representing the City Attorney; Danielle Dulin, Assistant to the City Administrator; Keith Bredehoeft, Public Works Director, Jim Brown, Building Official and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary. Also present was Andrew Wang Council liaison.

APPROVAL OF MINUTES

Nancy Vennard moved the approval of the Planning Commission minutes of November 5, 2013. The motion was seconded by Nancy Wallerstein and passed unanimously.

David Waters reported that he and City Attorney Katie Logan reviewed the initial notice of public hearing sent out for the November 5th meeting and found it did not comply with the notification requirements. Therefore, the information presented at the November 5th meeting will not be considered as part of the record for this application. A new notice of hearing was published on November 12, 2013 in the Legal Record that complies with the City's notification requirements. Staff has verified that certified return receipt notices were sent to property owners within 200' of the application area and the site was appropriately posted.

Mr. Waters noted that previously several procedural issues were raised by the Mission Valley Neighborhood Association including the inclusion of all 18.4 acres of the accessory use issue. The City's legal staff has reviewed these issues and believes this application is properly before the Commission for consideration based on the city's zoning criteria and the Golden Factors.

Chairman Ken Vaughn reviewed the procedure for the public hearing noting that the applicant and a representative of MVNA will be given 30 minutes to present followed by public comment limited to three minutes per individual followed by a 15 minute rebuttal period for each the applicant and a representative of Mission Valley Neighborhood Association

PUBLIC HEARING

**PC2013-11 Request for Special Use Permit for Adult Senior Dwellings
8500 Mission Road**

John Petersen with Polsinelli, 6201 College Blvd., Suite 500, addressed the Commission on behalf of MVS, LLC stating he would be the sole presenter for the applicant; however, Joe Tutera, Randy Bloom, Tracy Browning and other members of the development team are present and available to answer any questions. Mr. Petersen stated they had a lot of supporters wanting to attend this hearing; however, he advised them their support would be presented and they didn't need to attend. To that point, Mr. Petersen stated they have 494 e-mails and 249 letters in support of the project being presented this evening and a growing waiting list of individuals interested in making Mission Chateau their home.

Mr. Petersen stated it is his intent to address the following four fundamental components:

- Appropriateness of use
- Character of Neighborhood as considered in land use evaluations
- Transition and Transition design
- Appropriateness of design

He would not address opinions that have already been documented by professionals regarding stormwater, traffic, parking and impact on property value. He would not address commercial vs. residential measurement of the project, references to other projects or snippets of court cases taken out of context and based on unrelated situations. The issue of accessory use has been addressed and is irrelevant now that the project will not be constructed in phases.

Appropriateness of Use

In addressing this, Mr. Petersen quoted from the staff report by the City's Planning Consultant which states: "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." and "The proposed senior housing community provides a good transition between the low density residential development to the south and southwest and the higher density residential area, office and retail to the north and northwest. The site is located within walking distance of Corinth Square Center which provides most of the merchandise and services required by the residents and guests of the facility."

Character of Neighborhood & Compatibility

Mr. Petersen noted that when looking at a large tract, you look at the entirety of the area. If you were to ask the travelling public that uses Mission Road what the character of this neighborhood is, he would venture to say that most would say it is a mixed use area. Those viewing it from the west and north would say it is a multi-family use area. Those viewing it from the south would say it is a single family residential use area.

Of the uses abutting the 12.8 acre site containing the proposed special use permit 27% is Mission Road, 38% is Multi-family residential and 35% is Single family residential. The breakdown of uses within 1000 feet of the proposed Mission Chateau Residential Community 43% are Multi-family, Commercial or Mission Road with 57% being Single family residential.

Transition & Transitional Elements

This is a transitional site. The location and size of the Independent and Assisted Living Components is the same as that presented in the original application. Moving to the north and northwest is the proposed Skilled Nursing Facility and Memory Care Facility with the identical number of units as originally presented. However, the two facilities have been combined with the placement of the Memory Care Facility beneath the two-story Skilled Nursing Facility creating more green space with an increase in height of only eight feet.

All the parking on the site is directed away from the residential area to the south. The building area fronting Mission Road covers 348 feet, for 34% of the Mission Road frontage. The sidewalk system along Mission Road has been improved and more green space has been added.

As transitional elements the site plan has been designed placing similar heights together. The buildings to the north and northwest of the site are 988' and 994' in height, so the three-story 989.5 foot skilled nursing/memory care facility has been located on the northwest corner of the site. The homes to the south of the site are 980.5', 995' and 979' across from the 991.5 foot south side of the skilled nursing/memory care facility. Another transitional element used to minimize the height differential is the separation of the structures. The distance between the existing homes to the south and structures in the senior housing residential community are 317 feet, 278 feet, 312 feet and 255 feet. The distance from the skilled nursing/memory care facility to the condominiums is approximately 200 feet. The Independent/Assisted Living Facility is located 334 feet and 378 feet from the homes to the south.

Greenspace is another tool used in transitional design. Lot coverage allowed by the City's code is 30%. The lot coverage for this project is 22%. The 12.8 acre residential community has 6.45 acres of green space. On the south side of the site is a 1.52 acre Central Park near the Independent/Assisted Living facility; a .66 acre Memories Park is located off the Skilled Nursing/Memory Care Facility in the west corner. The north side of the site contains 1.3 acre North Lawn site, in addition to creek and detention areas. These "pocket parks" are the approximate size of Prairie Village's smaller neighborhood parks.

Appropriateness of Design/Architecture

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 roof will primarily be asphalt shingles with standing seam metal used as accent points to break up the roof mass.

Special Use Permit Criteria

Mr. Petersen addressed criteria #1 that the proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations and use limitations. He noted that throughout the hearings the opposition

has stated that the project “just hits the minimum” code. A comparison of the code requirements and the plan revealed the plan far exceeds the city’s code requirements. The total land area required for the proposed use by ordinance is 237,400 square feet. The site area is 557,632 square feet (2.3 times greater than the proposed use). The setbacks are at least 3.5 times greater than what is required by code with the side yard setback on the north property line being 32 times greater. The maximum height allowed is 45’ and the maximum height of the proposed development is 40’. Maximum lot coverage allowed is 30% and the proposed lot coverage is 21.4%. Off-street Parking setbacks are more than twice that required by code.

Regarding Criteria #3, Mr. Petersen stated that a revised property appraisal has been completed by Todd Appraisal and submitted for the record. The new appraisal addresses the impact from the plan submitted 07/30/2013 and the plan submitted 10/11/2013. The study found that “The development of single family homes is more likely to maintain value than to act as a hindrance to market acceptance. There is little doubt that the purpose of creating an additional buffer between the prospective Mission Chateau development will have been well served.”

Golden Factors

Mr. Petersen stated the proposed plan is consistent with the City’s Master Plan. He closed his presentation quoting the following from the staff report prepared by the City’s Planning Consultant. “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 mixed density 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 the 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.”

John Petersen stated the applicant is in agreement with the recommendation and conditions of approval for the Special Use Permit application with the exception of Condition #2 and for the Site Plan application with the exception of Condition #17 relative to a reduction in the square footage of the Skilled Nursing/Memory Care facility.

Chairman Ken Vaughn opened the meeting to questions from the Commission.

Nancy Vennard questioned the increased size of the combined Skilled Nursing/Memory Care facility noting there should be some economies of design by combining support functions. Mr. Petersen responded that when the original buildings were side by side, some of those economies of shared common supply areas were already placed in the plan. Some of the area would be needed for additional stairwells, elevators, etc. which was not needed when the Memory Care facility was one-story.

Joe Tutera stated the plan for both facilities was to preserve as much space as possible for the resident rooms. He noted the building could be brought in 18” but the proposed design dimensions for the individual units would be reduced. It is his feeling that the

minimum exterior impact of the additional square feet was worth saving the floor space for their residents to accommodate their needs and desires.

Mrs. Vennard asked if the number of rooms could be reduced. Mr. Tuteria replied such action would create an asymmetrical structure by removing a section.

John Petersen stated at the request of the neighbors who stated they did not want rental villas as the transitional element between their property and the main complex, they have created nine single family lots of more than 10,000 square feet each that generally line up with the property lines to the south. They will be owner occupied and will be custom built homes.

Chairman Ken Vaughn opened the public hearing for comment in support of the application. No one wished to address the Commission. Chairman Vaughn called upon John Duggan with the Mission Valley Neighborhood Association for his presentation.

John Duggan, Duggan Shadwick Doerr & Kurlbaum, LLC, 11040 Oakmont, representing the Mission Valley Neighborhood Association reminded the Commission that six members of the Governing Body voted against the original application which had 350,000 square feet on 18.4 acres because it was too big. They felt, and rightfully so, that they had the authority to deny the application because they felt a better proposal could be made for this promising piece of land.

Mr. Duggan stated 99% of his time has been spent representing developers during his career and they would never consider asking a City for the overreaching concessions being brought forward in this application. The applicant invites the City to deny the adjoining landowners' right to file a protest petition based on street widths and building lines that have not been approved by the City Council or recorded with the Register of Deeds. This is absurd. The requested Special Use Permit should not be approved until the plat has been approved.

They have drawn an imaginary 200' line through their project in an attempt to remove from his clients the ability to file a protest petition. He stated the right to file a protest petition where a change in "land use" is sought, is broad enough to encompass an application to change the use of the Mission Valley property from a school to a multi-building senior living campus. This is happening because the applicant knows that he cannot get 10 votes required with a protest petition in support of the application, but hopes he will get seven votes.

Mr. Duggan noted staff mentions 15 times as a basis for approval the transition zone of single family houses. If this is so important, why is it not included in this application. This is a brazen act to get around the requirements of the code. He stated the site plan and the plat violate a number of requirements. For instance, the cul-de-sac is over 1000' and any cul-de-sac in excess of 500' requires a variance. The preliminary plat must designate the uses for the property. The staff report considers this as one application - as one plat for the 18.4 acres.

Mr. Duggan stated this is not about height and setbacks, but the elephant in the room and six people on Council who have said they would not vote for project this big. Instead of doing what the Governing Body wants and making the project smaller as requested by the neighborhood, they have submitted a piecemeal application scheme that constitutes invalid haphazard zoning enacted without any reasonable basis but the for advancement of the Applicant's private interest in evading the adjoin property owners' right to file a protest petition.

Mr. Duggan stated the applicant is seeking the City's approval for a application to change the land use from what was exclusively a public school to one that would contain several uses: (1) single-family dwellings; and (2) special use permit for senior adult dwellings; and (3) nursing care or continuous health care services . . . on the premises as a subordinate accessory use." The applicant proposes a variety of uses on one common lot, the intent of the City's Zoning Ordinance demands that it be reviewed as a single application for rezoning as a "MXD" Planned Mixed Use District. John Duggan questioned the consideration of a new application while action on the previous application for this site is pending in District Court. It is absurd for the Planning Commission to consider a new application. Turn it down and let them come back after the court rules on the pending lawsuit. By appealing the City's decision, MVS has terminated the City's power to reconsider MVS' application for a Special Use Permit.

Mr. Duggan stated that aesthetics are a critical element for consideration and sited cases where denial based on this element alone were upheld by the courts. Addressing the density of the project, Mr. Duggan presented a slide of the site plan for proposed IKEA project in Merriam which is of similar size. He also noted that Shawnee Mission East High School is approximately 350,000 square feet but is located not on 12 acres, but on 36 acres. This is absurd. As a Commission, you would not allow this property to be developed with manufactured homes or as a mobile home park.

It is absurd that the Commission would allow the applicant to draw a 200' line to deny the neighbors their due process rights.

Mr. Duggan argued that the nothing is more commercial in nature than a hospital and the proposed Skilled Nursing Facility operates essentially as a hospital and therefore the density of the project should be measured in terms square feet per acre which he feels presents a clearer view of the size of this project. Staff has measured density using the residential criteria of units per acre.

John Duggan advised the Planning Commission not to approve the application noting the applicant cannot get the votes needed for approval by the Governing Body. The developer is doing an end run. He asked what is so desirable about the application that it is worth ignoring the rights of neighboring property owners.

Greg Wolf asked for clarification from Mr. Duggan regarding the protest petition.

Mr. Duggan stated he believes the courts will throw out any approval as the notices were not appropriate for what he believes to be a rezoning application; the notices were

not sent to all the applicable neighboring property owners; the City has no jurisdiction to take action until the pending action in the Johnson County District Court has been resolved.

Mrs. Vennard noted at the conclusion of the November meeting, it was stated that all of the attorneys would review the notice prior to publication. Mr. Duggan responded the notice was reviewed by the applicant's and city's attorneys; however, he was not involved.

Chairman Ken Vaughn opened the public hearing to comments from individuals reminding them of the three minute time limit and asking them to present only new information.

Whitney Kerr, 4020 West 86th Street, noted the 17 stipulations applied to the staff recommendation. He does not believe this project fits. A skilled nursing facility is a business activity. He questioned who would enforce the conditions of approval. He is fearful that the Claridge Court mistakes will be repeated and the city will be left with a lower quality development. The oversized elephant is still in the room. The neighbors are more opposed to the project than ever. This project is 4 times the density of the adjacent single family residences and twice the density of the adjacent apartments. The row of single-family dwellings proposed for transition is hogwash. Where are your priorities?

Steve Carman, 8521 Delmar, addressed the amendment to Village Vision dealing specifically with this property which calls for input from neighboring property owners and compatibility. This project is not compatible - it is too big and too tall. This site is not the center of a mixed use area - it is the edge of a mixed use area that extends into a prominent residential neighborhood. Village Vision calls for input into future development - in all of the meetings held on this project, the common theme has been the project is too big and it has been consistently ignored. Comments from Commissioners and from Council members stating it is too big have been ignored. This plan is not compliant with Village Vision and should not be approved.

Michael Grossman, 3731 West 87th Street, stated the real action on this application will take place at the City Council meeting. He noted he understands the Commissioners dilemma in that they previously approved a very similar plan which was not approved by the Governing Body and the developer filed suit and resubmitted an even larger plan. The proposed plan disenfranchises the neighbors. Such actions should not be rewarded. It is better to invite a second lawsuit and deny the application until a scaled back plan is submitted.

Brenda Satterlee, 8600 Mission Road, presented an analysis of parking ratios using data received from other Johnson County CCRC's that clearly demonstrates that Mission Chateau does not have enough parking spaces. Her calculations revealed a shortage of 30 spaces for residential parking and a shortage of 40 spaces for visitor parking. She added that the proposed project is now located on 12 acres and the ability

to add on-site parking later is non-existent. She believes there will be a dramatic parking shortage.

Brian Doerr, 4000 West 86th Street, stated as a PV resident for most of his life, he has trusted the City to make the correct land use decisions. He was stunned two years ago when a 400,000+ square foot mixed used development was being considered for this site. For the past two years, he has attended every official Mission Valley site meeting and countless meetings with the applicant. If this plan is approved, there will be a publically dedicated two lane road within 150 feet of my backyard serving a nearly 100,000 square foot commercial skilled nursing facility and the 3rd largest residential building in the entire County.

Mr. Doerr urged the Commission to tell the applicant that he needs to listen and to respond to the neighbors and make this project smaller. He is not entitled to protest which violates his due process rights. Vote to recommend a denial of this application.

Craig Satterlee, 8600 Mission Road, echoed Mr. Carman's directive to the Commission to take seriously the Village Vision amendment regarding this site and take to heart what it states regarding neighborhood input into the development of this site.

With no one else wishing to address the Commission, Chairman Ken Vaughn closed the public hearing and called upon the applicant for rebuttal.

John Petersen noted that Mr. Duggan in his presentation never addressed the land use and planning issues for this application that are the basis for action by the Planning Commission in accordance with standards for land use, but addressed IKEA as a similar project and other uses that are not being proposed. This is not about telling the Planning Commission what they have to do.

Mr. Petersen stated this is essentially an improved version of the design submitted earlier which was approved by this body, by the city's professional staff and by a majority of the City Council. The lawsuit was filed to protect the applicant's rights. Mr. Tutera is not in the business of suing - he is in the business of providing senior living facilities. The plat has been filed. There is no zoning issue to be considered as the property is already zoned for the purposes uses. City staff has made the determination on when action will be taken on the filed plat. Mr. Petersen stated that building standards, setbacks, greenspace requirements were established to provide an objective basis on which to evaluate a project and remove the emotional responses. That is the job the Commission is called to do with its expertise and experience in the area of planning.

In response to Mrs. Satterlee's comments on parking - they are comfortable based on their experiences with the several senior living centers they operate that the parking is sufficient and exceeds the requirements of the city's code.

Mr. Petersen stated the application and process has not violated the master plan. They have received neighborhood input and reminded the Commission of the many changes

that have been made to the project over the past several months in response to that input. The neighborhood requested owner occupied single family homes not rental villas - the new plan provides this. They wanted parking moved to the north it was moved to the north. They wanted more greenspace - green space was increased. He thanked the Planning Commission for their patience and the opportunity to present to them a quality project that will address the needs of their senior residents and be an asset to the community.

John Duggan restated that action cannot be taken without the filing of a final plat. He disagreed with Mr. Petersen, stating that if you change a use of property, you have changed the zoning. You can have a zoning district with different uses as permitted within the code. The notice was improper. When you change a specified use, you are rezoning and due process is required.

Mr. Duggan told the Commission not to reward an applicant who has filed a lawsuit. He stated it is absurd to suggest that this is a residential project in an R-1a district. The metrics of a commercial development should be used as a skilled nursing facility is a commercial enterprise. This is not a residential project - Do not evaluate it based on residential criteria. Mr. Duggan stated that the applicant cannot get the necessary votes from the Governing Body and told the Planning Commission to deny the application.

Chairman Ken Vaughn declared the public hearing closed at 8:50 and called for a ten minute recess.

Chairman Ken Vaughn reconvened the meeting at 9:00 p.m.

Ron Williamson reviewed the following staff report on this application, which includes a discussion of both the factors specific to Special Use Permits and the Golden Factors.

This is a new submission for an Adult Senior Dwelling complex on the former Mission Valley Middle School site. The area of the Special Use Permit has been reduced from 18.4 acres to 12.8 acres from the previous submission. During the testimony on the previous application, the neighbors to the south and southwest objected to the rental Villas (duplexes) that were proposed along the south and southwest property line. The applicant has eliminated the Villas and proposed platting a single row of single-family lots facing a public street on this portion of the site. This area is proposed to be developed as traditional R-1A Single-Family lots and only requires platting. A Preliminary Plat has been submitted which proposes nine lots that range in size from 17,485 sq. ft. to 30,590 sq. ft. The minimum lot size in the R-1A District is 10,000 sq. ft. These lots are similar in width to those lots adjacent to the south.

The following is a comparison of the proposed plan with the previous plan:

UNITS	Plans Dated:	July 30, 2013	Proposed
Plan			
Independent Living Apartments	136	136	
Assisted Living Apartments	54	54	

Skilled Nursing Units	84	84
Memory Care Units	36	36
<u>Independent Living Villas</u>	<u>17</u>	<u>0</u>
Total Units	327	310

GROSS BUILDING SQ. FT.	Sq. Ft.		
Skilled Nursing/Memory Care	91,200	97,550	+6,350 sq. ft.
Assisted Living/Independent Living	228,340	228,340	0
<u>Independent Living Villas</u>	<u>38,500</u>	<u>0</u>	-38,500 sq. ft.
Total Gross Building Sq. Ft.	358,040	325,890	

The total square feet of the complex has been reduced by 32,150 sq. ft. or 8.9% because of the deletion of the Villas.

The Skilled Nursing/Memory Care building has changed. The proposed footprint is 31,800 sq. ft.; 97,550 total sq. ft. and it is three stories with 120 units. This compares to a 58,268 sq. ft. footprint, 91,200 total sq. ft., one and two stories with 120 units. The Memory Care portion of the project has been moved to the bottom floor of the Skilled Nursing facility and the two floors of the Skilled Nursing facility have been placed on top of the Memory Care facility increasing the building from two stories to three stories. By combining the Memory Care and Skilled Nursing facilities into one floor plan, the amount of open space increase, or the decrease in building footprint, is 26,468 sq. ft. Also the building sets back 317.5 feet from the original southwest property line as compared to 163 feet on the previous plan. The height of the three-story building to the ridgeline will be 38 feet, and in some locations 40 feet, as compared to 29.5 ft. on the previous two-story building. The calculated building height will not exceed the maximum height of 36 feet. The building height calculation by ordinance is the midpoint between the eave and the highest ridgeline. In those areas where the ridgeline is 40 feet the height is 36 feet and when the ridgeline is 38 feet the height is 35 feet as calculated by the ordinance. The three-story height also relates well to the taller apartments and condominium buildings to the west and north. A negative to the proposed plan compared to the previous plan is the increase of 6,350 sq. ft. of total floor area. By stacking the building into three floors, it would seem that there would be some economy of space in common use areas that would, in effect, reduce the total square footage of the building. Since the number of units is the same, the applicant needs to reanalyze the building to reduce the square footage or provide justification for the increase in size.

The Assisted Living/Independent Living facility is the same size and contains the same number of units as it did on the previous plan. It also has the same footprint of 81,365 sq. ft. and the total height is the same at a range of 36' - 40' with most being at 36 feet. The building is essentially in the same location as it was on the previous plan; however, it has moved a few feet closer to Mission Road.

The total footprint of all the structures is: SN/MCF, 31,800 sq. ft.; AL/ILF, 81,365 sq. ft. (17,000 sq. ft. + 64,365 sq. ft.); carports, 6,000 sq. ft.; for a total of 119,165 sq. ft. This is lot coverage of 21.4%, well below the maximum permitted of 30%.

Sidewalks on the proposed plan are 39,565 sq. ft. which is 4,100 sq. ft. less than the previous plan. It should be noted that the platting of single-family lots adjacent to the south and southwest property line will eliminate the pedestrian access to Somerset Drive. Staff has favored pedestrian access to Somerset Drive and this will need to be discussed on the plat for the single-family lots. The number of parking spaces provided is 316 reduced from 350 and the paved area for streets and parking is 117,745 sq. ft. reduced from 129,373 sq. ft. The 34 parking space reduction is due to the deletion of the 17 Villas that had two spaces each.

The area covered by buildings, sidewalks, streets and parking is 276,475 sq. ft. or 49.6% of the lot. It should be noted that the Preliminary Stormwater Management Plan for the previous application was based on 8.6 acres or 374,616 sq. ft. of impervious area which is significantly more than this plan.

In the previous proposal, the applicant had proposed three construction phases. Phase One being the Skilled Nursing/Memory Care facility; Phase Two the Assisted Living/Independent Living facility; and Phase Three the Villas. The Villas are no longer a part of the project and the applicant proposes to build both buildings at the same time.

The total number of residents for this proposed project is 378 compared to 412 on the previous submission.

The proposed Mission Chateau plan will provide 310 units on 12.8 acres for a density of 24.2 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
- 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 proposed density on the previous plan was 17.8 units per acre which is an increase of 6.4 units per acre.

There have been discussions regarding a comparison of building square feet to land area rather than using density as the guideline. Historically; density, number of units per acre, has been the criteria used to evaluate residential projects. Square feet to land area is Floor Area Ratio (FAR) and is a criterion that is used to evaluate office, commercial and mixed use developments. Mission Chateau is offering larger units and larger common areas while still staying within a reasonable density. Also, the building coverage is 21.4% which is well below the 30% maximum for the R-1A zoning district.

The applicant held a neighborhood meeting for the revised plan on October 22, 2013 and approximately 60 people were in attendance. The concerns expressed were the height of the buildings, the size, traffic, parking, flooding, green space, compatibility with the neighborhood, density, public safety and construction disruption. A summary provided by the applicant was distributed to the Commission.

Mr. Williamson stated the Planning Commission shall make findings of fact on both the Golden Factors and factors set out in the Special Use Permit Chapter 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 it 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, section 19.28.070.1 of the zoning 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 190 units with the potential occupancy of 242 people and at 700 sq. ft. per occupant the land area required is 169,400 sq. ft. The total land area required for the proposed use is 68,000 sq. ft. + 169,400 sq. ft. for a total of 237,400 sq. ft. The site is 557,632 sq. ft. and therefore the proposed development is well within the intensity of use requirements of the zoning ordinance. At 700 sq. ft. per person, the site could potentially accommodate 796 residents.

The property is zoned R-1A which requires a 30' front yard setback. The front yard is adjacent to Mission Road and the Independent Living/Assisted Living building sets back 107.5 ft. at its closest point which exceeds the minimum requirements of the zoning ordinance. The side yard requirement is 5 ft., but a corner lot is 15 ft. The north and south property lines are side yards and the setback requirements for the north property line is 5 ft. while the south property line abuts a proposed public street, 85th Circle, and that setback is 15 ft. The rear yard setback requirement is 25 feet and the northwest property line is the rear yard. The Skilled Nursing/Memory Care building sets back 91.8 feet 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 side yard setback requirement and therefore is permitted to build to a 45-foot height. The maximum calculated height of the buildings is 36' which is well within the height maximum.

The maximum lot coverage in the R-1A district is 30%. The first floor footprint of the buildings is 119,165 sq. ft. including the carports which is 21.4% lot coverage. Therefore, the proposed project is within the maximum requirements of the zoning ordinance.

Off-street parking is required to setback 15 feet from a street and 8 feet from all other property lines. Parking setbacks meet the minimum 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 191 less trips than the middle school, but the PM trips would increase by 14 trips. The traffic impact would be significantly better in the AM peak and slightly worse in the PM peak. The Traffic Impact Study found that the traffic operations were acceptable. The main access drive has been designed to align with 84th Terrace and the proposed public street has been designed to align with 85th Street. The convenience to the public should be minimally impacted and the impact at peak times should be less than the former 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 Preliminary Stormwater Management Study has been reviewed by the City's Stormwater Consultant and the proposed improvements will handle the stormwater runoff. The Stormwater Management Plan has been revised based upon the new plan.

The applicant has proposed a 35-foot wide landscape buffer along Mission Road. The landscape buffer will include a berm, plant materials and wall or fence sections to screen the parking lot from Mission Road.

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 eliminated when it redevelops.

The neighbors have raised several issues that may have a negative impact. First, this operation will be 365 days a year rather than just the days school was in operation. Traffic, lights and noise are a concern. Lighting will be at a greater level than the school because the proposed facility is larger and is spread over more of the site. The project will be required to meet the outdoor lighting code which is restrictive. Glare will be eliminated but glow from the lights will still occur. Since this operation is staffed 24 hours a day, vehicles coming on site and leaving during shift changes will create some noise. Parking during holidays could be a problem and the applicant will need to make sure traffic can be accommodated without parking on adjacent streets. All these concerns will still be present regardless of what use the property is redeveloped for, except perhaps, another school. Since the applicant eliminated the Villas and is platting the south 200 feet of the site into a public street and single-family lots, some of the negative impact should be mitigated for the neighbors to the south and southwest.

The proposed project will have some adverse effects on the welfare and convenience 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 or relatives. It is anticipated that by providing senior housing, some 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 310 units on 12.8 acres for a density of 24.2 units per acre. The density of the proposed project is higher but reasonably compares to the developed projects to the north and northwest. Even though it is higher in density there is significantly more green space on the site.

While there is high density to the north and northwest, the proposed development immediately to the south and southwest is low density single-family lots. Nine single-family lots are proposed along the south and southwest property lines of the project. The lots range in size from 17,485 sq. ft. to 30,590 sq. ft. These lots will face a public street and the proposed senior dwelling development. From a land use perspective it is preferable that similar uses face each other and different uses are back to back. An ideal design would be for 85th Circle to be double loaded with single-family lots on both sides. The lots on the north side would then back into the senior housing project. However, since the senior housing project and single-family lots are being developed at the same time, people purchasing these lots will know what type of development will occur across the street.

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 effect 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.

Two appraisal reports, both prepared by licensed appraisers, have been submitted to address the impact on adjacent properties and the following is a brief summary of those reports.

An appraisal was prepared for the applicant by Todd Appraisal. This appraisal looked at other properties, schools and senior housing centers in residential neighborhoods. The appraiser prepared a case study on Brighton Gardens and concluded that adjacent residential values had a premium of 2.9% to 7.9%. This was potentially attributed to the exterior landscaping at the development. Village Shalom was another case study and adjacent residents had a premium of 3.7% to 5.8% in value. A case study was also prepared for Santa Marta, but it has a very limited number of adjacent residential properties and probably is not a good comparison. The appraiser further stated that, "There appears to be a correlation between properties with extensive landscaping and the finishing treatments

for the exterior of the improvement immediately facing single family developments.” Landscaping and 360° architecture are critical to protect adjacent property values.

An updated appraisal report was also submitted by Dillon and Witt, Inc. for Steve Carmen, a property owner, on Delmar Lane. In his opinion the addition of the single-family lots along the south and southwest border of the site are helpful but they do not change the fact that a high density, multi-story facility will be built in close proximity to the existing single-family residences. In his opinion, the proposed project represents an external obsolescence which will result in a nominal negative impact on the market value of the homes of 3% to 5%.

Most of the senior living projects in Johnson County are located adjacent to or near single-family developments. The key to protecting the value 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. According to the Traffic Study, the traffic impact on the morning peak hours will be less for this project than it was for the school, while the afternoon peak hours will be slightly greater.

The size of the revised project is 325,890 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 are an issue with the neighbors. It 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 two buildings will be on the northern portion of the property, closer to the two- and three-story apartment buildings and condominiums. The height of the proposed Independent Living/Assisted Living building will be approximately the same height as the school gymnasium.

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

The applicant submitted a detailed landscape plan with the submission that provides screening for the proposed low density residential lots to the south. The applicant proposes to retain the existing plant materials along the northwest property line in order to retain as

many mature trees as possible. Staff will provide a detailed review of the revised landscape plan. The Tree Board will also need to review and approve it.

In summary, property around the proposed project for the most part 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 190 units which require 143 spaces. The Skilled Nursing/Memory Care facility has 136 beds which require 27 spaces. The applicant projects the maximum shift would have 85 employees. The total parking requirement would be 255 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 316 spaces on the site which is 61 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 35 spaces will be in carports and will not be available for staff or visitor parking.

The applicant will also need to make provisions for overflow parking on holidays and other special days that will generate a large number of visitors so that parking does not occur on adjacent residential streets.

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 adjacent to the proposed street will be screened with landscaping. Parking along the northwest property line is screened by the existing vegetation along the property line; however, additional plant materials will be provided to supplement the existing vegetation.

6. Adequate utility, drainage and other necessary utilities have been or will be provided. The applicant has prepared a Preliminary 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 of the proposed single-family lots. 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. Three BMP areas will be built on the south side of the proposed project. Inlets will be installed and excess runoff will be piped to a detention pond on the northeast corner of the site.

The Preliminary Stormwater Management Study and Plan has been reviewed by Public Works and its consultant and it is consistent with the APWA and City of Prairie Village requirements. This document may need to be updated depending upon the amount of impervious area that occurs in the final Site Plan. The final design of the stormwater system will include appropriate best management practices.

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 one access driveway point which will be in alignment with 84th Terrace on the east side of Mission Road. The access point will have an entrance and two exit lanes. The 84th Terrace access will be the main entrance to the project. A public street, 85th Circle, is proposed to be dedicated in alignment with 85th Street to serve the single-family lots. It is proposed to provide two access points to Mission Chateau.

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 191 trips during the AM peak and the PM peak will increase 14 trips compared to what existed with the school. It should be pointed out, however, that the average daily traffic will increase from an estimated 810 trips per day for the Middle School to 1075 trips per day for the proposed development

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 or odors. There will be some additional noise from vehicles arriving and departing at night, which will be different from what occurred when the site was used as a middle school. Also there will be additional emergency vehicle calls; however, they do not always respond with sirens.

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 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. The applicant proposes to develop large lot single-family dwellings immediately adjacent the south boundary of Mission Chateau. Further south and southwest are high end single-family dwellings. On 84th Terrace, east of Mission Road and to the north the lots are 12,000 to 15,000 sq. ft. On 85th Street, east of Mission Road and to the south the lots are 30,000 sq. ft. lots.

In summary the properties in the neighborhood around the proposed project range from high density apartments to high-end large lot single-family dwellings plus the office and business uses in Corinth South Center. The Mission Valley School site has served as a buffer or transitional area 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 and vacant

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 upon approval 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 in Prairie Village. The proposed application is for senior housing dwellings with a Skilled Nursing/Memory Care facility as a subordinate use.

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 and the property owner has stated that their business is developing senior living projects and that is their goal for this site.

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 and its consultants. The mass and height of the buildings and the loss of open space have also been concerns of the neighbors. The Villas have been eliminated from the plans and the proposal shows nine single-family dwellings abutting the south and southwest property lines with a public street. This provides an additional 200 ft. buffer between the existing single-family homes and the proposed senior housing project.

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. The neighborhood will lose the open green space they have enjoyed for many years. The height and mass of the building are concerns; however, that concern is mitigated to a degree by the row of single-family lots adjacent to the south boundary of Mission Chateau. The existing school building is approximately 100,000 sq. ft. The Skilled Nursing/Memory Care building is 97,550 sq. ft. and the Independent Living/Assisted Living building is 228,340 sq. ft.; a little more than two times the size of the existing school. The height of the two proposed buildings 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 maximum height to the ridgeline of most of the Independent Living/Assisted Living building is 36 feet even on the three-story portion. There are a few areas where the roof ridgeline is 40 feet but they are very limited. The roof ridgeline of the Skilled Nursing/Memory Care building is 38 feet for the most part, but a few areas are at 40 feet. It should be noted again that the Skilled Nursing/Memory Care facility is now proposed to be three-story compared to one- and two-story on the previous proposal. The building is taller but the footprint is reduced significantly providing more open space. This height is similar to many single-family homes in Prairie Village; however, the mass of the building is much greater.

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. The property will start to deteriorate and become a negative factor in the neighborhood if it is not reused or redeveloped within a reasonable time.

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 mixed density 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 proposed plan 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 was prepared by the applicant, reviewed by Public Works and the City's Traffic Engineer and the issues have been resolved. The number of units in the revised plan is less than the previous plan, so the traffic impact will be somewhat less.
- b)** A Stormwater Management Plan was prepared by the applicant, reviewed by Public Works and the City's Stormwater Consultant and has been approved. The impervious area of the proposed plan is less than the previous plan and should not increase stormwater runoff.
- c)** The density of development is 24.2 units per acre which is in the mid-range 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 so it is greater but not significantly.
- d)** The applicant has proposed a row of single-family lots along the south and southwest property lines adjacent to the low density single-family residences. This provides a transition from low density in the south to higher density in the north. The single-family lots are not a part of the Special Use Permit application but the land is owned by the applicant.
- e)** The major buildings set back from the property lines as shown on Sheet C1, dated October 4, 2013.
- 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, 6.45 acres of the 12.8 acres will be green space when the project is completed, though only a portion will be useable open space.
- h)** The design of the Skilled Nursing/Memory Care facility should be reanalyzed to reduce the square footage to at least the previous proposal.
- i)** The maximum peak height of the buildings will be 40' which is approximately the same height as the gymnasium, but this is only in a few locations on the Independent Living/Assisted Living building. Most of the three-story area will be 36'

in height. The Skilled Nursing/Memory Care facility will also be three-story and the maximum height to the roof peak will be 40 feet. The density of the project is reasonable for the size of the land area. The mass and scale of the buildings are still very large, but the building design will reduce the appearance of mass.

- j) The applicant proposes to build both buildings at the same time rather than phasing as proposed in the previous submittal and this condition needs to be attached to the Special Use Permit if it is approved.
- k) The proposed senior housing community provides a good transition between the low density residential development to the south and southwest and the higher density residential area, office and retail to the north and northwest. The site is located within walking distance of Corinth Square Center which provides most of the merchandise and services required by the residents and guests of the facility.
- l) The applicant has proposed an extensive landscape treatment for the site including a buffer along Mission Road. The final landscape plan will be approved as a part of the Site Plan. The landscape plan will be a major component of the compatibility of the project with the surround neighborhood.

8. Conformance with the Comprehensive Plan.

It was not anticipated when Village Vision was prepared 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 held a number of meetings with area neighbors on the original application 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; reducing the number of units, reducing the height of the buildings, and moving the buildings further north on the site, 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 if approved as a Special Use Permit.

One of the issues the Plan listed was density. The proposed project has 310 units on 12.8 acres of land for a density of 24.2 units per acre which is about the same as the apartments and condominiums on the northwest, but much greater than the single-family dwellings to the east, south and southwest. The applicant has proposed a public street and a row of single-family lots along the south to provide a distance buffer for the adjacent single-family residences.

The proposed developer has met with the surrounding neighbors and has discussed 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. Some residents have suggested that the development will significantly increase municipal service demands to the site. City Staff has examined other similar facilities and their service demands and has determined that the project will not significantly increase City service demands nor require the hiring of additional staff and the purchase of additional equipment.

RECOMMENDATION:

After a review of the proposed application, consideration of testimony and making its findings in relation to the Factors for Consideration previously outlined, the Planning Commission may either recommend approval of the Special Use Permit with or without conditions, recommend denial, or continue it to another meeting. In granting this Special Use Permit; however, the Planning Commission may impose such conditions, safeguards, and restrictions upon the premises benefited by approval of the Special Use Permit as may be necessary to reduce and minimize any potentially injurious effect on other property in the neighborhood. If the Planning Commission recommends approval to the Governing Body, it is recommended that the following conditions be included:

1. That the Senior Dwelling project be approved for a maximum of 84 Skilled Nursing Units; 36 Memory Care Units; 136 Independent Living Units; and 54 Assisted Living Units. The maximum number of residents shall not exceed 378.
2. That the applicant reanalyze the design of the Skilled Nursing/Memory Care facility and reduce its square feet to at least 91,200 sq. ft.

3. That the project not exceed the building height or square footage and the buildings shall not be setback closer to the property lines than shown on the plans dated October 4, 2013.
4. That the Special Use Permit not have a termination or expiration time established for it; however, if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to the expiration.
5. That prior to the issuance of a building permit for the Skilled Nursing/Memory Care facility the owner shall provide evidence of financing for the entire project. That prior to the issuance of a certificate of occupancy for the Skilled Nursing/Memory Care facility, construction shall commence on the Independent Living/Assisted Living facility including material completion of construction including foundations, structural framing, three floors and roof enclosed.
6. Upon approval of the Special Use Permit, the applicant shall prepare a final landscape plan for the entire project which shall be reviewed and approved by the Planning Commission and the Tree Board.
7. That the applicant relocate the pedestrian crosswalk and signal if required by the City.
8. That the applicant plat the property in accordance with the subdivision regulations and record the final plat prior to obtaining a building permit including the nine single-family lots adjacent to the south boundary of the application area.
9. That the applicant meet all the conditions and requirements of the Planning Commission for approval of the Site Plan.
10. That the applicant submit a final outdoor lighting plan after building plans have been finalized for review and approval by Staff prior to obtaining a building permit.
11. That the applicant provide adequate guest parking on holidays and special events so that parking does not occur on public streets in residential areas including 85th Circle.
12. That the minimum parking shall be established by the drawing dated October 4, 2013. If parking becomes an issue, the applicant will work with the City to resolve the parking problem. Possible solutions could include, but not limited to, providing more spaces on site, providing employee parking at an off-site location or sharing parking with other uses in the area. If additional on-site parking is proposed, the applicant shall submit an amended Site Plan for review and approval by the Planning Commission.

13. That the trails and sidewalks will be open to the public, but the owner may establish reasonable rules for its use and hours of operation.
14. If the applicant violates any of the conditions of approval or the zoning regulations and requirements as a part of the Special Use Permit, the permit may be revoked by the Governing Body.

Mr. Williamson noted the applicant has requested that condition #2 be reviewed by the Commission.

Nancy Wallerstein noted the City will be doing a storm drainage study on the channel in this area and asked if that would have any impact on this project. Keith Bredehoeft, Director of Public Works, responded the City would be studying the "Fontana Channel Drainage" which will address upstream of the northwest corner of this property. Mrs. Wallerstein asked if the City would be looking at water erosion to the east. Mr. Bredehoeft replied the water flow from this project due to the on-site detention pond will be reduced significantly to the east of this property.

Bob Lindeblad asked for clarification on permitted use vs. change of use. Ron Williamson responded that permitted uses are permitted outright in the code and no zoning change or public hearing is required and no further review by the Planning Commission or Governing Body such as a single-family dwelling located in a single family district. They just need to obtain a building permit.

Bob Lindeblad confirmed a change from one permitted use to another permitted use does not require a zoning change. Mr. Williamson replied - none is required.

Nancy Wallerstein asked who will be responsible for paying for the necessary capital improvements necessitated by this project. Ron Williamson responded the developer has to pay for everything on the project. The street will be built and designed to meet city standards, but the cost of construction will be the responsibility of the property owner. There will be very little cost to taxpayers. Staff has reviewed this project relative to other major projects and no additional City staff will be required; no additional equipment will need to be purchased.

Nancy Vennard questioned if the trails and sidewalks connected to public trails and sidewalks as they are not shown on the site plan. Mr. Williamson replied they will be addressed on the plat since the pedestrian connection to Somerset Drive is located on one of the single-family lots. and they are reflected on the plat.

Gregory Wolf noted he was uncomfortable with the action to block off 200' and asked if this was a concern. David Waters replied the 200' notification area is defined by the special use permit area in the city's code and this interpretation has been confirmed by an attorney general opinion issued which states that if an application area is smaller than the actual lot, the measurement is taken from the boundaries of the special use area.

Nancy Vennard stated the home owners very clearly stated on the earlier application that they did not want the villas as proposed, but wanted single family houses backing up to the properties on 86th Street. This plan provides that and the size of the single family lots is consistent with those on the adjacent property. The applicant has given the neighborhood what it stated it wanted.

Greg Wolf said the 350,000 square foot plan was too large when constructed on 18 acres and now it is being constructed on 12.4 acres.

Bob Lindeblad stated the proposed site plan is the same as the previous plan submitted except the villas have been removed and in their place single family homes are being constructed which are required to be platted. The area covered by the actual senior living community is essentially the same. The Independent/Assisted Living facility is the same size and location as the previous plan. The new combined Skilled Nursing/Memory Care facility actually has a smaller footprint providing more green space with the building being only eight feet taller.

The intensity of the development has not increased. The transitional element has changed from rental villas owned by the applicant and thus shown as part of the project to having independently owned single family homes that are required to be platted separate from the proposed senior living complex.

Nancy Wallerstein asked about the new appraisal study which was not given to the Commission. Mr. Lindeblad asked for a synopsis of the study. John Petersen stated the findings of the study do not change in substance. The study was done using the new site plan with the single family homes located to the south. The study found that "The development of single family homes is more likely to maintain value than to act as a hindrance to market acceptance. There is little doubt that the purposes of creating an additional buffer between the prospective Mission Chateau development will have been well served."

Nancy Vennard stated she is satisfied with the new size of the Skilled Nursing/Memory Care facility to allow for increased marketability with today's standards. She noted the rooms designed 20 years ago at Brighton Gardens are very small for today's market. She would accept deleting condition #2. Bob Lindeblad agreed.

Nancy Wallerstein stated that Village Vision stresses community accessibility and asked if the public would have access to their walks, trails and open areas. Ron Williamson stated the trails, walks and parks throughout the project will be available for use by the public. John Petersen stated that from the beginning the community was designed to welcome public interaction with its residents.

Bob Lindeblad stated in reviewing the findings of fact that staff presented after their significant review of the project he finds them consistent and agrees with the staff evaluation of the findings. Regarding the Golden Factors, he finds this is an appropriate use of this property as a transitional site. This is residential land use and not

commercial. The professional planning and engineering staff have shown that there will not be a substantial negative impact on adjacent properties. The plan does conform to the City's master plan. There was a very large amount of neighborhood input throughout the process, noting that input does not mean agreement.

Bob Lindeblad moved the Planning Commission find favorably on the ordinance factors and the Golden Factors and forward PC2013-11 to the Governing Body with a recommendation for approval subject to the following conditions:

1. That the Senior Dwelling project be approved for a maximum of 84 Skilled Nursing Units; 36 Memory Care Units; 136 Independent Living Units; and 54 Assisted Living Units. The maximum number of residents shall not exceed 378.
2. That the Skilled Nursing/Memory Care facility not exceed 97,550 sq. ft.
3. That the project not exceed the building height or square footage and the buildings shall not be setback closer to the property lines than shown on the plans dated October 4, 2013.
4. That the Special Use Permit not have a termination or expiration time established for it; however, if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to the expiration.
5. That prior to the issuance of a building permit for the Skilled Nursing/Memory Care facility the owner shall provide evidence of financing for the entire project. That prior to the issuance of a certificate of occupancy for the Skilled Nursing/Memory Care facility, construction shall commence on the Independent Living/Assisted Living facility including material completion of construction including foundations, structural framing, three floors and roof enclosed.
6. Upon approval of the Special Use Permit, the applicant shall prepare a final landscape plan for the entire project which shall be reviewed and approved by the Planning Commission and the Tree Board.
7. That the applicant relocate the pedestrian crosswalk and signal if required by the City.
8. That the applicant plat the property in accordance with the subdivision regulations and record the final plat prior to obtaining a building permit including the nine single-family lots adjacent to the south boundary of the application area.
9. That the applicant meet all the conditions and requirements of the Planning Commission for approval of the Site Plan.

10. That the applicant submit a final outdoor lighting plan after building plans have been finalized for review and approval by Staff prior to obtaining a building permit.
11. That the applicant provide adequate guest parking on holidays and special events so that parking does not occur on public streets in residential areas including 85th Circle.
12. That the minimum parking shall be established by the drawing dated October 4, 2013. If parking becomes an issue, the applicant will work with the City to resolve the parking problem. Possible solutions could include, but not limited to, providing more spaces on site, providing employee parking at an off-site location or sharing parking with other uses in the area. If additional on-site parking is proposed, the applicant shall submit an amended Site Plan for review and approval by the Planning Commission.
13. That the trails and sidewalks will be open to the public, but the owner may establish reasonable rules for its use and hours of operation.
14. If the applicant violates any of the conditions of approval or the zoning regulations and requirements as a part of the Special Use Permit, the permit may be revoked by the Governing Body.

The motion was seconded by Nancy Vennard.

Nancy Wallerstein stated she was uncertain on action with the pending lawsuit. She doesn't know what the applicant's intent was in filing the lawsuit.

David Waters stated there are no established guidelines to address what impact subsequent action by the District Court would have or if upon approval the applicant would dismiss the pending lawsuit. John Petersen stated it is Mr. Tutera's intent to build a senior living community not to litigate.

The motion was voted on and passed by a vote of 4 to 1 with Gregory Wolf voting in opposition.

Staff announced that the recommendation would go before the Governing Body on Monday, January 6th. The meeting will be held at Village Presbyterian Church.

**PC2013-126 Site Plan Approval - Mission Chateau
8500 Mission Road**

John Petersen with Polsinelli, 6201 College Blvd., Suite 500, addressed the Commission on behalf of MVS, LLC. He stated that most of the issues with the Site Plan for this application were covered in the earlier related Special Use Permit discussion. The applicant agrees with the staff recommendation with the exception of

#17, which is the same as condition #2 of the Special Use Permit that the Commission amended.

Ron Williamson noted that these plans are conceptual and there would be significantly more detailed plans submitted at a later date. He reviewed the site plan criteria on the plans submitted for review at this point in time.

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 557,632 sq. ft. with a total footprint of 119,165 sq. ft. for both buildings and the carports, which is 21.4% lot coverage. Approximately 6.35 acres of the 12.8 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 per city requirements to accommodate the proposed development.

The applicant proposes to plat a single row of single-family lots with a public street immediately adjacent to the south and southwest boundary of the proposed Senior Housing Community. Consideration of the lots is not a part of this development but affects it and will be addressed separately on the Preliminary Plat which has been submitted.

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 fire hydrants are properly located.

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

The applicant has prepared a Preliminary 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 original Stormwater Management Plan was prepared based on the previous plan and used 8.6 acres of impervious area. The impervious area on the proposed plan is 6.35 acres not including the single-family lots. 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 one. A new drive will be in alignment with 84th Terrace and a new public street, 85th Circle, will be dedicated in alignment with 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 driveway on Mission Road. The internal driveways will be 26 ft. wide back of curb to back of curb which will easily allow for two cars to pass and speed limits will be low.

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 turning radius for emergency vehicles and delivery trucks appears to be tight and needs to be rechecked and revised. Deliveries are proposed to enter and exit the north driveway which is the main entrance to the development. There will be two access points to 85th Circle from the private driveways, but it is not intended to use them for delivery vehicles. The curve in the drive at the northeast corner of the site needs a larger radius to accommodate cars.

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

The applicant has proposed a single row of R-1A single-family lots facing a public street adjacent to the south property line that back up to existing single-family dwellings. They will serve as a transition between the existing single-family dwellings further south and the larger buildings. It should be pointed out; however, that it is better for like land uses to face each other and different land uses to back up to each other. Therefore, it would be more desirable for single-family lots to also be laid out on the north side of 85th Circle and back up to the Senior Housing community. The design has also located the two large buildings away from Mission Road and away from the south and southwest property lines. The Skilled Nursing/Memory Care facility was located 317 ft. from the existing residences abutting the southwest property line. The distance from the northwest property line at its closest point is 91.5 ft. A parking lot is proposed along the northwest property line and there are some steep slopes that will be created in that area. Additional landscaping is proposed in that area to supplement 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 by Public Works.

The first floor elevation of both 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 3 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.

The Skilled Nursing/Memory Care facility is now three stories and the maximum height to the ridgeline is 40 feet. By combining the Memory Care with the Skilled Nursing on one floor plan, the amount of building coverage has been reduced and more open space is available. The majority of the three-story portion of the Assisted Living/Independent Living facility is 36 ft. in height. A few areas will reach 40 ft. in height. It is generally in the same location as in the previous application. A portion of the south and southwest wings will be two-story.

The Skilled Nursing/Memory Care facility has been moved further north on the site to provide a greater buffer for the existing and proposed single-family dwellings to the south.

In general the Site Plan works; however, there will be a number of details that will need to be worked out with Staff 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, brick 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 and brick to stucco seems appropriate. Staff had requested that the applicant provide more masonry on the building facades, 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. The carport design needs additional thought and Staff will work with the applicant to prepare a more compatible design.

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 prepared 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 held a number of meetings with area neighbors on the original application 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; reducing the number of units, reducing the height of the buildings, and moving the buildings further north on the site, 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 if approved as a Special Use Permit.

One of the issues the Plan listed was density. The proposed project has 310 units on 12.8 acres of land for a density of 24.2 units per acre which is about the same as the apartments and condominiums on the northwest, but much greater than the single-family dwellings to the east, south and southwest. The applicant has proposed a public street and a row of single-family lots along the south to provide a distance buffer for the adjacent single-family residences.

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. Some residents have suggested that the development will significantly increase municipal service demands to the site. City Staff has examined other similar facilities and their service demands and has determined that the project will not significantly increase City service demands nor require the hiring of additional staff and the purchase of additional equipment.

It is the recommendation of Staff that if the Planning Commission recommends approval of the Special Use Permit, approval of the site plan be subject to the following conditions:

1. That the applicant prepare a plan showing the location and design of all signs for review and approval by the Planning Commission.
2. That the applicant submit a final outdoor lighting plan in accordance with the Outdoor Lighting Ordinance for Staff review and approval after the outdoor lighting has been specified for the buildings and prior to obtaining a building permit.
3. That the applicant will implement the Stormwater Management Plan and submit final plans for the stormwater improvements for review and approval by Public Works.
4. That the applicant shall obtain all necessary permits from the Corps of Engineers and State of Kansas regarding drainage and flood control and shall prepare erosion control plans as required.
5. That all HVAC units except wall units be screened from adjacent streets and properties.
6. That all trash bins and dumpsters be screened.
7. That final plan details, including both the site plan and the building elevations, shall be reviewed and approved by Staff based upon the conceptual plans approved by the Planning Commission.
8. That the applicant incorporate LEED principles and practices as reasonable and practical in the demolition and final design of the project.
9. That the applicant submit the final Landscape Plan to the Planning Commission and Tree Board for review and approval.
10. That the applicant install a sprinkler system for the lawn and plant materials and the plan be approved by Staff.
11. That the applicant fence the detention pond and the final fencing plan be approved by Staff.
12. That the internal drives and roads be constructed to City Standards. Plans and specifications to be approved by Public Works.
13. That the applicant install fire hydrants at locations designated by the Fire Department.
14. That the applicant be responsible for plan review and inspection costs associated with the construction of the facility.

15. That the applicant work with Staff to redesign the carports so they are more compatible with the buildings.
16. That the applicant submit final plans for the retaining walls to Public Works for review and approval.
17. That the applicant reanalyze the design of the Skilled Nursing/Memory Care facility and reduce its square feet to at least 91,200 sq. ft.
18. That the applicant review the turning radius for all vehicles on the private drives and revise them where appropriate subject to the review and approval of Public Works.

Nancy Vennard noted in condition #8 the city is requiring the applicant to incorporate LEED principle and practices as reasonable and practical in the demolition and final design of the project; however, in condition #10 requiring the installation of a sprinkler system. She would like to see the following language added:

- #8 That the applicant incorporate LEED principles and practices as reasonable and practical in the demolition, final design, construction and operation of the project.
- #10 That the applicant install a sprinkler system for lawn and plant materials and wherever possible use native plants that need sprinkler systems sparingly with the plants to be approved by Staff.
- #17 That the Skilled Nursing/Memory Care facility not exceed 97,550 square feet.

Nancy Vennard moved the Planning Commission find favorably on the criteria and approve PC2013-126 Site Plan for Mission Chateau at 8500 Mission Road subject to the conditions recommended by conditions:

1. That the applicant prepare a plan showing the location and design of all signs for review and approval by the Planning Commission.
2. That the applicant submit a final outdoor lighting plan in accordance with the Outdoor Lighting Ordinance for Staff review and approval after the outdoor lighting has been specified for the buildings and prior to obtaining a building permit.
3. That the applicant will implement the Stormwater Management Plan and submit final plans for the stormwater improvements for review and approval by Public Works.
4. That the applicant shall obtain all necessary permits from the Corps of Engineers and State of Kansas regarding drainage and flood control and shall prepare erosion control plans as required.
5. That all HVAC units except wall units be screened from adjacent streets and properties.

6. That all trash bins and dumpsters be screened.
7. That final plan details, including both the site plan and the building elevations, shall be reviewed and approved by Staff based upon the conceptual plans approved by the Planning Commission.
8. That the applicant incorporate LEED principles and practices as reasonable and practical in the demolition, final design, construction and operation of the project.
9. That the applicant submit the final Landscape Plan to the Planning Commission and Tree Board for review and approval.
10. That the applicant install a sprinkler system for lawn and plant materials and wherever possible use native plants that need sprinkler systems sparingly with the plants to be approved by Staff.
11. That the applicant fence the detention pond and the final fencing plan be approved by Staff.
12. That the internal drives and roads be constructed to City Standards. Plans and specifications to be approved by Public Works.
13. That the applicant install fire hydrants at locations designated by the Fire Department.
14. That the applicant be responsible for plan review and inspection costs associated with the construction of the facility.
15. That the applicant work with Staff to redesign the carports so they are more compatible with the buildings.
16. That the applicant submit final plans for the retaining walls to Public Works for review and approval.
17. That the Skilled Nursing/Memory Care facility not exceed 97,550 sq. ft.
18. That the applicant review the turning radius for all vehicles on the private drives and revise them where appropriate subject to the review and approval of Public Works.

The motion was seconded by Bob Lindeblad and passed by a vote of 4 to 1 with Gregory Wolf voting in opposition.

**PC2013-127 Preliminary Plat Approval - Mission Chateau
8500 Mission Road**

Bob Lindeblad moved the Planning Commission continue application PC2013-127 Preliminary Plat Approval for Mission Chateau at 8500 Mission Road to the February 4, 2014 Planning Commission meeting. The motion was seconded by Nancy Vennard and passed unanimously.

OTHER BUSINESS

Consider proposed amendment to add reapplication waiting period

Ron Williamson noted the January agenda already has six items on it that were moved off this agenda. He briefly summarized the proposed ordinance amendment that would add a waiting period before a denied application could be resubmitted to the Planning Commission for consideration. Based on what is done by other cities, staff is recommending a six month waiting period.

Nancy Wallerstein stated she is not ready to authorize a public hearing to consider this. She feels the proposed amendment is a knee-jerk reaction to the Mission Chateau filing. She asked if this has been an issue any other time. Mr. Williamson noted the Council recommendation was a split 6 to 5 vote.

Ken Vaughn agreed that the Commission should not authorize a public hearing until it feels it wants to recommend the change. He feels this need more discussion and consideration by staff.

Bob Lindeblad requested to move this item to the January 7th agenda for discussion.

Joint Meetings

Nancy Vennard noted that in the past the Governing Body met jointly annually to discuss expectations, issues and visions. She felt those were beneficial and would like to have a joint meeting in 2014. Danielle Dulin stated she would follow-up with the City Administrator.

NEXT MEETING

The January 7, 2014 meeting will be held in the Council Chambers of the Municipal Building. It includes four public hearings for special use permits for before/after school daycare programs in Prairie Village elementary schools, an application for site plan approval and for sign approval.

ADJOURNMENT

With no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 10:00 p.m.

Ken Vaughn
Chairman