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PLANNING COMMISSION AGENDA
CITY OF PRAIRIE VILLAGE

TRANSCRIPT
OF
PROCEEDINGS

taken on June 4, 2013, beginning at 7:00 p.m., at
the Village Presbyterian Church, 6641 Mission
Road, in the City of Prairie Village, County of
Johnson, and State Kansas.

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APPEARANCES

ON BEHALF OF THE APPLICANT:

Mr. John D. Peterson
Polsinelli Shughart, PC
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PLANNING COMMISSION:

Keith Bredehoeft
Ron Williamson
Dennis Enslinger
Gregory Wolf
Nancy Vennard
Randy Kronblad
Ken Vaughn, Chairman
Nancy Wallerstein
Bob Lindeblad
Dirk Schafer
Andrew Wang
Joyce Hagen Mundy - Secretary

1 CHAIRMAN VAUGHN: We were in the process
2 of hearing from the public when we ended that
3 evening and now we're ready to continue.

4 MR. DUGGAN: Thank you, Mr. Chairman and
5 members of the commission. John Duggan on behalf
6 of the Mission Valley Neighbors Association, and
7 we're going to continue with our presentation.
8 Bob, could you put up Slide 1?

9 CHAIRMAN VAUGHN: Keep the microphone
10 close to you because we don't pick up otherwise.

11 MR. DUGGAN: I'll do my best.

12 CHAIRMAN VAUGHN: All right.

13 MR. DUGGAN: What we want to do is just
14 try to summarize where we had finished last time
15 we were here. And according to Mr. Peterson's
16 statements that he made on behalf of the
17 developer, Santa Marta was the most comparable
18 senior facility to the one being proposed by the
19 developer and applicant in this case. As we've
20 identified in Slide 1 -- go to Slide 2, Bob --
21 this obviously presents a significant and massive
22 development to be placed on the subject site,
23 three stories in height. Go to the next slide,
24 please. You can see that this facility at 294,000
25 square feet roughly is around 23,000 square feet

1 bigger than the primary building. I'm doing my
2 best to speak into the mic. Apparently, it's
3 echoing.

4 THE SPEAKER: Feedback.

5 MR. DUGGAN: All right. I'm going to
6 keep proceeding forward. Hopefully, the echo will
7 diminish here momentarily. As you can see from
8 the slides -- in this particular Slide No. 4, you
9 can see this is a massive project, it's three
10 stories in height. Once again, as we've
11 identified in the prior presentation, we ended up
12 with this project, the Santa Marta project being
13 roughly 294,000 square feet in this facility. Mr.
14 Tuter's proposed main building is 271,000 square
15 feet. The overall square footage for the project
16 as proposed by the applicant is 384,000 square
17 feet, which is approximately four times, four
18 times the density of the school right now. Our
19 understanding is the school is around 100,000
20 square feet.

21 As we're going to outline for you, we think
22 the proposed intensity of the use by the applicant
23 is so intense that it needs to be reduced
24 substantially. And what we're going to end up
25 proposing to the commission after we take you

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1 through what we think are some very salient facts
2 and figures, is that you should actually, if
3 you're going to contemplate an approval, approve
4 something that's comparable in the -- to the
5 existing size right now, which is about 100,000
6 square feet. And we've got a very logical
7 argument. You've established a precedent already
8 in Prairie Village with the most recent approval
9 of a senior facility.

10 If you go to the next slide, Bob, should be
11 Slide 5. That's the site plan for Santa Marta.
12 As we identified previously, there is substantial
13 green space around the Santa Marta project. I've
14 actually walked it. You can physically see when
15 you're out there, that there's substantial areas
16 that are dedicated for green space. We're going
17 to show you the density per acre on this project
18 is about one-fourth in the number of residents to
19 what's being proposed by Mr. Tutera.

20 Go to the next one slide, please, which is
21 Slide 6. This is the site plan which we discussed
22 extensively with the commission the last time we
23 were here. And if I may, you can see that our
24 concerns were with the ring road that went around
25 the perimeter of the existing site. We also are

1 going to be able to show you some very appropriate
2 views of the south side and the east side of this
3 building. We had Pete Oppermann, who is a land
4 planner, actually do a visual for my clients to
5 show them what you're going to see from Mission
6 Road and what you'll see if you're one of the
7 residents that lives on the south side of the
8 project.

9 Go to the next slide, please. We also, in
10 review of the elevations last time we were here,
11 pointed out to the commission that, obviously,
12 this is the proposed project by Mr. Tutera. The
13 Mission Road view, which is this view right here
14 (indicating), we identify as being roughly at 520
15 feet long, almost two football fields. That's
16 what it's going to look like from Mission Road.
17 If you look at the south side, which is where a
18 lot of the single-family residents are, that's the
19 south side view of the proposed project.

20 Go to the next slide, please. Our graphics
21 are certainly not as dynamic as those supplied by
22 the developer, but Pete Oppermann shows us kind of
23 a massing detail for this project, which we
24 understood from the staff's prior comments, was
25 something that they wanted to see. They wanted to

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1 understand more appropriately what the massing and
2 the density of this project would look like. On
3 the Mission Road elevation, if you look at the
4 slides that we provided to you, when you actually
5 see the villas and the skilled nursing that will
6 be extending from the ends of the main building,
7 for the 271,000-square foot building, you're
8 actually going to be confronted with roughly 748
9 total feet of building that will be visible from
10 Mission Road.

11 If you look at the south and southwest
12 property elevations, you're going to be able to
13 see on that, that there is approximately 800 feet
14 of building that's exposed to the residents on the
15 south side. You can also see that the pictures
16 that were presented last time by the developer of
17 how the villas would perhaps screen the size and
18 the density of the building that's being proposed
19 as the primary facility, 271,000 square feet, just
20 isn't so. You'd have to be literally a midget
21 hiding behind a rock not to be able to see a
22 three-story building protruding up above
23 single-family or a duplex ranch-style product, it
24 just doesn't happen.

25 If you were to go to your neighborhood,

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1 anybody stand in your front yard and say, well, if
2 there's a three-story, 45-foot tall building
3 behind a ranch home, I wouldn't be able to see it,
4 don't divorce yourself from common sense. You're
5 going to be able to see this building from
6 literally all of the residences that abut to it.

7 Go to the next slide, please. Slide 9, we
8 want to just reiterate that if the commission
9 recommends approval, that not only will you have
10 the second largest single residential building in
11 your city, you'll also have the third largest.
12 All you'll be do -- doing is replacing the current
13 second place runner, Claridge Court, with Mr.
14 Tuter's building. Both of which will be running
15 second and third to Santa Marta, which we showed
16 you the pictures earlier, the massive building in
17 Olathe.

18 Go to the next slide, please. We want to
19 reiterate for the commission the facts and figures
20 that we supplied to you in a summary fashion that
21 the square footage per acre proposed by the
22 current development is roughly 21,122 square feet
23 compared to the most dense commercial development
24 in the city at this juncture of 11,902 square feet
25 per acre. Obviously, this project is massive in

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1 scale, it is extremely dense, far more dense than
2 the significant projects you've already got in the
3 city.

4 Go to the next slide, please. My clients and
5 -- and their consultants take exception with some
6 of the analysis done by the staff in its report.
7 The staff likes to use density numbers that we
8 think are totally insignificant and really not
9 supported by more logical analysis. The staff
10 wants to look at units per acre, the staff wanted
11 to look at other -- what we consider the false
12 analyses. We thought, let's look at some of the
13 larger senior living projects in Johnson County in
14 the Kansas City metropolitan area and actually
15 look at how many residents they have on a per acre
16 basis.

17 We looked at Tallgrass. It's got 300
18 residents on 65 acres. It's 4.6 residents per
19 acre. Lakeview, you can see the mathematical
20 calculation, I can even do that one. 750 divided
21 by 100 is 7.5 residents per acre. Santa Marta,
22 the massive project that we showed you at the
23 outset, 342 residents on 46 acres, 7.5 residents
24 per acre. Benton House, what we consider to be an
25 appropriate precedent by the City of Prairie

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1 Village, 71 residents on -- for -- including a
2 future phase of 12 additional residents, if they
3 build it, on 6.79 acres is roughly ten residents
4 per acre. Mission Chateau, 451 residents on 18
5 acres, it's 25 residents per acre. You can see
6 these numbers tell a different story than what's
7 been presented thus far. This is obviously a
8 dense, dense, massive project.

9 Go to the next slide, please. What we did is
10 we clipped some quotes from a recent Olathe news
11 article regurgitating and reporting on some of the
12 reasons why the Olathe Planning Commission and the
13 Olathe City Council have actually turned down a
14 development of an apartment project that Mr.
15 Peterson is involved in. I think these are
16 actually appropriate considerations.

17 First, the proposed apartment complex that a
18 developer wants to build in Olathe might not see
19 the light of day. Why not? The planners believe
20 the complex is too dense for the area which is
21 surrounded by single-family residential homes.
22 According to the news article, it was a high
23 profile project that impacts surrounding
24 neighborhoods and there were a lot of residents
25 who were upset about the density and the height of

1 the buildings. It included 550 units, some of
2 which were three-story buildings on the south
3 property line adjacent to residential. According
4 to the news article, a lower density project would
5 be more appropriate for specifically the
6 transition from the single-family homes.

7 Some of the identical issues that the
8 surrounding property owners are asking you to
9 consider, other planning commissioners and other
10 city councils are turning down developers because
11 they want projects that are too dense. I think
12 there's some misinformation that's been circulated
13 to planning commissioners and city council
14 members. We've heard some disturbing reports
15 that, quote, city council members and planning
16 commissioners suggesting that they don't have the
17 authority to turn down this project. The fact of
18 the matter is, you have all the authority. And
19 we're going to touch on that later on and tell you
20 exactly what we think the law provides on the
21 simple issue of aesthetics and the height and the
22 mass and the density of the project.

23 Go to the next slide, please. One of the
24 real concerns that the neighbors have about this
25 project is what we consider the obvious

1 shortcomings in the parking. We went out, we did
2 some surveying, we found out how many independent
3 units there were at Santa Marta, Lakeview and
4 Tallgrass, and how many parking units they had
5 designated for those independent living units.
6 You can see that the numbers runs from 90 percent
7 to 98 percent, but that if we apply the average of
8 95 percent to the proposed project, that this
9 project would actually require 152 spaces just for
10 the independent living units. They're actually
11 suggesting to the planning commission they're only
12 going to provide 112 spaces, which leaves them 40
13 spaces short.

14 You've already had a bad experience with
15 parking. I think everybody in the audience
16 probably knows about Claridge Court. That
17 Claridge Court does not have adequate parking.
18 Where do the employees park, where do the visitors
19 park? They park in the public library, they park
20 in other areas adjacent to Claridge Court.
21 Unfortunately for my clients, the neighbors that
22 reside around this proposed project, there is no
23 public library across the street. And where are
24 all these overflow cars going to park? They're
25 likely to park up and down the streets in the

1 adjacent neighborhoods. That's just on a daily
2 basis.

3 Let's confront the annual Father's Day,
4 Mother's Day, Thanksgiving, Christmas, Easter.
5 We've done some informal surveys that suggest that
6 special events will create 50 to 200 extra
7 visitors per day. Where are those people going to
8 park? Certainly not in the limited spaces that
9 are being provided by this project. And on those
10 special event days, you're going to see all types
11 of overflow parking going into the adjacent
12 neighborhoods that comes with all of the issues
13 that are associated with that. We think the
14 planning commission, and we think that the staff's
15 analysis of the parking needed for the project is
16 woefully inadequate and should be upgraded.

17 But why is that going to be consistent with
18 so many other oversights in our view? Because
19 more parking is going to reduce density, it's
20 going to reduce this purported green space that
21 they're suggesting that they're offering, which we
22 really don't believe is much green space at all.

23 Go to the next one, please. We were
24 recommended by staff to come up with some type of
25 a suggestion as to what we think would be an

1 appropriate density level on this project. We --
2 we were instructed and advised that it might be
3 helpful to the commission to have our view of what
4 would be appropriate. We thought, well, let's go
5 look at the most recently approved project, the
6 Benton House precedent. It was built on the
7 Somerset Elementary School. Which we did the
8 research and the elementary school before it was
9 torn down was 49,800 square feet. The school site
10 is 6.79 acres.

11 The Benton House currently has 59 units
12 available. They have the right, as we understand
13 it, to build 12 additional units. The existing
14 square footage of the building is 39,512 square
15 feet. When they get the additional 12 units,
16 they're at 71. The estimated square footage after
17 the expansion is 47,548 square feet. Actually,
18 less than the school that they tore down by a
19 couple thousand feet. Seems to make a lot of
20 sense to us, particularly given that Village
21 Vision says that one of the primary goals of the
22 city is to retain green space.

23 Go to the next slide, please. If you look at
24 Benton House, you can see that they have
25 maintained the green space very similar to what

1 was there before the school was torn down. Go to
2 the next slide, please. You can see that they did
3 a very appropriate one-story building with some
4 attractive dormers. Obviously, with significant
5 green space -- go to the next slide, please --
6 surrounding the facility.

7 We look at that and we say, well, if you were
8 to apply the similar standards established by the
9 Benton House precedent, the existing school is
10 about a 100,000 square feet. What would be wrong
11 with a 100,000 square feet building maintaining
12 all the green space that's currently available,
13 just like what was done on Benton House? Why, why
14 should the neighbors surrounding this site be
15 required or even requested to have this developer
16 not just double the square footage, not just
17 triple the square footage, but to go to four times
18 the existing square footage? It just doesn't make
19 any sense.

20 We were asked to make a proposal to the
21 commission about what makes sense. Benton House
22 as a precedent makes a lot of sense. Suggesting
23 that we ought to go from a school that was 49,800
24 and the city approving a 48,000 square foot senior
25 living facility to a situation where we have a

1 school that's approximately 100,000 square feet to
2 now go to almost 400,000 square feet, we think is
3 beyond the pale. You asked for our
4 recommendation. We think that Benton House as a
5 precedent is sensible. It achieves the goals of
6 the city in maintaining the open green space. It
7 certainly maintains and -- and implements the
8 city's goal of trying to create some type of
9 income-producing, tax-generating revenue from the
10 property, just like what was done in Benton House.

11 Go to the next slide, please. We feel like
12 the Benton House project -- and go to the next two
13 slides, please -- would be a very good
14 illustration of what kind of limitations and
15 parameters the developer should be encouraged to
16 work within on this site. Not come in with a
17 three-story building, two-and-a-half football
18 fields long on the south side that all the
19 neighbors have to look at, which is so intense
20 that it almost dominates everything surrounding
21 it. And we're going to talk about that in terms
22 of why would the city even want to do that, why
23 are we even having this conversation? It doesn't
24 seem to be very sensible based upon prior
25 precedent.

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1 Go to the next slide, please. The next one,
2 please. Next. We did a little research and we're
3 a bit concerned and I think this is a massive
4 blind spot in the analysis of the city thus far.
5 And we think that this is something that should be
6 brought to the forefront. 82 percent of all
7 national CCRC's are not-for-profit as reported by
8 the LeadingAge report that we have a copy of. And
9 they cite the Ziegler National CCR (sic) Listing
10 and Profile, a publication of Ziegler Capital
11 Markets.

12 Well, why is that significant, why would we
13 report that fact to you? Because if this
14 developer so chooses to sell this property at some
15 point, whether it's a year from now or five years
16 from now, 82 percent of the people that are his
17 buyers are not-for-profits. That, to me, should
18 be something that would cause your radar screen to
19 start beeping very brightly. I'm sure after the
20 developer gets an opportunity to comment, he will
21 assure you beyond any doubt he'll never sell this
22 project. That is a hollow promise. Because
23 everybody knows circumstances change, business
24 plans change, ownership groups change.

25 What ends up happening if you approve this

1 project and one of the stated desires that we've
2 heard over and over again is to generate some type
3 of tax revenue for the city? We're going to point
4 out to you that we don't think it's worth the
5 city's time to sell out the traditions of Prairie
6 Village for what we think is very incremental tax
7 revenues, particularly given if the developer
8 chooses to sell, 82 percent of the people that
9 constitute the potential buyers are
10 not-for-profits, which doesn't do very much good
11 to the city's desire to have tax revenues
12 generated from this project. You've already got
13 Claridge Court. Our understanding is it's not
14 generating any tax revenue for the city.

15 We also did a brief review and we came to the
16 conclusion that some of the larger facilities in
17 Kansas City are, in fact, not-for-profit.
18 Lakeview, Tallgrass, Aberdeen, Santa Marta,
19 Claridge Court and Village Shalom. At the end of
20 the day, we think the city needs to pay very close
21 attention to this potentiality. You may approve
22 something and you may get what you want, but you
23 may not really want what you're going to get. And
24 that's the potential sale of the facility to
25 somebody else that's a not-for-profit, which would

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1 create incredible strains on the city's services
2 without any tax revenues to offset them.

3 Go to the next slide, please. We'd like the
4 planning commission to certainly consider this
5 entire issue of -- because we think it's part of
6 the implicit message that's being communicated to
7 you, we're going to generate a lot of tax revenues
8 from this building. We've heard the number of
9 \$107,000. We actually did a little research and
10 some of the some of the homes that are adjacent to
11 this site, we pulled their tax records. The
12 actual taxes paid to the city on this particular
13 property is roughly \$1,477.62. Because my math is
14 not all that great, I just rounded it to \$1,500
15 and made the bold assumption based upon Todd
16 Bleakely's presentation last time and based upon
17 other common experience, that 18 acres would
18 generate roughly 50 home sites. 50 home sites at
19 \$1,500 a year is about \$75,000 a year in property
20 tax revenues for the city. The net difference,
21 the delta between what this project as proposed in
22 its massive scale and density and what a
23 single-family residential community might generate
24 is around \$32,000 a year in property taxes. Is
25 that something that the city really wants to

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1 change the character of the city for is \$32,000 a
2 year? Put it in perspective. The city's annual
3 budget is \$26.5 million per year. A net increase
4 of \$32,000 a year on your budget is .0001. If you
5 took that on \$100, it's 10 cents. Is that really
6 worth it to the city to change the character of
7 Prairie Village for 10 cents on \$10.

8 Please, I just caution the audience, the
9 planning commission has really asked us to be
10 professional. And they know how emotional most of
11 the people here are about this. I would just ask
12 you to be courteous, please, and hold any cheers
13 or anything like that in accordance with the
14 chairman's request.

15 At the end of the day, we think that when you
16 start looking at these issues in a more elucidated
17 fashion, drilling down into some of the details,
18 all of the luster of these fancy drawings and the
19 tax revenues and everything else really begin to
20 fade. They fade so badly that I don't think
21 they're really worth us taking the time to push
22 this issue forward. We think when you start
23 looking at this thing closely, you have a
24 wonderful tradition in Prairie Village right now.
25 Don't trade it in for 10 cents on 100 bucks, it's

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1 not worth it.

2 Go to the next slide, please. We now want to
3 take the time to what we think, as I discussed
4 last time, a request that you use some common
5 sense. You got a report from the city's attorney
6 and you've seen some indications in the staff's
7 reports that a reasonable interpretation of your
8 ordinance would be that the present tense of the
9 language about subsidiary accessory uses also
10 means the future tense. And I asked you the last
11 time we were here not to divorce yourself from
12 common sense.

13 We didn't have a chance to review the
14 Michigan case. Since that time, I've had a more
15 complete opportunity to read it. I hope that
16 you'll have an opportunity to read it, because I
17 don't think you need to be a lawyer to understand
18 what it says. It's very simple. That case stands
19 for the proposition that somebody who has the
20 right to park their boat in their back yard should
21 have the right to park their boat in the back yard
22 even if the house isn't built because you can
23 always determine what the front building line is.
24 It doesn't have anything to do with the subsidiary
25 accessory use. That issue never came up in that

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1 case. All it said was, well, we can always figure
2 out what the front building line is. And if the
3 ordinance merely means park the boat behind that,
4 surely that shouldn't prohibit the person from
5 parking the boat behind that line.

6 What we found interesting is, is there are a
7 number of jurisdictions that have decided the
8 precise issue that we think that you're confronted
9 with. Should you, in fact, consider a special use
10 application that asks to approve in Phase I the
11 subordinate accessory use before the primary use
12 is there? Well, the Ohio Appellate Courts, the
13 New Jersey Appellate Courts, the Massachusetts
14 Appellate Courts, we can go on and on and on, have
15 ruled on the precise issue. We cite -- and we can
16 get you a copy of the case -- the Pecchio v. Saum
17 case, which is an Ohio Appellate Court decision.
18 And in that case, the court held, if you don't
19 have the primary permitted use, you can't have an
20 accessory use to it by definition. It makes a lot
21 of sense. We said to you last time, would you
22 really approve somebody to build the tool shed in
23 their back yard before the house existed? Of
24 course, you wouldn't.

25 Go to the next slide, please. The Mola v.

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1 Reiley case, another New Jersey Supreme Court
2 decision reached the exact same conclusion.
3 Somebody wanted to build the accessory use before
4 the primary use was available. Go to the next
5 slide. That court -- and I've got a Kansas case
6 that's very similar to this -- said, listen, it
7 doesn't mean accessory primary to, it is
8 subordinate to. It's something that's dependent
9 upon and pertaining to, subordinate to or
10 accompanying. The primary use must be first and
11 must be dominant to the accessory use. The court
12 concluded the fact that there cannot be an
13 accessory use where the primary use has not been
14 demonstrated to be in place.

15 Go to the next slide. Village of Old
16 Westbury v. Hoblin, a 1955 New York case reached
17 the exact same conclusion. You can't have an
18 accessory use until you've established the primary
19 use. Go to the next case, a Massachusetts case.
20 I can't pronounce it, Mioduszewski v. Town of
21 Saugus. The court reached the exact same
22 reasoning. You don't approve an accessory use
23 without approving the primary use. They define
24 the accessory uses as the subordinate uses that
25 are only derived from the primary use.

1 Why we didn't find those cases and apply the
2 common sense that those courts applied, I don't
3 know. But I want to make this point. You're not
4 bound by what that opinion was from legal counsel
5 because they didn't tell you what the most
6 reasonable interpretation was. They only told you
7 an reasonable interpretation would be present
8 tense means future tense. They didn't say divorce
9 yourself from common sense. Use your common
10 sense. There's a lot of other courts around the
11 country from a lot of states that have used their
12 common sense and reached the conclusion, you don't
13 approve the accessory use without having the
14 primary use in place.

15 The Kansas courts have also addressed the
16 issue. Go to the next case, please. In Trent v.
17 City of Pittsburg, Kansas, the Kansas Court of
18 Appeals decided an accessory use case. And in
19 that case, the Kansas Court of Appeals dealt with
20 the same issue. There was a tool shed in the back
21 yard of somebody's house in Pittsburg, Kansas and
22 they decided to remodel it and rent it out to some
23 college students. And people complained and the
24 owner said, well, it's an accessory use because
25 the college students are watching my house when

1 I'm out of town. The city didn't buy it and the
2 courts didn't buy and they said, we're not going
3 to buy that, that's not an accessory use. They
4 used common sense, we're asking you to use your
5 common sense. You shouldn't be approving
6 accessory uses until the primary use is approved.

7 Which brings us to another interesting point.
8 Your very zoning ordinances require that any
9 structure -- keep in mind, this 18 acres had been
10 platted as one single parcel, one lot. Under your
11 zoning ordinances, by definition, is a single lot.
12 Therefore, the primary building is the primary
13 use. Although staff has not identified this,
14 we've never heard it articulated explicitly by
15 anybody from the developer's team, we are making
16 the bold assumption that the 271,000 square foot
17 building is the primary use, that the skilled
18 nursing facility is an accessory use because
19 they're trying to use that part of the statute,
20 the ordinance, to say it is an accessory use to
21 the senior leaving facility.

22 But it begs the question, what about the
23 duplexes? We've heard nothing from the staff,
24 we've heard nothing from the developer. The
25 duplexes, because they're separate stand-alone

1 buildings, we believe must be an accessory use to
2 the 271,000-square foot building. Our belief is
3 they've got their own kitchens, they've got their
4 own garages, they've got their own driveways,
5 people can live in one of those duplexes without
6 ever going into that 271,000-square foot building.

7 How in the world are the duplexes an
8 accessory use to the 271,000-square foot building?
9 Once again, we think it's an oversight, but
10 certainly, it doesn't comply with the letter of
11 your zoning ordinances. Accordingly, we ask you
12 to take a hard look at these issues and to make
13 some common sense determinations as to whether you
14 should recommend approval of this project or not.

15 Go to the next slide, please. This is
16 something we want to bring to your attention
17 before some of the other speakers come up and
18 articulate some of their heartfelt concerns about
19 any recommendation for approval of this project.
20 The Kansas Court of Appeals made a very stark and
21 important decision in the case of R.H. Gump
22 Revocable Trust V City of Wichita. The court
23 concluded that aesthetics alone, under the Golden
24 Factors, the one single issue of aesthetics was
25 sufficient to turn down a rezoning application.

1 The court held that the district court had cut to
2 the essence of the case.

3 In this case, the developer sued the city
4 because they wouldn't approve his cell tower
5 because it was too tall and people could see it
6 and they were offended by its unsightly
7 appearance. The city didn't try to rationalize
8 any of the other Golden Factors, it focused in on
9 one single factor and that was the aesthetics.

10 Go to the next slide. The court of appeals
11 said, we disagree with the developer. Because the
12 developer was saying that the city was irrational,
13 that the city didn't have the right to make a
14 decision based purely on the aesthetics and the
15 nature and the harmony of the neighborhood. The
16 court of appeals said, we disagree. The court of
17 appeals said that in preserving the character of a
18 neighborhood was not a legitimate purpose of a
19 zoning ordinance because the result -- or this is
20 what the developer claimed, was the result of
21 aesthetics only and not related to the public
22 welfare.

23 The court said ultimately, holding that
24 preserving the residential character of the
25 neighborhood was a legitimate purpose of a zoning

1 ordinance was set forth in their holding in the
2 Houston case. And they quoted it. And they said,
3 in the state of Kansas, since 1923, we've
4 recognized in a zoning case that there is an
5 aesthetic and cultural side of a community
6 development which may be fostered within the
7 reasonable limitations. The concept of public
8 welfare is broad and inclusive. We want you to
9 take a broad and inclusive view of public welfare
10 tonight.

11 The values it represents are spiritual as
12 well as physical, aesthetic as well as monetary.
13 It is within the power of the legislature to
14 determine that the community should be beautiful
15 as well as healthy, spacious as well as clean,
16 well-balanced as well as carefully patrolled. The
17 police power is not confined to the elimination of
18 filth, stench and unhealthy places. It is ample
19 to lay out zones where family values, youth values
20 and the blessings of quiet seclusion and clean air
21 make the area a sanctuary for people. That is the
22 sentiment, the heartfelt desire of most of the
23 residents of Prairie Village. Don't sell your
24 soul for 32,000 bucks a year to build this massive
25 development. It doesn't make sense for your city.

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1 We have a number of people now that would
2 like to speak. I'm actually going to come back up
3 and if you'll indulge me one more time and make
4 our closing summary under your factors and the
5 Golden Factors. At this time, I'd like to invite
6 Jori Nelson to come up and share her thoughts and
7 feelings about Prairie Village and this project.

8 THE SPEAKER: Excuse me. I'm new at
9 this. My name is Jori Nelson, 4802 West 69th
10 Terrace. There are two statements I wish to make
11 this evening. I'll preface this by saying that
12 Councilwoman Ashley Weaver was absent during this
13 discussion and is removed from this statement. On
14 behalf of the Prairie Village Homes Association
15 Board of Directors, we would like to urge the City
16 of Prairie Village to stay within the factors of
17 Golden vs. Overland Park when considering any
18 development within the city. I was born and
19 raised here. I attended Briarwood Elementary,
20 Meadowbrook Junior High and graduated from Shawnee
21 Mission East in 1981.

22 When it came time to purchase my home, I
23 chose Prairie Village. First and foremost, I
24 loved my city. I loved growing up here and I knew
25 I wanted to raise my children here. My son

1 graduated from East and my daughter just finished
2 her junior year. I plan to grow old here and age
3 in place. I'm very active in my community. I
4 have been on the Prairie Village Homes Association
5 Board of Directors, the largest and oldest
6 homeowners association in Prairie Village, for
7 many, many years. I was recently elected vice
8 president after serving for several years as
9 president.

10 While I live north of 75th Street, I wanted
11 to say that my opposition isn't about, not in my
12 back yard, this is about the future, the vision of
13 our city. The Village Vision was adopted by the
14 planning commission on May 1st, 2007. Many of you
15 were part of that process; Mr. Kronblad and Mrs.
16 Vennard as planning commissioners; Mr. Vaughn as
17 Chairman of the Village Vision steering committee
18 and Chairman of the planning commission; and Mrs.
19 Wallerstein, a stakeholder at that time. Tonight,
20 please ask yourself if this project meets those
21 visions that you spent years researching,
22 discussing, creating and adopting. Is this
23 massive development a good fit for that
24 neighborhood or for the future of our city?

25 JC Nichols was the man who had the for fight

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1 -- foresight and ingenuity to develop and design
2 Prairie Village. He wrote a speech in 1948 that
3 is as pertinent today as it was 65 years ago
4 entitled Planning For Permanence. He stated that
5 cities are handmade. Whether our American cities
6 are physically good or physically bad is our
7 responsibility. The city that fails to take
8 inventory of the conditions under which it lives
9 and transacts its business and fails to take
10 account its growing needs and plans for the future
11 will not only suffer in its competition for
12 supremacy and fail to appeal to families from
13 throughout its territory to come live in the city,
14 but it will also fail to hold its own citizens
15 seeking the most desirable place to transact their
16 business and rear their families.

17 In 1970, we had a population of 28,378. In
18 the last census, 2010, our population had declined
19 to 21,447, a decrease of 7.5 percent. Families
20 are moving south to Overland Park, Leawood and
21 Olathe. Olathe has had to build new schools to
22 accommodate their growth. Prairie Village on the
23 other hand, has had to close Somerset Elementary,
24 Ridgeview Elementary, Porter Elementary and
25 Mission Valley Middle School. This loss of

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1 population is a trend that must not continue.

2 These families and professionals are the future of
3 our city.

4 In the Village Vision, a detailed analysis of
5 the age and amenity characteristics of Prairie
6 Village housing stock, it appears that Prairie
7 Village is losing households with growing children
8 and those in their prime earning years to
9 neighboring jurisdictions with more diverse
10 housing stock, more modern amenities and more
11 contemporary houses. Tonight, I'll discuss with
12 you the goals, conceptual framework development
13 principals and land use rec -- recommendations
14 from the Village Vision, your vision, that is
15 applicable to this permit request. The goals that
16 you made that were intended to ensure the
17 long-term sustainability of our community. I'll
18 also point out specific goals that are stated in
19 the village -- Village Vision that align with
20 Golden vs. Overland Park.

21 Goal No. 1: Community character and
22 activities. Provide attractive, friendly and safe
23 community with a unique village identity appealing
24 to a diverse community population. Participants
25 of the Village Vision express -- expressed a

1 strong preference for trying to attract more
2 diversity to the area in terms of race, ethnicity,
3 religion, family size and income. In particular,
4 they wanted to see more young people, especially
5 young families, moving to Prairie Village. This
6 massive development will not attract diversity and
7 it's not the vision for our future.

8 Goal No. 2: Community facilities and
9 services. Provide diverse community recreation
10 areas, cultural programs, parks and green spaces
11 with a well-maintained infrastructure and
12 excellent city services. While the Tutera group
13 states that this complex will leave approximately
14 ten acres of what they call open space, they are
15 actually leaving only three small pockets of green
16 space. These open spaces are inconsequential
17 compared to the bulk and density of this
18 development. The remaining 6 acres are unusable
19 acres because they are located in a flood zone and
20 also include the detention pond. The project with
21 its proposed density diminishes a great -- a great
22 deal of green space, which is contrary to several
23 objectives that you wrote in the Village Vision.
24 The Village Vision specifically identifies the
25 need to retain green space in our land --

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1 landlocked city.

2 Goal No. 3: Housing. Encourage
3 neighborhoods with unique character, strong
4 property values and quality housing options for
5 families and individuals of a variety of ages and
6 incomes. In the Village Vision, it discussed the
7 important role our housing stock plays in defining
8 our community. Housing options in terms of type,
9 location, size and price should meet the needs of
10 current residents and anticipate the needs of
11 future residents. They believe neighborhoods
12 should be able to accommodate young and old,
13 families and individuals alike. This massive
14 development does not meet the needs of the
15 majority of our current residents and does not
16 offer a divide -- diversity of housing that the
17 future residents are seeking and is not the vision
18 for our future.

19 No. 4: Land resources. Encourage a
20 high-quality, natural and man-made environment
21 that preserves the community character, creates
22 identity and sense of place and provides
23 opportunities for renewal and redevelopment. One
24 of the eight Golden Factors is community
25 character. And this will in no way preserve our

1 charming community character. This massive
2 development in no way preserves our community
3 character. It does not create the sense of
4 identity and a sense of place that we are known
5 for and is not the vision for our future.

6 Prosperity, No. 5. Promote a strong economy
7 that meets the needs of the residents and attracts
8 visitors. This massive development does not meet
9 the needs of the majority of our residents and is
10 extremely prosperous for the Tutera Group, will
11 only bring in \$107,000 in tax revenue. It is
12 estimated that this would offset in the loss of
13 neighborhood property values, taxes of at least
14 \$40,000 and is not the vision for our future.

15 Conceptual framework development principals
16 that you wrote in the Village Vision.

17 Principal No. 1: Integrating development.
18 Development should help repair or enhance existing
19 neighborhoods or create new ones, should not take
20 the form of an isolated project. This massive
21 development is an isolated project. It does not
22 enhance the existing neighborhood and is not the
23 vision for our future.

24 Principal No. 2: Incorporating open space.
25 Development should incorporate open space in the

1 form of plazas, squares and parks and may be used
2 for civic uses. This massive development will
3 dominate the neighborhood, leaves little open
4 space and is not the vision for our future.

5 Principal No. 3: Creating safe and stable
6 neighborhoods. The physical design of a
7 neighborhood should create a sense of identity.
8 Buildings should be oriented to face the street in
9 order to keep more eyes on the street and enhance
10 public safety. These buildings are not oriented
11 to face the street and will in no way enhance our
12 public safety. This massive development will
13 dominate the neighborhood and is not the vision
14 for our future.

15 Principal No. 4: Promoting high-quality
16 design in the built environment. The image and
17 character of development should respond to the
18 best traditions of residential architect --
19 architecture in the area. Building height and
20 bulk should be consistent, even though buildings
21 may be of various shapes and sizes. This massive
22 development's building height, bulk and density
23 will dominate the neighborhood and is not the
24 vision for our future.

25 Principal No. 5: Create a range of housing

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1 choices. Create a range of housing types and
2 price levels should be provided to bring people of
3 diverse ages, races and incomes into daily
4 interaction. This massive development does not
5 create a range of housing types and price levels
6 and is not the vision for our future.

7 Principal No. 6: Leveraging investment.
8 Areas within existing neighborhoods or along
9 corridors should be reclaimed by using
10 redevelopment strategically to leverage current
11 investment and strengthen social fabric. This
12 massive development is not strengthening our
13 social fabric or strengthening the neighbors'
14 current home investments and is not the vision for
15 our future.

16 Your Appendix A to the Village Vision,
17 development and redevelopment conditions, states
18 that, redevelopment is certainly an option, but
19 redevelopment needs to take place strategically,
20 but not only -- by not only respecting, but
21 enhancing the relationship of one land use to
22 another. Land is a valuable resource, and once
23 committed to it, it is often difficult to modify
24 or change that use to another use. Like many
25 suburban communities, the current land use pattern

1 is a district result of classifying land into
2 single-use areas as a part of zoning or
3 districting process. Residential uses are
4 separated from commercial, multi-family are
5 separated from single family, offices are
6 separated from commercial uses and so on. The
7 resulting pattern segregates or physically
8 separates normally compatible uses from another.
9 This proposed development does not address any of
10 these issues in a true and meaningful way.

11 Under land use and economics in the visual --
12 Village Vision, it states, like other cities,
13 costs required to maintain and provide services
14 continues to increase. Our landlocked city is
15 highly reliant on property and sales tax revenue.
16 The city's tax base has difficulty keeping up with
17 the service demands placed upon it. What strain
18 will this massive development put on our already
19 overly taxed services, especially if the developer
20 chooses to apply for a not-for-profit status or
21 sell it down the road as they -- and they choose
22 to apply for a not-for-profit status? As stated
23 earlier, 82 percent of all CCRC's are
24 not-for-profit.

25 Land use. Locate higher-density houses at

1 the edges of neighborhood on underutilized sites
2 along corridors and major -- major intersections.
3 This massive development is not at the edge of a
4 neighborhood or at a major intersection. It would
5 be located in the middle of an established
6 neighborhood in the middle of the block and is not
7 the vision for the future.

8 Develop edges of neighborhoods with a
9 diversity of housing. With more housing choices,
10 residents can remain in Prairie Village even as
11 their housing needs change over time. This
12 massive development does not create a diversity of
13 housing for a diversity of residents and is not
14 the vision for our future.

15 Mr. Nichols said, an intelligent city plan
16 thinks impartially for all parts of the city at
17 the same time. It does not forget the greater
18 needs of tomorrow in the press of today. It
19 recognizes the economy of preventative measures
20 over corrective costs. It is simply good,
21 practical common sense. He continues, today,
22 almost every city of any considerable size is
23 spending immense sums in correcting the evils of
24 its past city building. Fire risks, health
25 standards, traffic needs, economic business

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1 hazards, protection of homes' surroundings,
2 stability of property values, and many other faces
3 of city life are crying out for better planning of
4 our cities to meet both their present and future
5 needs. I believe that if this massive development
6 moves forward, we will all be paying the
7 corrective cost -- cost for decades to come.

8 Regarding zoning, Mr. Nichols set the
9 standards. He stated, zoning is merely the
10 application of common sense and fairness in
11 governing the use of private property. It is
12 placing the public welfare above individual and
13 selfish rights. I'll repeat that statement.
14 Zoning is application of common sense and
15 governing the use of private property and it is
16 placing the public welfare over the -- over and
17 above individual welfare and selfish rights. It
18 protects an owner in the enjoyment of his property
19 rights from unreasonable injury by the owner of an
20 adjoining property and taking unfair advantage of
21 his neighborhood. Zoning checks the haphazard,
22 piecemeal, selfishly directed growth of the city
23 according to the whim or desire of every
24 individual owner and establishes higher standard
25 of general benefit and public welfare from which

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1 eventually, every piece of property and every re
2 -- resident of the city procures greater gain.

3 He continues with this direction for the
4 zoning board. When an area has been zoned for
5 specific uses and investments have been made
6 depending on those uses, the board should be
7 extremely cautious in later changing the zoning to
8 higher uses. Where a certain area has been zoned
9 for single residences, two-family homes or
10 apartments, the zoning board enforcement officials
11 and the neighborhood itself must always be on the
12 alert to prevent encroachment of other uses
13 detrimental to such areas, otherwise, basic home
14 values can be quickly undermined. He continued by
15 stating, let us encourage our planning boards not
16 to yield to selfish demands and permit unnecessary
17 destruction of sacred home neighborhoods by spot
18 zoning.

19 While this speech was written more than a
20 half century ago, it is almost as -- as if he is
21 speaking directly to you tonight about this
22 project at this time. If you are using the
23 Village Vision to direct private development
24 decisions like this, you must be certain that the
25 property owner -- developers' proposals are

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1 consistent with the plan's recommendation. I have
2 given you many examples this evening of why it
3 does not. You, the planning commission of today
4 and the planning commission of the past and the
5 residents and stakeholders adopted the Village
6 Vision. Please honor that vision, your vision,
7 for the future of Prairie Village. This is not
8 the direction we want our city to go.

9 In closing, I ask you, what do you want the
10 future of our city to look like ten, 20, 50 years
11 from now, for our children and our grandchildren?
12 How will future generations look back at this
13 decision that you are about to make? Is this what
14 you want for your legacy? I do not believe that
15 this is what JC Nichols envisioned for our city.
16 I do not believe that this is what you, the
17 planning commission, the residents and
18 participants of the Village Vision envision for
19 our city. How could it be? This plan is
20 completely contrary to the goals, the conceptual
21 framework principals and the land use stated in
22 the Village Vision. The Tutera group is
23 requesting a special use permit to change our
24 city's master plan, the Village Vision, which is
25 one of the eight Golden Factors. I'll close with

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1 Nichols' quote, too late are the saddest words in
2 city building. Please deny the applicant's
3 special use request. It is not too late to make
4 the right choice for the future of our city.
5 Thank you. Doctor Craig Satterlee will be
6 speaking next.

7 THE SPEAKER: Okay. I'm going to talk
8 next and I have a little different style. First
9 of all, being a physician, you guys have all sat
10 here too long on your back side, we can just call
11 it a weapon. And if you wouldn't mind, just take
12 a -- stand up just a minute and kind of stretch a
13 little bit and move your legs up and down.
14 Because you've been very patient so far.

15 CHAIRMAN VAUGHN: Let's please come to
16 order. Mr. Satterlee, Mr. Satterlee --

17 THE SPEAKER: Yes.

18 CHAIRMAN VAUGHN: -- would you continue,
19 please.

20 THE SPEAKER: I will. Thank you. Sorry.
21 Excuse me. And thank you for this opportunity to
22 speak. I had to do something while they were
23 loading my slides. Just a second here. Okay.

24 In any case, my topic tonight is stormwater
25 treatment and then some health and safety issues

1 that we would like to discuss. In the preliminary
2 stormwater management study, this development
3 increases impervious cover on the site and
4 redirects the stormwater to the northeast corner
5 of the property. It utilizes swales, rain
6 gardens. And the majority of the site will be
7 treated utilizing a detention basin as an extended
8 detention basin. The impervious site is now 3.7
9 acres and will go up to 8.6 acres, which is almost
10 a two-and-a-half times increase.

11 Next slide. Well, let's define a couple of
12 terms. A retention pond is a wet pond. If a --
13 it's a facility that maintains a permanent pool of
14 water and utilizes evaporation to get rid of the
15 water. A detention, such as Mission Valley, is a
16 dry pond. It contains water only in the aftermath
17 of a runoff event and water is retained and
18 released into the Dykes branch over a period of
19 time of time.

20 Next slide. So this is the aerial view, this
21 is Mission Road, this is the south side. And most
22 of the water will be directed over to this
23 detention basin. Here's an example of one. Next
24 slide. This is a nearby detention basin that's up
25 on Metcalf. The water runs down from the parking

1 lots and various areas and is -- goes through
2 different stages and then comes here to the
3 outlet. You can see that it has accumulated the
4 trash from the parking lots. It's up by the
5 Wal-Mart. Now, when it rains, this fills up with
6 water which is released into the nearby stream
7 over time.

8 Next. This is a slide shot -- a screen shot
9 from the diagram provided by the developer. And
10 this is the detention pond as depicted. It's a
11 little bigger than I imagined. But it has steps,
12 I think, going up and then it has a fence around
13 it. Next slide. Well, what are some of the
14 concerns about a detention pond? It substantially
15 increases impervious area, increasing the risk of
16 downstream flooding. This is not covered by
17 homeowners insurance. Flood insurance might cover
18 the basement and the sump pump, but it doesn't
19 cover your carpets and rugs, et cetera. So the
20 folks that are downstream in Prairie Village and
21 Leawood might be affected if there were any
22 issues. If it's due to maintenance problems, the
23 city may be liable for a nuisance action.

24 Next slide. Now, extended detention basins
25 can retain water. Some of them are designed to

1 and others like this one that I took a picture of
2 (indicating) has standing water in it a few days
3 after it's supposedly all been released. And this
4 is a breeding area for mosquitoes. And the
5 mosquitoes can not only affect the surrounding
6 neighbors, but also the seniors that might be in
7 the facility. And they're more susceptible to the
8 West Nile Virus, which is a very serious disease
9 and it's an endemic in our area. Now, transition
10 to humans is becoming much more common.

11 Next slide. Well, in the Mission Chateau
12 proposal, substantial additional stormwater
13 travels over ground and it collects things as it
14 runs over the ground like pesticides, herbicides,
15 bacterial contamination, especially E. Coli, which
16 is like from animal waste; chemicals, such as coal
17 tar sealants that are on driveways and parking
18 lots. And these sealants are among the worse
19 culprits in contamination because they have
20 cancer-causing agents, what are called carcinogens
21 known as polycyclic aromatic hydrocarbons. These
22 compounds and bacteria all collect and accumulate,
23 multiplying and concentrating in the bottom of a
24 detention pond and later, are released downstream.
25 Dry detention ponds have only a moderate pollutant

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1 removal effect and are ineffective at removing
2 soluble pollutants according to the United States
3 Environmental Protection Agency. Soluble
4 pollutants are anything that can be mixed in the
5 water like your herbicides or anti-bug agents.

6 Next slide. Another concern, Johnson County
7 is scheduled for regulation in the area of
8 stormwater runoff into neighboring streams and
9 rivers. We have concerns that this will not be
10 adequately monitored and addressed, and would ask
11 that that be included.

12 Next slide. This is a satellite photo over
13 the Mission Valley site. And I'd just like to
14 orient you. This is the Mission Valley site.
15 This is Mission Road. And the pin, the red pin is
16 on the easternmost side where the retention pond
17 would be. And this right here is Corinth grade
18 school. And this right here is an apartment
19 complex with many residents and children.

20 Next slide. Now, I apologize for this
21 portion of the talk because I know that 26 percent
22 of the children under age four that are killed are
23 from drowning and there might be somebody in the
24 room that has had that experience. And I
25 apologize for mentioning this. Ages one through

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1 four, drowning remains the second leading cause of
2 unintentional injury-related death. Detention
3 ponds can have rapidly rising water levels that
4 trap children by unseen vortex flows. Because
5 they can retain the water for a few days, also
6 likely a retention pond temporarily. Now,
7 children are often attracted to stormwater
8 facilities. And although it is not feasible to
9 anticipate every public safety risk, many
10 scenarios are foreseeable and can be accounted for
11 during design. This is from Stormwater Magazine.

12 Next slide. These are just a few internet
13 articles. I don't want to dwell on them. This is
14 a drowning of a 23-month-old in Florida. This is
15 a drowning of a five-year-old in a retention pond
16 in Florida. Next. The internet's full of these
17 kind of things and articles from newspapers.
18 These are some in Texas. Seven-year-old mentally
19 disabled girl. Some children that chased after a
20 goose in a pond. This is a five-year-old boy, he
21 was playing with a boat and the water rose rapidly
22 and he was sucked into the drain.

23 So there is a program called the Water
24 Awareness in Residential Neighborhoods. And I
25 think we need to take that into consideration --

1 next slide -- because the detention basin is
2 directly across the street and a little
3 catty-corner from Corinth grade school and it's
4 right next to the apartment complex which has many
5 young people in it. An attractive nuisance is a
6 dangerous condition which is likely to attract
7 children on to their property. That's a
8 definition from U.S. legal. The FEMA, the Federal
9 Emergency Management Association, an article by
10 Hansen states that fences can actually attract
11 children and impede firefighters in the event of a
12 rescue. So I think the solution for the detention
13 basin is to put it underground. Actually, in
14 reading the water report, there's a little
15 detention basin underground in Corinth South.

16 Next slide. So in summary, we think that the
17 detention basin, if it is built, should be
18 underground for health and safety reasons with
19 adequate monitoring to regulate the discharge of
20 water for pollutants and flooding. And this is
21 just one last caveat and I'll conclude. There was
22 one study that found that dry ponds can actually
23 detract from the perceived value of adjacent homes
24 between 3 and 10 percent. That would seem to
25 affect the folks in the nearby apartment complex

1 as well as across the street. Thank you.

2 THE SPEAKER: Hello. Okay. Hi. My name
3 is Nancy Synovic. That's weird. Can I just talk
4 or do I need to use this? I need to use that?

5 MS. VENNARD: You can take it off of it.

6 THE SPEAKER: Oh, that's okay. It was
7 the echo thing. I keep wanting to look around and
8 look for myself.

9 Okay. My name is Nancy Synovic and my home
10 is at 4115 West 92nd Terrace in Kenilworth. I'll
11 begin by saying thank you to the City of Prairie
12 Village, Mr. Tutera and all of his colleagues and
13 the people of Prairie Village and Leawood who have
14 used their voices in this process. No matter what
15 their view is on the Mission Chateau project.

16 I am a second-generation Synovic to live in
17 my home. In 1960, my parents, along with
18 countless other couples of young and growing
19 families built their dream homes in Prairie
20 Village and Leawood in hopes of raising their
21 children with other like families who are drawn to
22 what this area had to offer. Fast forward to
23 2007, I purchased the same home in which I grew up
24 when my parents passed away. 53 years later, this
25 community has met and exceeded in many ways those

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1 expectations as this area is still vibrant with
2 new generations as well as the familiar faces of
3 the founding families I've known all my life.

4 Families, they are the foundation, the
5 history and the identity of this community. And
6 not just young families, but middle-aged and
7 senior, singles and couples moving to this area,
8 couples wanting to stay in their homes or
9 downsizing to area ranch homes or moving to any
10 one of the many retirement communities we have in
11 this area or even apartment complexes like the
12 ones close to my -- like the one close to my home
13 Kenilworth Apartments. The balance of our age
14 demographic -- demographic is a good one.

15 I am truly so very grateful for this process.
16 This is the first time I've ever used my voice in
17 this type of forum. I'm -- I'm just -- I'm -- I'm
18 grateful that everyone has come out all these
19 different times that we've had this meetings, it
20 just means you -- that your neighborhood is
21 important to you. And that's what I'm doing here
22 is my neighborhood is just important to me. I
23 have learned a great deal from each of the voices
24 and statistics that I've heard from both sides.

25 And while my voice continues to say that this

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1 project is simply not appropriate for the balance
2 and the intention of this neighbor --
3 neighborhood, I feel it's also important to convey
4 that I and others with similar opinions, we're all
5 your neighbors, we're the people with and without
6 children, we're your coworkers, we're the people
7 with whom you work and sit next to in church and
8 in synagogue and stand next to at the grocery
9 store, Price Chopper for me. Sorry.

10 We are not anti seniors and we are not
11 forsaking any generations. And I will proudly
12 wear an I Support Seniors Staying in Prairie
13 Village sticker just like anyone else on either
14 side. But I am also -- I'm also saying that I am
15 just not in support of such a large building in
16 the -- in -- in this area.

17 Quite simply, my statement is a strong
18 opinion about community balance in size and in
19 use. My opinion is pro my neighborhood. And I
20 believe that this proposed project just simply
21 does not fit this site. I don't have the
22 statistics, the numbers and graphs and diagrams
23 that everybody else has presented. I go by my
24 head and my heart in most of my life's decisions.
25 I think you'll all agree that when you drive

1 through this area, that there is this splendid
2 graceful rhythm to what you see and what you feel
3 in the landscape, in the trees, in the homes and
4 the neighborhoods, the way the neighborhoods fit
5 together like a carefully tended to land quilt.

6 My fear is that driving down Mission Road,
7 it's going to be, oh, neighborhood and
8 neighborhood and cute little house and lovely
9 street and, bam, what was that, and Panera and a
10 school. And I -- I -- I'm -- it sounds flippant,
11 but it's -- it just doesn't -- it just -- that's
12 what I feel it's going to be and -- and I just
13 don't feel it's appropriate. It's -- anyway, this
14 area was my home for 20-some years when it was
15 first developing. It's been my home while I
16 raised my kids in their teen years. I believe
17 that this will alter the identity of this
18 energetic, family-based, well-planned, maintained
19 and balanced community and come at a high cost to
20 its current residents as well as diminish its
21 appeal to future generations. Again, I thank you
22 for your time and for the opportunity. Thank you.

23 THE SPEAKER: Mr. Chairman and members of
24 the planning commission, my name is David Lillard.
25 My address is 3607 West 84th Terrace in Corinth

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1 Meadows, a subdivision of Prairie Village. I've
2 lived at this address for 49 years. Have been a
3 Prairie Village resident since 1957 when we
4 petitioned for annexation from Mission Township so
5 that our children could enjoy the Prairie Village
6 pool. I have served on the Prairie Village Park
7 Board for several terms. And until my retirement
8 earlier this year, was a member of the Civil
9 Service Commission and the citizens advisory
10 committee to the police department.

11 I speak in opposition to the proposed
12 development of the Mission Valley site. It is not
13 a good fit for the residential neighborhoods it
14 adjoins. It is a massive complex of structures,
15 driveways and parking spaces that eliminate any
16 reasonable use of green space. It is not needed
17 to serve the residents of Prairie Village.

18 Prairie Village is a community of
19 neighborhoods. Neighborhood schools and
20 neighborhood parks, neighborhood shopping centers,
21 churches, homes associations, garden societies,
22 and all the other ingredients of community. This
23 site is surrounded on three sides by single-family
24 homes and the fourth side by modest two-story
25 apartments. Corinth Meadows, the subdivision in

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1 which I live, is east of Mission Road, is composed
2 of 71 properties, ranch, trilevel and
3 story-and-a-half homes, typically on 12 to
4 15,000-square feet lots. This well-established
5 neighborhood would be overwhelmed by the size and
6 mass of structures proposed for the Mission Valley
7 site. Green space has always been a premium and
8 a prime concern of Prairie Village leaders, as our
9 system of park and properties reflects. My -- my
10 recollection of early park board meetings in the
11 basement of the old Payless grocery store, which
12 is now Hen House, made your -- Mayor Bennett, one
13 of our first mayors, instructions to look for
14 opportunities to set aside green space for
15 neighborhood parks. Even this pocket parks, any
16 green space we could come up with. Successive
17 mayors, councils and boards have ratified those
18 instructions over and over. And I'm sure you keep
19 that in mind in your deliberations.

20 School grounds, such as those of Mission
21 Valley have always been a part of the green space
22 equation. They are critical. They lend
23 themselves to sports and practice areas of a size
24 that can not be accommodated in space usually
25 available for parks. Just last night when I drove

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1 through that area, there must have been 60 or 70
2 kids playing soccer, softball, baseball in the
3 green space around Mission Valley. It is used
4 almost daily. The closing of Mission Valley as a
5 middle school has been a major setback for Corinth
6 Meadows, for our community. And while it is
7 unlikely that we can recover the school, it is
8 reasonable and responsible to make every effort to
9 retain a significant amount of open green space.
10 The proposed development would eliminate any
11 possibility of such use.

12 And while I'm at the stage of age of life to
13 be thinking about senior living accommodations, I
14 do not sense any lack of options in my community.
15 Certainly none to warrant such massive operations
16 as proposed for the mill -- the Mission Valley
17 site. As our lawfully constituted commission, you
18 have the authority and privilege and
19 responsibility to protect and secure our
20 neighborhoods, our community, and our way of life.
21 It's an awesome responsibility. I urge you to
22 give very careful consideration to this proposal
23 and to reject it. I appreciate your listening.
24 Thank you very much.

25 THE SPEAKER: Mr. Chairman, members of

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1 the planning commission, my name is Brian Doerr.
2 I'm at 4000 West 86th Street, Prairie Village.
3 It's my privilege and honor to be able to read a
4 position statement from former mayor Monroe
5 Taliaferro in opposition to the development of the
6 former Mission Valley Middle School site:

7 My name is Monroe Taliaferro. I live at 8101
8 Mission Road, Prairie Village, Kansas. And I've
9 lived in Prairie Village continuously since 1952.
10 I was a corporate attorney for Butler
11 Manufacturing Company in Kansas City for 35 years.
12 During the time I was employed at Butler, I served
13 for six years on the Prairie Village City Council.
14 During those years, I served on various
15 committees, including public works, public safety
16 and administration.

17 When the then current mayor resigned to fill
18 a vacancy on the Johnson County Commission, I was
19 serving as president of the Prairie Village City
20 Council. My experience of six years on the
21 council plus being a resident gave me many
22 contacts in our city. I decided to run for mayor
23 of Prairie Village. I won the first election and
24 two following elections and served as the mayor
25 from 1989 through 1999.

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1 During my ten years as mayor, the city
2 council dealt with two major developments for
3 elderly citizens, Brighton Gardens at 71st and
4 Mission Road and Claridge Court at Somerset and
5 Mission Road. Shortly after the approval of those
6 two projects, a writer for the local press called
7 to ask me if Prairie Village planned to become the
8 headquarters for the elderly in the region. I
9 reminded -- I reminded the individual the long
10 history of Prairie Village as a growing, dynamic
11 community made up of mostly single-family homes.
12 But the city council recognized the growing need
13 to provide limited corporate housing for the
14 elderly. We now have three large facilities to
15 house the elderly that were not considered as part
16 of our forward planning, Village Vision. Massive
17 developments are not compatible with our vision
18 for Prairie Village, star of Kansas. Our emphasis
19 has focused on young families with parks,
20 recreation areas, shopping centers, schools and
21 soccer fields. To ask the citizens of Prairie
22 Village after more than 70 years of dynamic growth
23 to reverse course with a promise of new, modern,
24 architecturally-pleasing structures is, quote,
25 selling out our real vision for our community.

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1 Three existing retirement communities for privy --
2 or excuse me -- three existing retirement
3 communities, Brighton Gardens, Claridge Court and
4 Benton House are enough for Prairie Village.

5 My own living and visiting experience in
6 retirement institutions ins -- indicates that
7 elderly residents living in care centers lose
8 interest in the communities or perhaps move into
9 care centers with no knowledge or interest in
10 their surroundings. My efforts to encourage
11 residents to register and vote in recent elections
12 were met for the most part with complete lack of
13 interest. New populations in Prairie Village need
14 to bring new energy, creative ideas and inspired
15 young families.

16 Most conversations in retirement communities
17 concern the evening menu, whether the mail is in,
18 or who was taken into the care center today. We
19 must not become the fading star of Kansas, we can
20 do better. Respectfully, Monroe Taliaferro.

21 Thank you.

22 MR. DUGGAN: Mr. Chairman, John Duggan.
23 And I'm going to close the Mission Valley members'
24 presentation by going through a brief analysis of
25 what we consider to be the findings that we think

1 are appropriate. I think we're on Slide 4.

2 As has been discussed at some length, one of
3 the important things for the planning commission
4 to do is to make findings of fact that support
5 whatever decision that the planning commission is
6 going to make. And to that end, one of the things
7 that's set forth specifically in the zoning
8 ordinance is that the special use permit complies
9 with all applicable provisions of the regulations,
10 including the intensity of these regulations, yard
11 regulations and use limitations.

12 We actually have identified and, I think,
13 articulated that we do not believe that it's
14 appropriate to consider the skilled nursing
15 facility as a subordinate accessory use until the
16 actual primary use is in existence. To do such
17 would be to divorce yourself from common sense.
18 We believe that the finding of fact needs to be
19 made that that building at 271,000 square feet
20 needs to be built first.

21 Secondly, we think in order to approve the
22 villas, some factual support needs to be presented
23 to the commission which would articulate the basis
24 upon which the duplexes are subordinate accessory
25 use. Absent that, there would be no viable reason

1 to approve those buildings. In addition to that,
2 we think that the whole manner in which this thing
3 has been presented has been an effort to,
4 obviously, maximize density and mass on site.
5 We're going to talk about traffic issues later on,
6 but if you were to go into this site and you
7 actually were to plat it and say, I want to build
8 a skilled nursing facility on a separate lot, I
9 want to build duplexes on separate lots, I want to
10 build a 271,000-square foot building on a separate
11 lot, and all bounded by either a private or a
12 public street, we all know that the existing
13 densities would be dramatically reduced because
14 this one lot site wouldn't comply with the setback
15 requirements under the UDO, under the zoning
16 ordinances for the city.

17 Obviously, trying to get it approved as one
18 lot, one site, with no sufficient setbacks and all
19 of the safety issues that we think are going to be
20 effectuated by the narrow street that serves all
21 these buildings is an effort to maximize density.
22 When we met with the staff, we discussed these
23 issues. And they readily admitted that the
24 developer came in and set this up and platted it
25 as separate parcels and actually dedicated a

1 street to service the duplexes, the skilled
2 nursing facility and the 271,000-square foot
3 building, that the density on the project would be
4 reduced dramatically as a result of the setback
5 requirements.

6 Obviously, we think this has all been
7 designed in a fashion to maximize densities, which
8 we think is inappropriate. Accordingly, we don't
9 think that this complies if you're to reasonably
10 interpret your own zoning ordinance, that the
11 villas and the skilled nursing facility are a
12 subordinate accessory use or that, at a minimum,
13 lot coverages and setbacks could be met if you
14 were to apply an appropriate standard for all
15 these buildings. What we believe the case is, is
16 that you have before you one of the most intense,
17 massive developments that's ever been presented to
18 the city. And accordingly, we think, in your
19 discretion, for aesthetic reasons, for community
20 harmony reasons, for all the reasons that we've
21 identified, it doesn't meet the first factor.

22 Go to the next slide, please, forward two.
23 All -- all -- also, the proposal should be
24 specified that it will not adversely affect the
25 welfare or convenience of the public. I think

1 that we've identified clear density issues, lack
2 of any real transition, parking issues, traffic
3 issues. One of the things that's never really
4 been discussed at any length in this analysis is
5 the developer submitted a traffic report to the
6 city that suggests that we're actually going to
7 reduce traffic at peak times in the morning.

8 What nobody seems to want to identify is the
9 fact that these shift changes at this facility are
10 going to occur in the evening and not in nighttime
11 hours. Those are headlights, those are people
12 talking in parking lots. I grew up in a
13 blue-collar city. I can remember my parents
14 complaining about some of our neighbors getting
15 home late at night, slamming car doors and making
16 noise. We're going to have a large number of
17 employees changing shifts right adjacent to these
18 single-family residential areas at hours in the
19 evening from 6 to 11:00 at night. And when those
20 shift changes occur, those people are not silent,
21 they're going to be just like any other shift
22 change. Those are issues that have never been
23 confronted. We think based upon the reasons that
24 we've suggested, it's going to have a significant
25 adverse impact on the convenience of the adjoining

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1 neighbors, including the public.

2 Go to the next slide, please. The proposed
3 special use will not cause substantial injury to
4 the value of the other properties in the
5 neighborhood in which it is to be located. As set
6 forth in the submissions at the last meeting, we
7 believe that actually, this is going to have a
8 significant reduction in the amount of the
9 appraised values of the properties that adjoin
10 this. We also believe that the analysis of the
11 density is using what we consider to be some red
12 herrings.

13 They come up with units per acre, they come
14 up with a discussion -- we should be on Slide 43.
15 Thank you. We come up with some discussions about
16 units per acre. And quite frankly, we just think
17 that is outside the realm of appropriate
18 discussion. We identified some hard numbers,
19 square feet per acre. This project, the 21,000
20 square feet per acre is twice as dense as the most
21 dense commercial project you have in Prairie
22 Village. To suggest that that's appropriate right
23 next door to single-family residential on a
24 special use permit for an area zoned R-1A, we
25 think, reaches the height of absurdity. That, in

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1 our view, is a density calculation that should be
2 closely reviewed by you, as the commissioners, and
3 you should reject it because it doesn't meet the
4 standards of causing substantial injury to the
5 adjoining property owners.

6 Next slide, 44, please. The location, size,
7 the use and nature and intensity of the operation
8 involved or cannot -- conducted in connection with
9 the site with respect to streets getting access to
10 it are such that the special use will not dominate
11 the immediate neighborhoods so as to hinder
12 development and use of the neighboring property.
13 One of the obvious concerns that anybody has with
14 respect to this project is, you've got a 22-foot
15 wide ring road that basically serves the duplexes
16 and the skilled nursing facility. Abutting this
17 22-foot wide road are a bunch of parking stalls.
18 And you can see this on the site plan that's part
19 of your materials.

20 Well, I have an 85-year-old dad. I'm just
21 telling you, he's not as sharp as he used to be
22 even ten years ago, he's not a very good driver.
23 I don't like riding with him. I -- I don't want
24 to be in a car when he's trying to make a decision
25 if there's an emergency vehicle coming down that

1 22-foot wide road and he all of a sudden panics on
2 something. You could have a major catastrophe on
3 your hands. Those are some of the people that
4 will be attracted to this facility. There is an
5 assurance that you're going to have a
6 concentration of elderly people. I love my dad
7 dearly, I just don't want to ride in a car with
8 him.

9 You need to take that under consideration
10 because you've got a 22-foot wide road, a typical
11 residential street is 26 feet wide. Santa Marta
12 has a 36-foot wide collector road out in front of
13 it. Those are things that are life safety issues
14 that we think are significant. How are emergency
15 vehicles going to get to all those villas, the
16 skilled nursing facility? If, in fact, an elderly
17 driver has a catastrophe, which is entirely
18 foreseeable, when an emergency vehicle wants to
19 get around there? We don't think that this is
20 appropriate.

21 We've also identified that the issues of
22 traffic in comparison to the school is also what
23 we consider to be a red herring. The school was
24 open 190 days a year. This facility is open 365
25 days a year, 24 hours a day, seven days a week.

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1 Shift changes in the evening and night hours,
2 you've got cars coming and going. This is a much
3 more intense use on traffic and the neighborhood
4 than was ever appropriate for the school. In
5 addition to that, you've now got parking lots, the
6 22-foot wide ring road, the skilled nursing
7 facility parking lots, all adjacent to the
8 single-family residential areas which currently
9 are bounded primarily by grass ball fields. We
10 think that the size, location and nature of the
11 use definitely weighs against the approval.

12 Next slide, 45, please. Off Street parking
13 and loading areas, we discussed that at some
14 length. We believe you're going to have Father's
15 Day, Mother's Day, Memorial Day, 4th of July,
16 Christmas, Thanksgiving. Our research indicates
17 that that generates 50 to 250 additional visitors
18 on these days. We believe that this parking on
19 the facility as proposed by the developer is
20 largely inadequate as it exists for the existing
21 uses, let alone these bubbles.

22 We don't have a public library like Claridge
23 Court does. Where are the people going to park?
24 They're going to filter into all of these
25 single-family residential subdivisions, which is

1 going to create traffic problems for the adjoining
2 neighborhoods. None of this has been
3 appropriately addressed.

4 F, the adequate utility drainage and other
5 such necessary facilities as Doctor Satterlee
6 identified, we think that the plan is inadequate.
7 And if you're going to use a storm discharge
8 system, it should be buried underground at a
9 minimum for life safety issues.

10 Slide 47, please. Adequate access to the
11 roads, entrance and drives. We just discussed at
12 some length a 22-foot wide driveway and my elderly
13 dad. And maybe I've got a myopic view of his
14 driving skill, I'm confident there's probably
15 other people in the room that as their parents get
16 older, their driving skills become limited. That
17 should be a viable concern for the city. The last
18 thing you want -- and this can happen -- is a
19 catastrophe to occur, because all you have is a
20 22-foot wide driveway to service that number of
21 people, could be blocked by all the people that
22 are going to be parking and entering off that
23 roadway.

24 Go to Slide 48, please. Adjoining properties
25 and the general public shall not be add -- shall

1 be adequately protected from hazardous, toxic
2 materials, unnecessary and obtrusive noises. Once
3 again, we've got a school operating from 7:30 in
4 the morning, 7 in the morning until 4:30 or 5 at
5 night. And that -- that's 100,000-square foot
6 building. Now we've got a 384,000-square foot
7 operation with full-time employees 24/7/365, cars
8 coming and going at shift changes in the evening
9 and nighttime hours. That is a significant
10 intrusion on the neighborhood, certainly a
11 significant intrusion on the adjoining
12 single-family property owners.

13 Go to Slide 49. Architectural style,
14 exterior materials are compatible with such styles
15 and materials used in the neighborhood in which
16 the proposed building is to be built or located.
17 I can't imagine a more incongruous use to this
18 site than to build a 271,000-square foot,
19 three-story building that's two-and-a-half
20 football fields long backing up to my house.

21 How in the world can anybody with a straight
22 face conceivably look any of these property owners
23 in the eye and say this is consistent with the
24 architectural style of the surrounding areas? I
25 can't imagine anybody would want to do that and

1 look somebody in the eye with a straight face and
2 say that's consistent with the surrounding areas.
3 It's not. It'd be the second largest residential
4 building in Johnson County. You saw the pictures
5 of Santa Marta. How can somebody suggest to you
6 pictures of Santa Marta that we put up here on the
7 screen are architecturally similar in any way,
8 shape or form to a single-family residential house
9 that's next door to it?

10 Let me discuss briefly the Golden Factors.
11 The character of the neighborhood. We discussed,
12 I think, at some length this proposal is entirely
13 inconsistent. This should be Slide 51. This
14 proposal is entirely inconsistent. Square feet
15 per acre, number of persons living in the site per
16 acre. 25 people per acre on Mr. Tuter's
17 proposal. All the other senior facilities,
18 including Benton House, were ten or less.
19 Two-and-a-half times the most extensive use. We
20 look at these things and we suggest this is not
21 consistent. It's difficult to conceptualize and
22 grasp the massive density of this project. It is
23 what we believe to be entirely consistent with
24 single-family residential R-1a zoning in the
25 surrounding area.

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1 Slide 52. Zoning uses of nearby property.
2 Once again, single-family residential on three
3 sides. We believe placing a 271,000-square foot
4 three-story building, two-and-a-half football
5 fields long doesn't even begin to make weight of
6 an argument that it's consistent with surrounding
7 areas.

8 Please go to Slide 54. The extent that the
9 change will detrimentally affect the neighboring
10 properties. We think that the staff has gotten
11 one thing crystal clear. It says they believe the
12 city -- the city will lose the open space that it
13 has enjoyed for the last 50 years. That is an
14 undeniable truth. When you put the 384,000-square
15 feet in all these parking lots on this site, that
16 open space is not going to be utilized by the
17 community any longer. People aren't going to hold
18 their soccer practices or their football
19 practices, nobody's going to have access to that
20 open space any longer. It's going to have an
21 absolute detrimental impact.

22 The staff report also identifies, well, the
23 site -- height of the building is no greater than
24 the height of the gymnasium. The gymnasium
25 doesn't constitute even 20 percent of what we can

1 determine of the 100,000 square feet of the school
2 site. So maybe you have a 20,000-square foot
3 portion of that building that has the height of
4 what 271,000 square feet's going to have on this
5 site. It just -- it's not even apples to oranges,
6 it's apples to cucumbers, it doesn't make sense.
7 You can't draw a conclusion that the height of the
8 proposed building is no greater than the existing
9 height of the gymnasium when one portion is about
10 20,000 square feet and the other one is 271,000
11 square feet.

12 The length of time of any vacancy of the
13 property. Once again, this is what we consider to
14 be a false premise. There is no loss of use. The
15 loss of use has been entirely up to the developer.
16 We understand he's had opportunities to sell this
17 building to a school. He's chose not to. He's
18 presented a development plan to you. There was
19 nothing that prohibited this development plan from
20 being presented a year ago. There's nothing that
21 will prohibit a successor developer or this
22 developer to come back to you if you turn this
23 project down. This is a very valuable piece of
24 property that somebody's going to want to use.
25 This use is inappropriate. It's not like it's a

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1 blighted, dormant area, it's a highly sought after
2 development site for an appropriate use.

3 Please go to Slide 56. What's hard to
4 measure here is just the hardship that's going to
5 be encountered by the surrounding property owners.
6 We've heard estimates that it could reduce the
7 surrounding property values by 10 to 20 percent.
8 Some estimates have said it's not going to impact
9 them at all, in fact, it may cause it to go up.
10 As absurd as that may sound, that was something
11 that was tendered to you, that we've got some
12 experts that say, hey, you know what, people might
13 want to buy a house next to this monstrosity.
14 Well, use your common sense once again, please.
15 You're not going to want to buy a house that backs
16 up to it, it's going to have an adverse impact on
17 the surrounding neighborhoods.

18 What we think is important is that you
19 analyze this from the alternatives. You don't
20 have to say this is the only possible use. If you
21 turn this down, guess what happens in the
22 development business? Developers go back to the
23 drawing board, they figure out something that
24 makes more sense. If you turn this down, it's not
25 like all of a sudden, the school's going to just

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1 get overgrown with weeds. We know that's not the
2 case. This gentleman didn't invest all this money
3 just to let it go to weeds, he's going to be back
4 to you with a more appropriate plan, with a more
5 appropriate scale. This is a plan that should be
6 rejected outright.

7 Next slide, please. The staff
8 recommendations, which we've identified on our
9 handout to you on page 57, we don't think gives
10 appropriate consideration to the traffic and the
11 continuous use of the building 24/7/365 as opposed
12 to the school. We also think that the staff
13 report has not -- by their open admission, they
14 have an updated report -- they feel they need more
15 information on density and mass and scale.
16 Obviously, we all do. But what little information
17 we do have in comparison to Santa Marta says in
18 bold print, no, this won't work on this site, find
19 something that's more appropriate.

20 We tender to you the Benton House press --
21 precedent, that was a 47 -- 49,000-square foot
22 school was replaced by a 47,000-square foot senior
23 facility. Maintain the green space. That seems
24 to be a very common sense approach. You have
25 100,000-square foot school, somebody wants to

1 build a 100,000-square foot senior facility, bring
2 a plan in that makes sense that preserves the
3 green space.

4 At the end of the day, we really believe that
5 the primary goals of the Village Vision are to
6 retain the green space and to provide in a
7 consistent development pattern with the prior
8 uses. There is no doubt the Kansas Board of
9 Appeals and the R.H. Gump case that I cited to you
10 earlier has told you unequivocally, you can turn
11 this down for one reason and one reason only, it
12 just doesn't look right. Aesthetically, it's
13 inappropriate. We've given you massive amounts of
14 evidence to go through every Golden Factor and
15 come back on each one of those factors and say, we
16 don't think it meets the test.

17 As set forth by the court of appeals in the
18 Gump decision, don't forget, values that are
19 represented by the planning and zoning laws are
20 not just about monetary issues, they're spiritual
21 as well as physical, aesthetic as well as
22 monetary. It's within your power as the
23 legislature to make determinations that the
24 community should be beautiful as well as healthy,
25 spacious as well as clean, well-balanced as well

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1 as carefully patrolled. Your power is not
2 confined to the elimination of filth, stench and
3 unhealthy places.

4 You have ample authority to lay out zones
5 where family values, youth values and the
6 blessings of quiet seclusion and clean air make
7 the area a sanctuary for people. Don't forget the
8 privilege, the authority, the responsibility you
9 have to the past heritage of your city and to the
10 legacy of your lead by the decisions you make.
11 But we're asking you to make an informed decision
12 and turn down the request. Thank you so much for
13 your time. By the way, Mr. Chairman, I do believe
14 there were a number of other persons that we were
15 made aware of that are not officially affiliated
16 with the Mission Valley Neighbor Association that
17 want to speak.

18 CHAIRMAN VAUGHN: We thank you for that.
19 But I think at this time, it's 9:00 and I think we
20 ought to take a ten-minute recess until ten after
21 9 and come back and listen to those people.

22 (THEREUPON, a recess was taken.)

23 CHAIRMAN VAUGHN: I know there are
24 several of you that want to speak to us, and we're
25 anxious to hear any new information that's

1 applicable to this. If you have something new, we
2 want that to be made available to us. And if you
3 have a written document that you plan to read,
4 please give that to us here so that the secretary
5 can put that in the minutes and that we can use
6 it. But we ask you to not come to the microphone
7 and read a long speech that we can read at another
8 time. We would appreciate that. And if you would
9 try not to repeat what other people have already
10 said, we would appreciate that, too.

11 So would the next person like to come
12 forward? We'd like to finish in about a half hour
13 from now with the public portion of this.

14 THE SPEAKER: Hello. I'll try to be
15 brief. My name's -- thank you. My name's Ed
16 Frisch. I live at 8511 Delmar Lane. And I'll --
17 I'll make this brief. I think this is somewhat
18 new information, only because it's not an opinion,
19 it's not an estimate. I'm here to talk
20 specifically about home and property values
21 specific to the property that I live in. Our home
22 does back up to the proposed development. And the
23 time that the property was sold to the developer
24 and today, that property has decreased in
25 appraised value by 13 percent. And that is

1 appraised by the Johnson County Appraiser. I'll
2 hand you my residential address, that information
3 can be obtained by calling the appraiser's office.
4 That's not a realtor's opinion or something else,
5 that's simply a fact. In 2010 to today, that
6 property's gone down by 13 percent. So to think
7 that this kind of development won't have an
8 impact, it has and will continue to do so. Thank
9 you.

10 THE SPEAKER: My name's Debbie Ferera
11 (spelled phonetically). I live at 4020 West 86th
12 Terrace -- or excuse me -- 86th Street. And I am
13 speaking on behalf of Esther Levin, who is my
14 neighbor who backs up to my side. So our property
15 backs up directly to the property that is proposed
16 for development. And she is ill tonight and asked
17 to be -- asked me if I would read her opinions:

18 I've lived in the neighborhood for a very
19 long time in a house for bordering the Mission
20 Valley project, for 55 years. She moved in in
21 1957. I think it's preposterous to believe that
22 this mammoth commercial enterprise would conform
23 to the character of the neighborhood when, in
24 fact, it would change the neighborhood completely.

25 I remember when there was great concern about

1 a neighbor attaching a greenhouse to his home. He
2 had trouble getting it approved because the Town
3 and Country board worried that it would become an
4 eyesore. That's how stringent the neighborhood
5 has been maintaining requirements through the
6 years. There is always been a great concern about
7 maintaining the look and feel of Prairie Village
8 and what the actual name implies.

9 I think Carson Cowart (spelled phonetically),
10 who developed the Town and Country community,
11 would be amazed to see the dimensions of the
12 proposed project. It would not only be contrary
13 to conforming to Carson's Village Vision, but also
14 the plan of the village itself by not maintaining
15 green space to retain the character of our
16 neighborhoods. As a senior citizen in Prairie
17 Village, I would not be interested in living in
18 such a massive project.

19 I want to quote from the AARP report that was
20 issued in 2011 on the needs and preferences of the
21 expanding aging baby boomers generation. The
22 report says that 80 -- or, quote, 84 percent of
23 baby boomers prefer to stay in their home as they
24 age, unquote. So that brings us -- that brings up
25 the question of what in the world would happen to

1 these gigantic buildings if the business venture
2 should fail to live up to expectations and it was
3 abandoned? What other use could there possibly be
4 for such a giant and highly specialized facility?

5 In conclusion, it's hard to believe that
6 anyone worried about the future of Prairie Village
7 would even contemplate such a large-scale
8 intrusion that would devalue the quality of life
9 and all the beautiful nearby homes that are the
10 pride of Prairie Village. Thank you.

11 CHAIRMAN VAUGHN: Again, if you have a
12 written document, if you'd like to present that to
13 us, you can do that and you won't have to read it.

14 THE SPEAKER: My name is Larry Worrall
15 and I live at 4824 West 86th Street. And I speak
16 for my daughter also who lives in -- (inaudible)
17 -- house on -- (inaudible) 87th Street. And we're
18 fortunate enough to have very large lots in this
19 particular neighborhood and how important the --
20 the green space is to us.

21 And I don't know if any of you -- I'm sure
22 you've noticed how nice it is to have Meadowbrook
23 Country Club still there and the way they've
24 cleaned up 91st and Somerset, which looks very
25 nice. And we were -- many citizens of Prairie

1 Village were very concerned what -- what might
2 happen to -- to that -- to the golf course there.

3 But in any event, I -- from my memory of the
4 -- of the meeting last that -- that we had last --
5 I guess it was two weeks ago or whenever it was,
6 was that I have a lot of concern about the
7 lighting -- or the residents in that immediate
8 vicinity about the lighting that would be required
9 to protect the residents of this -- the chateau
10 here. Because as I understand, there will be
11 memory-impaired residents, there will be much
12 traffic in and out and it's proximity to Corinth
13 Square, which is -- has become a very high-density
14 with seven exits and entrances and very congested
15 areas there at 83rd and Mission and Somerset and
16 Mission.

17 And consequently, traffic in and out of -- of
18 -- of the project here would -- I think would be
19 also affected by it by the -- the Corinth Square
20 density of restaurants and sports bars, et cetera,
21 there. But this project, it would be required,
22 because of the high duty that the project -- that
23 the owners would have to their residents,
24 especially those impaired with memory-impaired,
25 that these heights would have to be very strong,

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1 they would have to be stronger than -- than --
2 than anything we've seen around here. It'd be
3 like Yankee Stadium being lit for 24 hours, 7 days
4 a week at night.

5 And another concern I have, which wasn't
6 addressed before, was what happens -- I don't know
7 about the nonprofit senior living, but whether or
8 not the senior skilled nursing facility for this
9 project, would that become a regional skilled
10 nursing and residents from other senior living,
11 would they been transported into -- to the Chateau
12 skilled nursing home? Which I don't know what
13 happens when you mix the -- the nonprofit that
14 needed a skilled nursing in with the for-profit
15 skilled nursing. But as I understand, the beds of
16 the rooms at the skilled nursing can run anywhere
17 from a couple hundred to \$7,000 a night. So there
18 may be concerns.

19 And then I also have concerns of how many
20 security people that will have to be employed to
21 look after the residents and to protect -- to
22 protect the residents and the -- make sure that
23 they're safe at all times. Thank you very much.

24 CHAIRMAN VAUGHN: I'll remind you again,
25 if you've already submitted a document, we have

1 that in our record and everyone has read it.

2 THE SPEAKER: My name's Whitney Kerr. I
3 live at 4020 West 86th Street. My -- my big
4 concern -- two biggest concerns are how -- how the
5 character of this is and how detrimental it would
6 be to the neighborhood. We know that Prairie
7 Village will have twice the normal -- or twice the
8 number of retirement homes as compared to Johnson
9 County if this project is completed. Haven't we
10 done our fair share? Wouldn't it be more
11 forward-thinking for us to develop more
12 single-family?

13 The other concern I have is with all the
14 changes coming in -- in healthcare in the next few
15 years, why would we as a community bet so large on
16 a project that's going to be 100 percent dependant
17 on Medicare, Medicaid payments? There could be a
18 lot of changes that come along and we could end up
19 with a real problem. We don't need it. So please
20 reject this. Thank you.

21 THE SPEAKER: My name is John House. I
22 live at 808 Granada, Prairie Village, Kansas,
23 Corinth. What's being presented is a -- a fairly
24 typical development strategy, which is to propose
25 an outrageously large project so that the

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1 commission will consider a lesser sized project.
2 This project should be turned down on its face
3 value. People do not move into an area because it
4 has nice nursing homes. Why do they move into a
5 neighborhood? Because it has good schools. And
6 we have an opportunity to utilize that space
7 because we have Kansas City Christian School that
8 is bursting out its seams, we have a number of
9 other -- of our other faith-based schools that are
10 full. And this property could be utilized for
11 that purpose.

12 If you added another facility like this, you
13 would put an enormous economic strain on our
14 existing properties and create future blight. How
15 would that occur? Because the occupancy would
16 fall and these properties would start to fail and
17 you would have rundown, decrepit properties and
18 you would have -- you would be approving future
19 blight. So I'd recommend that you turn down this
20 project completely and go back to ground zero and
21 start looking at what is needed, and that is
22 quality schools in our area. Thank you very much.

23 THE SPEAKER: My name is Bob Schubert. I
24 live at 3700 West 83rd Terrace, Prairie Village,
25 six houses from the proposed Tutera detention

1 basin. I'm the president of the Homes
2 Association, which, of course, is the neighborhood
3 across the street to the east of this proposal.
4 Most of the points that I wanted to say have
5 already been stated, so I won't bore you with
6 them. But I did want to make one point.

7 Mr. -- Mr. Tutera has been quoted as saying
8 that only a very small, isolated group opposes his
9 plan. It is not small. It includes most of the
10 people who live immediately adjacent to the
11 proposed site. I notice that most the supporters
12 of the proposal who spoke last month were from at
13 least seven or eight blocks away from the site.
14 So last week, I drove all of the streets between
15 83rd and 87th, a block or two -- to the blocks on
16 the east and a block or so to the west of Mission
17 Road. And out of the 158 houses closest to the
18 site that I counted, 86 had signs that said, no
19 massive development. That's 54 percent. 54
20 percent of the houses have signs. Very casual
21 count, obviously, but that's a majority. That's
22 not a very small, isolated group. Some of
23 those without signs did not want them, even though
24 they signed a protest position that we asked them
25 to sign. They just didn't like having signs in

1 their yard, but they're still opposed to the --
2 the proposal. We have over 1,500 e-mail
3 subscribers. And the moment one of our
4 subscribers says, take me off your list, they're
5 off. We don't keep anybody on who doesn't want to
6 be on the list. So presumably, all 1,500 of those
7 people are against the project. This is not a
8 very small, isolated group. This is the majority
9 of the immediate neighborhood that opposes this.
10 Thank you very much.

11 THE SPEAKER: I'm not going to read all
12 this, I'm just going to give you the parts that --
13 points that have not been made. But my name is
14 Sheila Myers and I live at 4505 West 82nd Street
15 in Corinth Hills. So I -- I'm not a member of
16 Mission Valley Neighborhood Association and I
17 don't live directly adjacent to the property. I'm
18 not from Prairie Village.

19 My husband and I have been here for 15 years.
20 We've raised three daughters here and I consider
21 myself very lucky to be in this community, I love
22 it. And I -- part of the reason I love it is
23 because of the diverse population. And I can't
24 imagine how difficult it must be for all of you as
25 members of the planning commission to balance the

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1 rights of property owners with the needs and
2 desires of such a diverse population. I
3 appreciate your efforts to keep the village in
4 Prairie Village.

5 And I agree with the points, I think it was
6 made by Jordan, about a lot of families having
7 moved out of Prairie Village because of the lack
8 of affordable, adequate housing. And Mission
9 Valley schools situation is a sentiment of that
10 reality with the closing of the school.

11 When the property was sold to MVS, MVS bought
12 it for 4.3 million, \$1 million more than the
13 asking price. The developer wants to make a
14 profit. There's nothing wrong with that. But in
15 order to make a profit above the \$4.3 million
16 price tag, they've got to squeeze every dollar out
17 of every inch of that space. The developer
18 gambled on this property, in my opinion, banking
19 on the city embracing a rezoning to allow for
20 higher density development. The property's not
21 been rezoned, but this hasn't deterred the owner
22 from pursuing another high-density proposal. I
23 certainly admire his tenacity.

24 We find ourselves for the second time in two
25 years debating a controversial, high-density

1 project proposed by the developer for a piece of
2 property zoned to R-1a. I'm not disputing whether
3 Prairie Village needs another senior living
4 facility. I just don't think this one is
5 appropriate for the site.

6 One final point, my husband is in advertising
7 and he worked on the Wal-Mart account. A typical
8 Wal-Mart Super Center is between 180,000 and
9 220,000 square feet. So the combined square
10 footage of this development is equivalent to about
11 two Wal-Mart Super Centers. I don't think that's
12 what we want for this property. So thank you very
13 much.

14 THE SPEAKER: Good evening. And I would
15 like to thank the planning commission for giving
16 us this opportunity. My name is Chuck Hitchcock.
17 I live at 8105 El Monte. My wife and I bought
18 that piece of ground in 1970 and built a house.
19 Because we had supreme confidence that the JC
20 Nichols Company was going to develop Corinth Downs
21 into the area that it is, we weren't concerned
22 about them as a developer.

23 However, after several years -- after living
24 there for several years, we got a legal
25 notification in the mail that indicated that their

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1 office building, which is on the curve at
2 Somerset, currently, the way it looks today, they
3 wanted to expand that two to three times larger,
4 which meant the property to the rear of us, which
5 is zoned R2, R3 was going to turn into a gigantic
6 parking lot with lights 24 hours a day.

7 I went to the Nichols Company along with some
8 other neighbors and visited with (inaudible) and
9 their attorney. And he kindly explained what they
10 wanted to do and it sounded halfway reasonable. I
11 stopped at city hall. And I'll never forget the
12 lady named Klebold (spelled phonetically). I told
13 -- she asked me what it was about and I told her,
14 and she said, I think you ought to look at what
15 the proposal really says. And I did it. And we
16 got together as a neighborhood and decided that
17 what we were being told was not really what --
18 that Nichols wanted to do. However, we decided
19 as a group to go to the planning commission
20 meeting, and we did. And we were told that we
21 weren't going do -- to have the opportunity to
22 speak, we were just there to listen. However, the
23 Chairman of the commission, whatever reason,
24 invited us to speak. And we did and we shared our
25 thoughts. And I'll never forget the gentleman who

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1 was the planning commission chair and at that
2 commission, because in my opinion, they showed
3 tremendous courage to deny that Nichols' request.
4 And you can imagine the economic pressure that
5 Nichols was putting on them to -- to -- to pass
6 that, but they didn't do it.

7 So as a -- as a result, we have a beautiful
8 bunch of houses behind us instead of a lighted
9 parking lot. So what I suggest, what I -- I urge
10 and encourage the commission members to do is to
11 show the courage in an -- in the face of enormous
12 economic pressure, to make the right decision,
13 what is best for Prairie Village. Thank you.

14 THE SPEAKER: Hi. My name is Jessica
15 Priestland and I live at 8008 Fontana Street in
16 Corinth Hills. And I just -- after learning about
17 this project, I -- it reminded me of when I grew
18 up in Columbus, Ohio. I grew next -- I grew up
19 next to Friendship Village of Columbus, Ohio which
20 is a facility that offers assisted living, skilled
21 nursing facility, independent living.

22 And all throughout my childhood, I remember
23 being nervous in the middle of the night because I
24 heard ambulances all the time. And I currently
25 have an eight-year-old and a six-year-old and a

1 13-month-old. And it just kind of -- it's
2 concerning that I think I might be possibly
3 reliving that through my children of hearing
4 ambulances and fire trucks because of maybe life
5 lines being pushed and calls having to be made
6 from seniors falling or maybe the skilled nursing
7 facility has extra calls being made to the
8 facility.

9 And -- and also, one of my concerns is if
10 there's going to be an increase in ambulances and
11 fire trucks to the Prairie Village stations,
12 because I feel there will be a bigger need, and I
13 just wonder if the community -- if there's the
14 same amount of trucks and ambulances, then the
15 resources might possibly be drained at the new
16 facility where a fire truck or an ambulance might
17 not able to get to my home or a neighbor home. So
18 I appreciate this time. Thank you.

19 THE SPEAKER: Hello. My name is Mark
20 Baretta (spelled phonetically). I'm here with my
21 wife, Sally. We live at 8335 Mission Road, which
22 will actually be directly across from the
23 retainage ditch. We're not like a lot of people
24 here, we haven't lived in Prairie Village for 20,
25 30, 40 years. We've lived here for a fraction of

1 that.

2 And one of the reasons why we moved here is
3 because of just the area, the beauty of it. We're
4 kind of unique in that, you know, we're the next
5 generation of Prairie Village. And I don't mean
6 to say that with any sort of smugness or anything.
7 But we're the type of people that Prairie Village
8 needs to attract to ensure that there are people
9 20, 30 years down the road that can get up and say
10 they've lived here for 20 or 30 years.

11 And with that being said, you know, growing
12 up in Johnson County, certain cities have certain
13 stigmas, you know. I'm not going to go through
14 the list or anything. But if this project is
15 perceived the way it is, Prairie Village will have
16 that stigma and it will not attract people like me
17 and my wife, people in our 20s, 30s.

18 And more importantly, there's a couple things
19 I'm protective of most, my children and my money.
20 This retainage ditch will affect potentially the
21 safety of my one-year-old and my three-year-old.
22 And that's unacceptable to me. And then also the
23 potential of the decreased property value, the
24 short time that I'd lived in Prairie Village, the
25 equity that I have, the future that I've built for

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1 my family will be destroyed, will be eliminated.

2 Thank you.

3 THE SPEAKER: My name's Beverly Worrall.

4 I live at 4824 West 86th Street in Prairie

5 Village, of course. We bought our house in 1987.

6 A comment that I have is something I thought about

7 -- oh, excuse me -- I shouldn't have moved away.

8 Someone said perhaps when we met previously that

9 about 65 to 75 percent of the seniors who live in

10 the three resident establishments are not from

11 Prairie Village. So when I thought about that,

12 here we're going through all of this turmoil and

13 Prairie Village residents are not the ones that

14 are going to occupy these buildings.

15 It occurred to me after talking to a friend

16 today who lives in one of these senior citizen

17 establishments, they're very expensive, can be 5

18 to \$7,000 a month. And it's very possible that

19 there aren't too many people in Prairie Village

20 that can afford those kinds of expenses. I'm -- I

21 -- I don't want to deprive seniors, because I'm

22 one, from -- from living in a nice place like

23 that, but I happen to be one who's going to be

24 dragged out of my house. Thank you very much.

25 THE SPEAKER: Hi. My name's Jim Starcev.

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1 I live at 3507 West 87th Street in Leawood, so
2 we're not a stone's throw away from the project
3 and I also own the property at 3721 Somerset in
4 Prairie Village. I had two thoughts. One, that
5 we keep talking about a massive development. But
6 we're not talking about the massive destruction
7 that has to occur to do that. You know, one of
8 the disadvantages of this property is the only
9 access is on Mission Road. So especially, at this
10 Mission Road -- (inaudible) -- and the
11 construction people are coming through, I'm
12 envisioning all the dump trucks, the --
13 (inaudible) everything else that's going to have
14 to travel through Mission Road to get on to this
15 property for years to come.

16 The second thought that I had -- and just to
17 -- (inaudible) I apologize if I misquote you -- I
18 -- I've attended virtually every meeting on this.
19 At one of the neighborhood meetings, you were
20 asked about any similar properties that you had
21 built this close to residential properties. And
22 you mentioned one at The Plaza by the Saint Luke's
23 Hospital. But you ended it with an interesting
24 quote. And you said, well, it was a neighborhood
25 when we built it. And, you know, that's my

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1 concern of this was that at some point we'll say,
2 it was a neighborhood before this property was
3 built. And that's the biggest concern I have.

4 CHAIRMAN VAUGHN: Is there someone else
5 that wishes to speak? This will be our last one.

6 THE SPEAKER: My name is Robert Jackson.
7 I live at 7427 Rosewood Circle. And as of
8 November the 1st, we'll have been in Prairie
9 Village for 50 years. I only knew about this
10 project about two months -- about two weeks ago.
11 I saw some of the signs and I stopped and talked
12 to someone who had a sign out. But the reason I
13 came here is because about five years ago, I went
14 through something similar to this with Village
15 Vision 75. They wanted to take my house and about
16 150 to 60 other houses out between State Line and
17 Lamar just to beautify 75th Street, which is just
18 a thoroughfare. Then they wanted to go on and
19 build along 75th Street some shops, put some
20 apartments upstairs. And it's called stack um --
21 stack um and pack um. And this all comes from the
22 UN agenda 21. And if you know anything about
23 that, actually, the local part is Aeklia (spelled
24 phonetically). I'm not sure. I talked to the
25 county commissioner about him, I don't know

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1 whether Prairie Village is still -- is a part of
2 that, but we need to get rid of it. And that's
3 one reason I'm speaking up. I'm not really that
4 close to the project, but I am concerned about
5 what's going on in Prairie Village.

6 CHAIRMAN VAUGHN: Thank you. That will
7 close the public participation of the program. I
8 think you've asked to make a comment. Go right
9 ahead now.

10 MR. PETERSON: The applicant. Thank you,
11 Mr. Chairman and members of the planning
12 commission. John Peterson, Polsinelli law firm on
13 behalf of MBS, LLC. Tonight -- sorry about that
14 -- tonight, in addition to myself representing the
15 owner and proposed developer, of course, we have
16 Mr. Joe Tutera, Tutera Investments, LLC; Randy
17 Bloom, who is the president and chief operating
18 officer; Mitch Hofer, who has led the design team
19 and has presented before you and before the
20 neighborhood groups on many occasions; Sterling
21 Cramer with Olsson & Associates.

22 Mr. Chairman, we -- we have probably, believe
23 it or not, about a 45-minute presentation. And
24 the -- there was a primary goal for tonight, at
25 least as far as we concern -- we were concerned.

1 And I don't want to be presumptuous about this.
2 But we wanted to -- and that primary concern --
3 and I'm going to ask for the first slide to go up
4 that really kind of makes the point -- but that
5 focus tonight that we felt was most important was,
6 Mr. Tutera had his vision and maintains that
7 vision for the property he owns. And it's done
8 with a sincere dedication to the senior commune --
9 community, bringing all of his expertise together
10 to build something, at least from our perspective,
11 what we feel is special, is compatible and it is
12 an addition to this community that we can be proud
13 of, from an economic success standpoint, from
14 allowing alternative lifestyle.

15 And he wanted to speak about really down to
16 the basics of why. Why this site, why the size of
17 the buildings that are being proposed? It's just
18 not to make money, it's not a loss leader, to
19 throw out something big and come back with
20 something smaller. It -- we want to really drill
21 down and explain that. And we're prepared to do
22 that.

23 We have some other issues we wanted to
24 address very quickly that we thought just needed
25 correction in the record about the detention

1 facilities and safety and all those things. I am
2 going to -- we're going to defer that. And if
3 there's questions about that, I will merely say
4 that the detention facility we're proposing is the
5 exact type of facility and very similar in size to
6 Benton House, which seems to have risen in
7 popularity at least from a -- from a comparative
8 standpoint in terms of the neighbors.

9 We had -- we wanted to address the skilled
10 nursing issue. We heard a lot of testimony last
11 time about gunshots and sores and the -- the
12 amputations and, you know, conjuring up visions we
13 were in a war zone. And we wanted to drill down a
14 little bit to allay any concerns and we've got
15 information about that, if that is a relevant
16 point of inquiry from the planning commission.
17 I'll leave it -- which was a rather lengthy
18 presentation. We have 90 beds of skilled nursing
19 in the City of Prairie -- Prairie Village today.
20 And I don't think we've experienced any of those
21 both at Claridge and (inaudible).

22 Home values, again, you know, the -- you can
23 call it the battle of the experts. We feel ours
24 is based on actual sales. We can get into that,
25 showing real live comparisons against the like

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1 properties in Prairie Village and in Johnson
2 County. There's just one point that I want to
3 correct for the record, because I've been
4 misquoted in some materials I've seen distributed.
5 It was referred tonight. We have never said that
6 Santa Marta was a comparable project of what we're
7 proposing in Prairie Village. Quite to the
8 contrary.

9 They keep throwing it up, I'll put it up.
10 Yes, it's the same type of facility, but just look
11 at the lack of landscaping, look at the elevation,
12 finished floor elevation and the height of the
13 building put on the elevation compared to the
14 street and surrounding areas. Of course, it's not
15 a direct comparison. Our point, which I will
16 agree with you is, take ours compared to that one
17 and as I will say, relatively more of a negative
18 impact than what we're proposing. We have actual
19 sales analysis studies to show that it hasn't
20 negatively impacted property values for adjacent
21 single-family residences. That's the point.

22 Again, an important part of what Mr. Tintera
23 was going to get up was to speak to the issue of
24 the thought based on experience of why this
25 building is -- and buildings are designed the way

1 they're designed, for the comfort of the
2 residents, because it's a residential model, not a
3 medical model. And also to drill down in-depth
4 about this need issue.

5 Now, having said all that, we're going to
6 defer and we stand ready to entertain questions
7 from the planning commission at this time, input
8 from the planning commission. And I put up as my
9 prop, but to make a point, that's our checklist
10 that we started from the first neighborhood
11 meetings that we conducted when we brought our
12 first plan in. And we heard concerns and we
13 checked the box. And it's everything from
14 initially, no mixed use, that was the first
15 proposal. We took it out. We increased green
16 space. We lowered elements -- the height elements
17 of our building, we pulled buildings off property
18 lines, we internalized driveways. Check, check,
19 check, check.

20 Only tonight for the first time did we hear,
21 well, the use, we just want it configured a little
22 bit different. That's progress, because you can
23 start talking about what our goal is, is to find
24 common ground. But the one box that has not been
25 checked today is to hear from the planning

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1 commission. And we would welcome the opportunity
2 to hear your questions, hear your comments and
3 hear your input based on this premise.

4 What we'd like to do is take that and now
5 hearing over three hours of neighborhood
6 commentary about -- I'm going to put aside that --
7 that I have to operate under common sense and try
8 to take some comments that went to things that we
9 could actually deal with. And we heard some. And
10 would ask that we be allow -- we would request
11 that we continue the public hearing until the
12 August 5th meeting. And in the meantime, we will
13 take the information we hear from the planning
14 commission tonight, elements we heard from the
15 public, continued dialogue we're having with the
16 staff, and we would seek, to the best of our
17 ability, to find that balance and come back with a
18 concept plan that could or could not be taken up
19 in a work session in July.

20 Because what we don't want to do is go back
21 to final design, because we do pay attention that
22 we have enough parking, that the storm drainage is
23 correct. And if we got to a concept that it's the
24 best we can do and it's getting ripe for decision,
25 we can put it into final design and bring it back

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1 at the August meeting. So based on that request,
2 the deferring of the subject matters that we,
3 again, had about 45 minutes to provide further
4 testimony on, I would open it to the planning
5 commission and Mr. Chairman for questions,
6 comments or issues you'd like for us to consider
7 as we continue to evaluate the project.

8 CHAIRMAN VAUGHN: Thank you very much.
9 And I will remind everyone that the public hearing
10 itself is not closed, we will be happy to hear
11 from anybody until the public hearing is actually
12 closed. The public comments, I was talking
13 earlier, just had to do with our opportunity to
14 start asking questions. Maybe we can get to some
15 other point before we're done tonight. And I know
16 that we have questions from commissioners that
17 they'd like to ask. Do you have one?

18 MR. LINDEBLAD: Yes. Mr. Peterson -- and
19 I apologize for my voice, my throat is not good
20 tonight, which is probably why I'm not speaking
21 much. Last -- at your last meeting, you submitted
22 for the record what you said was a detailed real
23 estate consulting report done by Todd Appraisal
24 looking at the value of the properties of homes in
25 similar situations. I'm most concerned about, you

1 know, the impacts of the adjacent property owners,
2 and especially from the value point. And I
3 haven't seen any report or summary of what your
4 study says. I would like on the a lot more about
5 it, whether you give us more information, give us
6 a synopsis, give us some more information, I think
7 that's really pretty important in the
8 considerations that we have.

9 MR. PETERSON: The -- the full report,
10 Commissioner, was submitted as part of the record
11 after the last --

12 MR. LINDEBLAD: We've never gotten any
13 copies of anything from that. To me, that's
14 important in deliberations on how the impacts
15 would affect the different studies that we would.

16 MR. PETERSON: Well, actually, we did
17 submit a copy of the report at it -- as it was
18 prepared in preparation for the -- for the May
19 meeting. Then hearing testimony, we did some
20 further refinements to that report, which we were
21 going to --

22 MR. TUTERA: That's a summary of the
23 report.

24 MR. PETERSON: -- over -- overview in a
25 summary fashion tonight and then submit for your

1 consideration in written form. Which, obviously,
2 will be -- the minute we submit as part of the
3 public record is subject to review by all
4 interested parties. But in essence, what it did
5 was actually take sales data. And it did an
6 analysis of that, whether it was against the
7 number of identified school properties, so it was
8 properties that have open space and certain kind
9 of activities. Properties, we picked schools and
10 senior living type facilities that were behind or
11 adjacent to single-family. Obviously, different
12 than somebody that has fenced the back yard to
13 another house. And then we took around the
14 identified properties -- and I can read those off
15 for you in just a minute -- but I think most
16 relevant in Prairie Village, it was Brighton and
17 Claridge -- and did a sales analysis.

18 Todd Appraisal conducted a sales analysis,
19 looking back historically and saying, what were
20 properties listed for, what did they sell for,
21 comparing if they were immediately adjacent to the
22 target property or the subject property as opposed
23 to being in the same subdivision or neighborhood,
24 but remote from direct interaction. And it really
25 goes to the issue of visual impact, noise impact,

1 all of the real or perceived negatives that can
2 come from what goes on across the fence in your
3 back yard.

4 And looking at that, and using a professional
5 judgment -- because we went looking back
6 historically, we went through some fluctuations in
7 the market, even drilled down, as you can see in
8 his report, looking at certain conditions of
9 property and threw some out as being not relevant.
10 So it's all there to make sure that it -- it
11 wasn't skewed on a nonreasonable, rational basis.

12 But, obviously, if somebody's property hasn't
13 been maintained and everybody knows that's the one
14 that the weeds haven't been cut in 50 years, it's
15 going to sell for less. Conversely, if a piece of
16 property somebody did super duper improvements to
17 a piece of property, so you try to balance that
18 out, much like an appraiser does, the county
19 appraiser does. And then did an evaluation of
20 what is the impact if you're right next to it
21 compared to if you're relatively remote. You want
22 to be in the same subdivision because that's
23 general house values and prices for following
24 subdivisions.

25 And it's actually -- if you want to know the

1 sis -- statistical sampling size is called the Z
2 style statistical sampling, which is a well known
3 and accepted appraisal technology, again,
4 correcting for any nonnormal distribution of the
5 -- of the data that's collected.

6 And I'll run through it very quickly. Best
7 correlated Brookwood Elementary School, Leawood,
8 Kansas, about a 5 to 10 percent discount if you're
9 immediately adjacent to schools. Indian Woods
10 Middle School, 97th and Lamar, 1.1 percent premium
11 to a 1.3 percent discount. There was a range.
12 And Pioneer Middle School in Olathe, Kansas, about
13 a .5 percent premium.

14 Going to what we thought was the most
15 relevant, was best correlated, we thought, the
16 most relevant and, I think, fair comparison for
17 all concerned in terms of what the impact could
18 be, to the extent you can do this, is Brighton
19 Gardens at 75th -- 71st and Mission. It's a
20 three-story facility, relatively, in terms of the
21 size of the building on the piece of property -- I
22 don't want to get into arguing about density and
23 square footage and how you look at it -- but in
24 terms of open space available because of the
25 footprint of the building, the height of the

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1 building, the setback of the building, I think
2 we've got a lot of positives compared to that, but
3 it's a fair example because it's right in the
4 area. About a 2.9 to 7.9 percent premium actually
5 backing up to it, as opposed to being a block
6 away. And there was even a diversion if you're on
7 the north side of 71st, as I recall, or the south
8 side of 71st. There was even a -- a change there.
9 And that is in the report.

10 Village Shalom, 123rd and Nall was the next
11 one we thought was the second most correlated,
12 which is a term of real estate appraisal. 3.7 to
13 5.8 percent premium if you were immediately
14 adjacent. And then I get to my Santa Marta, my
15 Peterson Santa Marta. And he qualifies it by
16 saying it's the least correlated, going to my
17 point. And I quote from it, Santa Marta's
18 landscaping, streetscaping in relationship to its
19 neighbors are vastly inferior to Mission Chateau's
20 planned improvements. You can see it in the
21 pictures, I'm not going to waste our time. It's a
22 large building, ours is a large building. We're
23 going to get to that, we're not ashamed of it.
24 It's a large building. But it's -- at Santa
25 Marta, it's close to the street, they graded the

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1 site to put it up on a pedestal, the building sits
2 on a pedestal, there's a lot of landscaping. Even
3 with that, a 1.1 percent discount to a .6 percent
4 premium for that. And conclusion, it's about a 4
5 percent average.

6 All of this with all the statistical
7 background was in the first report, it'll be
8 submitted in the second report for your
9 consideration, Commissioner Lindeblad. And I'd
10 only close with -- and you didn't ask for this --
11 but that's compared to a report submitted on
12 behalf of the neighbors that said, I can't find
13 any comparable situation. It's quoted in his
14 report. I'm just figuring if you can see a
15 three-story building, it's about a 10 percent
16 discount. And you know what, that gives us a
17 challenge, to be honest, and one of the things
18 we're going to continue to work on. We think
19 we've done pretty darned good about any
20 single-family homeowner in the south seeing a
21 three-story building, but we still want to go to
22 work on that. Because I think that's probably a
23 reasonable part, if you can't see it, you can't
24 hear it, you can't smell it, you can't touch it,
25 how can it be a negative impact unless you want to

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1 enter that particular community?

2 CHAIRMAN VAUGHN: Thank you. Are there
3 other questions from commissioners? Nancy.

4 MS. VENNARD: I have a few things. For
5 -- there's been a -- there has been some
6 conversation about the tax issues. And I wanted
7 to know if any of the Tutera properties have ever
8 been sold to nonprofits or requested to become
9 nonprofits?

10 MR. TUTERA: No.

11 MR. PETERSON: The answer is no.

12 MR. TUTERA: No.

13 MS. VENNARD: Okay.

14 MR. PETERSON: For the record.

15 MS. VENNARD: There has also been this
16 conversation about the skilled nursing being built
17 first. What is your plan for any phasing with the
18 building of these -- of this whole site?

19 MR. PETERSON: We -- and I think part of
20 it, it's our terminology and maybe led people down
21 a road about phasing and timing. And we
22 understand -- I understand the code of the City of
23 Prairie Village. John, I appreciate you reminding
24 us all. And I even used common sense, I hope that
25 makes you happy when I look at it. I understand

1 the code and I understand state law, I read cases,
2 as well. We understand the requirements for
3 accessory uses. We understand how phasing has to
4 work with that. I understand the position that
5 has been opined by your attorney. That doesn't
6 get me off the hook, the position by your
7 attorney.

8 Our construction and our phasing and our
9 timing of the elements will comply with state law,
10 City of Prairie Village law and in conformance
11 with the opinion that's been rendered by your
12 attorney. That will be, I think, part of the
13 conditions that will come through in terms of the
14 final staff recommendations. We'd like to see how
15 those stipulations read. I'm not trying to dodge
16 the question. Part of it is about our final
17 design. After we hear some other input, some
18 issues that we've heard with the neighbors. But
19 we understand -- I understand the issue. You
20 can't build the assisted -- you can't build the
21 skilled nursing and go, oh, I was just kidding
22 about -

23 MS. VENNARD: I was wondering if I had
24 missed something someplace.

25 MR. PETERSON: No.

1 MS. VENNARD: Because I had never
2 gotten --

3 MR. PETERSON: I don't why they keep --

4 MS. VENNARD: -- the saying that you were
5 going -- you were building that first, so I
6 thought maybe I missed something.

7 MR. PETERSON: -- I don't know why they
8 keep pounding that drum. I -- I -- I -- question
9 that it might be a little diversionary. We
10 understand we can't go in and build the skilled
11 nursing and be -- and just say, you know, we were
12 kidding about the independent living and the
13 villas. We're not kidding about any of this. We
14 understand the constraints, both legal, conditions
15 that will be put on in the zoning that will ensure
16 that we have a complete project if we are
17 privileged with the opportunity to bring it to
18 Prairie Village.

19 MR. SCHAFER: It just seems like it's the
20 cart ahead of the horse. Just intuitively, it
21 just seems like it's not the right place to start.
22 And, Dennis, next time we get together, I think
23 that we should have an attorney here. And I'll
24 read the Lathrop and Gage opinion. And it says
25 that it's conditioned upon completion of the

1 primary dwelling. But then what does that mean?
2 And more specifically, when does that mean? And
3 -- and this is just one opinion. And I think we
4 all have an obligation, not just everybody here,
5 but to the city. And if we say, well, this
6 opinion says you can go ahead and build the
7 accessory, but we decide that that is putting the
8 cart ahead of the horse, are we subjecting the
9 city to litigation? And if we are, how does case
10 law speak to that? I mean, to me, this is a real
11 big issue. And I've -- I've got a hard time with
12 it because I really do think it's the cart ahead
13 of the horse.

14 MR. PETERSON: I -- I think it's -- we
15 think it's a big issue, as well. We have been
16 cognizant of this issue as we have continued to
17 work with staff. If we're given the opportunity
18 to come back with a -- a concept plan at the July
19 meeting and then moving to that continued planning
20 commission public hearing and closure -- and I
21 would just say we'd all be ready for a vote by
22 then -- I'll commit to you we'll have that
23 addressed. And I'm looking at Mr. Tutera now. We
24 will have that addressed that satisfies the city
25 attorney so you know that it is not a cart before

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1 the horse situation. That is our commitment to
2 you. Because quite honestly, Commissioner, if I
3 could just interrupt briefly, I don't want to have
4 some Peterson interpretation that I feel pretty
5 good about that gives somebody the opportunity to
6 say, well, we'll slow this project down by just
7 raising that legal issue, that -- that doesn't do
8 anybody any good. I -- we will bring back a
9 project that complies strictly with no reservation
10 from your counsel, I think you'll be able to
11 render that judgment when you see it, that this
12 will not be using your term a cart before the
13 horse situation and that we will be in full
14 compliance with the accessory use principals and
15 requirements under your city ordinances.

16 MR. SCHAFER: And maybe part of it is
17 just quite simply from Mr. Tutera, you know, if
18 this is about assisted living -- or, I mean, about
19 independent living, that's the biggest component
20 of the job, why can't you start there?

21 MR. TUTERA: There's nothing we do.

22 MR. PETERSON: Go ahead. Well, you've
23 got -- you have to come up. If you're going to
24 speak, you've got to come to the mic and identify
25 yourself.

1 MR. TUTERA: Mr. Commissioner, there's
2 nothing that prevents the construction of the
3 independent or the assisted living first. The
4 normal process and what's desired is to put the
5 service component in place. And a lot of the
6 seniors when you're building a continuum of care
7 campus, there's a lot of reliance upon that,
8 memory care and the skilled nursing. There's a
9 lot of hesitancy in the marketplace for the
10 resident to take occupancy and not know that the
11 continuum of care is being provided. So where a
12 lot of facilities have failed in the past -- for
13 example, the Ericson facility, which is actually
14 about 1,000-unit facility that only has about 300
15 units built -- is that the residents take
16 occupancy in their independent living or their
17 villas on the premise that the skilled nursing and
18 the other healthcare and wellness center is going
19 to be developed. They take occupancy, years pass
20 and it never happens. So we actually -- on this
21 phase, and you should know, it isn't that we can't
22 do it. We, as -- as John indicated, were more
23 than willing to work with the staff and develop a
24 plan that gets everybody comfortable. It's
25 absolutely our intention that the entire campus

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1 will be -- will be built.

2 MS. WALLERSTEIN: Still on that subject
3 -- Nancy Wallerstein. Still on that subject, what
4 is the length of time that you expect for build
5 out as proposed right now?

6 MR. PETERSON: 24 months -- from its --
7 from commencement, about 24 to -- 24 months from
8 commencement.

9 MR. TUTERA: Yes.

10 MS. WALLERSTEIN: How much?

11 MR. PETERSON: 24 months.

12 MS. WALLERSTEIN: And that's full -- full
13 build out in 24 months is what I'm hearing.

14 MR. TUTERA: Yes.

15 MS. VENNARD: I appreciate the fact that
16 you have had the input from the neighbors and you
17 have followed all of this. You know, so I will go
18 ahead and start throwing in some of the things
19 that we have questioned. I know on the drawing,
20 it does say 24-foot wide roads and that the fire
21 department has reviewed this plan, but a lot of
22 the area behind the skilled nursing holds very
23 tight for deliveries, plus it's very close. And
24 so I think I saw in the plan and it's about --
25 it's only 20 feet from the property line to the

1 parking spaces. Which there wasn't any added
2 landscaping there besides the existing
3 landscaping.

4 And I think that perhaps there needs to be a
5 little bit more of a buffering in that utilitarian
6 area back there, because as the neighbors had
7 mentioned, most of that parking back there is
8 going to be for employees. The skilled nursing or
9 all -- skilled nursing and memory care are not
10 going to be use -- be using parking of those
11 residents. So I think that that needs to be dealt
12 with a little bit more.

13 And then there's a few other areas where
14 there seems to be -- needs to be a little bit more
15 landscaping for the -- along the property lines to
16 prevent lights and things like that going into
17 places. One of the areas is -- that's -- I think
18 it's like the first duplex, there's a single villa
19 and then a duplex, and that one is just really
20 jammed in. It's only five feet from the street
21 and the patios are only 17, 18 feet from the
22 property line. And that's -- I mean, five feet is
23 from here to, you know -- the less than that to
24 the table there, to the street. I can't imagine
25 that could be very enticing for anybody to even

1 want to have their front window that close. So a
2 lot of that, I think (inaudible).

3 And the main building probably needs to get
4 smaller to -- to provide all of this, but that is
5 a -- the length of that building is quite long and
6 quite massive. It's the description -- I think
7 the whole idea of having five things in one place
8 -- I've had a -- a relative in one of these
9 facilities on the East Coast and it was a
10 wonderful thing for her to be able to know she did
11 have the other areas to go to when she needed it
12 and knew all of the staff comfortably when she did
13 move from one area to the other. So I appreciate
14 that. And I look forward to the changes I'm sure
15 you'll be making with all of the input that you're
16 getting.

17 MR. PETERSON: Commissioner, real quick
18 comment. And I -- I'm not going because really,
19 we'll take it, we'll study it. But one, the
20 dimensions on the setbacks, that doesn't register
21 with what I thought the plan says. We're going to
22 go back and check that.

23 MS. VENNARD: Okay.

24 MR. PETERSON: The turning radiuses and
25 the geometrics for our drive, we really worked

1 through with staff, knowing what kind of trucks
2 make deliveries to the site, but we'll go back and
3 double-check.

4 MS. VENNARD: Your drawings show the
5 trucks going actually -- their turning radius is
6 over parking places, which is --

7 MR. PETERSON: Yeah, we'll look at that.
8 And -- and, of course, you know, in one way, that
9 -- when you utilize that and you actually do curbs
10 that allow roll-up and that kind of thing, it
11 preserves green space on the perimeters, but we'll
12 look at that and make sure that it's a good
13 balance.

14 In terms of the landscaping, I -- I would
15 suggest to you that we have kind of been holding
16 back our final landscaping plan. And I'm not --
17 I'm not looking to get guffaws from the crowd, I'm
18 really not. But we offer -- we offer to sit down
19 and go through a landscape plan with people
20 depending on where they are. We're just get --
21 we're just going to get to our landscape plan.
22 We'll bring it in the way we think the full extent
23 of it, how we'd like to plan it, really bring that
24 detail in for you to look at. And again, we're
25 always open to talking about details as it

1 interfaces with particular pieces of property.

2 May I ask you a question?

3 MS. VENNARD: Uh-huh.

4 MR. PETERSON: In terms of the length of
5 the building. We hear about the length of the
6 building. And I -- I -- and this is a serious
7 question and I'd love to hear input from other
8 commissioners on this. But we have a length of a
9 building and then you have a length of the
10 building in relation to the size of the lot it's
11 on. And, you know, it's -- you pop a proposed
12 building sort of in theory and in a vacuum and you
13 say that building's three football fields long.
14 That's a little over exaggeration. But we have a
15 building that is 530 feet and -- as it's currently
16 designed. And I -- Mitch, I'm not going -- I'm
17 going to -- I -- I'm trusting they've heard it and
18 will go back about how we've used architecture to
19 make it appear from an architectural standpoint
20 that it's not a linear flat-faced 530 feet. But
21 we sit on a lot that's 1,100 square feet -- 1,100
22 feet long. And so our relation to building the
23 lot is right at about 48 percent.

24 Now, when we look around the character of the
25 neighborhood, I could pick out somebody in the

1 audience's home very close that way exceeds that.
2 If I look down towards like type facility of ours
3 like Claridge Court, which has a building of 460
4 feet, but it's only on a lot on Somerset of 520.
5 88 percent of the building interfaces and much
6 closer to the street. And actually, it's at about
7 78 percent along Mission.

8 So I'm not trying to do tit for tat and say,
9 oh, Claridge house got to do it, how come we --
10 but I'm asking, is it -- is that a relevant
11 factor? Because we think we've got a lot of green
12 space to deal with. We've got room to deal with
13 going back so we can take our architecture and
14 bring it down. And I -- I guess I would not ask
15 -- put you on the spot to answer, but I hope
16 that's taken into consideration as we talk about
17 the size of the building, but I will promise you
18 we are looking at the building, as well.

19 MS. VENNARD: Well, I understand that.
20 And in comparison to Benton House -- or is it to
21 the Somerset school lot, I don't think it's quite
22 as fair because Mission Valley had a whole lot
23 more open space to begin with because it had
24 fields and a tennis court and a primary school, or
25 elementary school as they term it now, did not

1 have those. So to talk about the percentage of a
2 -- of the building towards the lot, it -- it's not
3 a fair comparison.

4 I did a Google Earth thing and with a 520
5 foot length from the edge of the library. Your
6 building would hit it just into the diamond -- the
7 baseball diamond there. So -- and I can see that.
8 And I appreciate the different heights and the
9 coming in and out and stuff. It's still -- it's
10 longer than what we're used to seeing in this city
11 is basically what we are saying. I know that the
12 -- the 700 and some odd feet going perpendicular
13 is going to the length of the lot, so -- and it's
14 a combination of a lot of buildings and things, so
15 I'm not quite sure that that's a fair complaint to
16 people.

17 I like the way that it's set back. It's
18 actually set back further than a lot of the houses
19 on Mission Road. And, you know, I think that
20 that's that's giving you a good appearance
21 making the horseshoe in the front. So I know that
22 you've done a lot of good things -- or the
23 architect has, it just needs a little tweaking
24 here and there.

25 MR. PETERSON: Very helpful comment.

1 Thank you.

2 MR. TUTERA: Thank you.

3 CHAIRMAN VAUGHN: Randy.

4 MR. KRONBLAD: Mr. Peterson, could you
5 address the issue of the parking on special
6 occasions. I -- my wife and I both have relatives
7 in similar facilities and when we're there on
8 Mother's Day, Father's Day and et cetera, et
9 cetera, we're parking across the street, we're
10 parking in office buildings and walking a good
11 distance. None us here like the parking lots, but
12 I think it's a reality. I think it's a serious
13 reality that on a day-to-day basis, I'm sure you
14 meet the -- actually, you exceed -- from the
15 numbers, I see you exceed the parking
16 requirements. But I think the special occasions
17 -- and in addition to the special occasions, just
18 plain weekends, I -- we've been at our -- these
19 facilities that we're involved with even some
20 plain weekend and not a special day, and there's
21 no parking. It's -- it's all gone.

22 MR. PETERSON: We will -- actually, I
23 made a note to myself that the -- the -- we've --
24 we've worked with staff, we've heard from the
25 neighbors who was part of our checklist where the

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1 parking is, how the -- done, where the residents
2 enter the site and where they park. We worked on
3 those issues. One of the key ones, which is a
4 partial answer, but we -- we need to analyze it
5 again and come back with a full report. Part of
6 our safety valve is that we parked it for that
7 shift change. So you -- you've got cars that are
8 momentarily there while a shift change is coming
9 in, on that large shift change. Well, special
10 events usually aren't designed around shift change
11 you've got in place. So you've got a safety
12 factor there. Generally, that's why I think Mr.
13 Tutera and the designers were comfortable, but
14 when we come back, we will drill down on that and
15 provide more information.

16 MR. KRONBLAD: Thank you.

17 MR. PETERSON: And we've got experience
18 in other properties that we could actually maybe
19 pick up real numbers and bring them in for your
20 evaluation.

21 CHAIRMAN VAUGHN: Nancy.

22 MS. WALLERSTEIN: Okay. My question is
23 for staff. Way back, there was a major storm
24 drainage project that was supposed to start on, I
25 think, Fontana to Delmar to the low water

1 crossings going underneath the houses on Somerset
2 into that drainage ditch and taking it through --
3 under Mission Road through to Corinth School and
4 all the way to the Leawood city line. And where
5 are we on that storm drainage project, how would
6 it affect this potential development and their
7 projection to create a detention pond or a
8 detention area.

9 MR. BREDEHOEFT: Keith Bredehoeft, public
10 works. That project was looked at back -- it's
11 been looked at several times between Somerset and
12 Roe. Back in 2007, 2008, that project was
13 cancelled at that time. We have in the last year,
14 year-and-a-half been looking at that again. We're
15 having some discussions with counsel to look at
16 the low water crossing area and see if we can
17 bring that project back to life and -- and try to
18 make some improvements in that area. We -- the
19 project that was designed in the past, the one
20 we're looking at now, doesn't continue on through
21 this -- this site, it stopped by Somerset. The
22 water that would come from there drains into this
23 channel and would run into that area, but I don't
24 see that it -- the work that's going on on this
25 site wouldn't have any direct impact on -- on that

1 project and vice versa. You'll see that it's --
2 we're trying to prevent some floodings on --
3 mainly on Delmar and that area with that project.

4 MS. WALLERSTEIN: I think my concern is,
5 is if you do that project and you bring the water
6 under Somerset, I mean, is it -- is this still --
7 looking at replacing those twin tubes and putting
8 them under Somerset, that it will impact this
9 property, the flow will impact this property. And
10 so how will what they're proposing as a detention
11 area -- what will that look like with the flow?
12 And has that been examined, has -- have you
13 thought about that and --

14 MR. BREDEHOEFT: That whole issue is part
15 of what we're -- we're wanting to look at this
16 fall potentially with -- with some revised
17 analysis for our engineering that's working on
18 that project to see what -- to re-evaluate the
19 design that was done back almost ten years ago to
20 now and to evaluate it. And we haven't gone
21 through all of those efforts now. The water --
22 the detention facility that they have that's
23 adjacent to this channel and the water from their
24 site drains into the detention basin and then
25 drains into the drainage channel exists now. The

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1 water that comes from the west would still travel
2 through that same channel the way it does today
3 into the future and the detention facility or
4 anything to directly affect that.

5 MS. WALLERSTEIN: Well, I think I recall
6 that the whole channel was going to be -- or the
7 proposal at the time that I looked at, the channel
8 was supposed to be covered and covered all the way
9 past Corinth School going west, is that still --

10 MR. BREDEHOEFT: No.

11 MS. WALLERSTEIN: No?

12 MR. BREDEHOEFT: It's not. What I have
13 been -- and I've looked back and reviewed from the
14 project in the past, it stopped basically at the
15 western end of their property, the improvements
16 did.

17 MS. WALLERSTEIN: And then the Corinth
18 School would still stay an open channel?

19 MR. BREDEHOEFT: Right.

20 MS. WALLERSTEIN: Okay. I think, you
21 know, I'd love to bring this up so that they know
22 that there is a potential of some construction or
23 impact to what their proposing and maybe take that
24 into consideration in their green space allotment.

25 MR. PETERSON: Definitely something we'll

1 follow up with the city engineer on.

2 CHAIRMAN VAUGHN: Dirk.

3 MR. SCHAFER: I -- I appreciate you
4 allowing us to respond to the applicant to give
5 them feedback so that the next time we get
6 together, we can have a meaningful discussion and
7 I think all of us would be - I think if we go
8 through tonight without commenting on the size of
9 the project and the commissioners giving them some
10 feedback, that we missed a great opportunity. And
11 I think there's a lot of issues that people are
12 talking about, a lot that people are passionate
13 about. But I think the elephant in the room,
14 maybe more so than property value, and maybe it's
15 tied to property values, is the size of the
16 project.

17 And, Mr. Tutera, I -- I know -- I understand
18 a little bit about development, my livelihood
19 depends upon it. So I get it, but my gut and I
20 think people weigh in on the size, it just feels
21 too big. And -- and I know there's special use
22 factors and I know there's Golden Factors. And we
23 as a commission need to look at those as we make
24 our final decisions. So I don't know where it
25 fits into those factors, but my gut, just like my

1 gut on the accessory use, that the project's too
2 big. And I might be the only commissioner that
3 feels that way, but I think if the next meeting is
4 going to be beneficial, all of us, to the extent
5 that we have an opinion, should share it tonight.

6 CHAIRMAN VAUGHN: Randy.

7 MR. KRONBLAD: Mr. Schafer took my next
8 question. And I was going to -- he -- he said it
9 more eloquently than I would have. But I was
10 basically going to say, why so big? And I was
11 going to preface it by saying, you don't have to
12 answer that tonight. We'll just give you our
13 feelings because I think the answer to that is
14 more than just a yes or a no. But I really think
15 that needs -- we need to understand that much more
16 than just it's a beautiful facility and it looks
17 great and it'll be wonderful for the community and
18 et cetera, I appreciate all of that. You've done
19 a marvelous job in that, but it comes down to, why
20 so big?

21 MR. PETERSON: And -- and as I indicated,
22 we -- we'll address that. And we have what we
23 think are good rationale, both in terms of being a
24 business person, somebody that operates facilities
25 like this and somebody who knows some -- a little

1 bit about development as well. And -- but I'm not
2 going to look you in the eye and say, it's common
3 sense, man, you just ought to know that what we
4 are proposing is good. Of course not. I mean,
5 there are different ways people look at different
6 things.

7 Development standards and criteria are
8 important because it starts giving a framework,
9 but that's what we want to hear tonight. I mean,
10 we're here to find an equilibrium that makes sense
11 and incorporate some of the concerns other than we
12 just want it to be a city park. Because it's not
13 going to be a city park. The city has already
14 told us they don't want another park, it's not
15 going to be another park. But, Commissioner, may
16 I ask you a question, if it's okay with the
17 chairman, so that we can --

18 CHAIRMAN VAUGHN: Sure.

19 MR. PETERSON: -- try to get to this
20 element. Commissioner Schafer, I hear you, it's
21 too big. But big and dense and intense, it -- it
22 must become quantifiable in some form for it to be
23 reacted to. And so the -- the question I would
24 ask -- and I ask it generically, I'm not -- it's
25 not appropriate for me to cross-examine a

1 commissioner. I ask it generically --

2 MR. SCHAFER: It's happened before.

3 MR. PETERSON: It's -- well, probably by
4 a lot better than me. The question I'd ask
5 collectively is: Too big because too much
6 traffic? Too big because too much square footage?
7 Too big because not enough setback? Too big
8 because not enough green space? Too big because
9 too tall and it can be seen?

10 MR. SCHAFER: Well, if you're asking me,
11 you know, I think that the too big resonated with
12 me is, it's just as tall as the gymnasium, but the
13 mass of the gymnasium that was three stories tall
14 had a footprint of 20,000 feet. And you've got
15 three stories that the main building, independent
16 living is over 270,00 feet. So that's where,
17 okay, there's a component of it that's no bigger
18 than in Mission Valley, but that three-story
19 component is 12 times that size.

20 MR. PETERSON: So the height. Okay.

21 MR. SCHAFER: Well, it's in both height
22 and mass. And, you know, I understand the other
23 side's story about Benton and how 100,000 feet
24 makes sense. And here's the -- kind of the other
25 benchmark for me is, if they've got 50,000 feet on

1 six acres and, you know, that scale seemed
2 appropriate to the commission and to the neighbors
3 and this is 150,000 feet on 18 acres make sense.
4 So, John, when I say it just feels too big, those
5 are the two things that feel too big to me
6 personally.

7 MR. PETERSON: Okay. Thank you. That's
8 helpful.

9 CHAIRMAN VAUGHN: My comments would be
10 the same, in particular with concern for the
11 intensity of use. And my question was going to
12 be, can a project that's smaller be feasible? And
13 I -- and I suspect that it can. I know that
14 you've looked at everything possible already and
15 will look at them again, I'm sure. But the
16 intensity of the development, the intensity of the
17 structures, the narrow streets, those all concern
18 me.

19 MS. VENNARD: The -- when this whole
20 thing began, it was sold from the school district,
21 a lot of people's first reactions were, you know,
22 what -- what do we need, what do we need, what
23 kind of residential areas do we need? And what I
24 heard a lot from people were things like Corinth
25 Downs. And then when you go to Village Shalom and

1 you go to villa -- Villa Marta, they are -- their
2 villas are the most attractive part of these
3 areas. And you have so few of them. But in their
4 -- and -- but it's -- would be the only senior
5 area in Prairie Village that had any villas. So
6 it seems to me -- maybe you -- of course, it's a
7 -- it's a marketing thing, you -- you have your
8 accounts that tell you what's a positive thing.
9 But to me, what the city would be more interested
10 in, however, the residents would be more
11 interested in having is the villas. The density
12 might be -- but you'd have a buffer zone of more
13 villas around it and I think it would be much
14 nicer and -- and reduce the independent living
15 areas.

16 MR. PETERSON: The -- very legitimate
17 area of -- of inquiry and something that I know
18 Mr. Tutera and his group are looking at. Of
19 course, the balance on the other side is we want
20 that balance because just to do a villa product
21 and nothing else, we want the continuum of care.

22 MS. VENNARD: Right. I understand.

23 MR. PETERSON: So -- so that -- that's a
24 large part right there, I -- I would suggest to
25 you, if I may, respond, Mr. Chairman, is why we

1 would like really 60 days to come up with a
2 concept that fits and make work before we go to
3 that full design. Because it's very expensive to
4 take it to the level of design to know you've got
5 the -- you know, you've got your geometric for the
6 truck turning and you've got all that. And if
7 either a continuation of the public hearing, but
8 we -- we have work sessions seems to make the most
9 sense. We show it to you, get a reaction, not
10 advocate, that we make our decision and we bring
11 it back for a vote in August. Because it's
12 marketing analysis how that -- you know, you pull
13 that piece of the straw out of the straw pile and
14 it moves a few others. It's not as easy as it --
15 we're not looking to elongate this.

16 MS. VENNARD: Well, I'm -- I'm not
17 pretending to know what the marketing research
18 would show you or what the bottom line would be.
19 It's just --

20 MR. PETERSON: That's a primary area that
21 we're looking at.

22 MS. VENNARD: -- it's just an -- an issue
23 of everyone says we have so many senior things,
24 well, what don't we have of the senior elements?

25 MR. PETERSON: Right.

1 MS. VENNARD: And villas seem to be the
2 -- the one thing.

3 MR. PETERSON: Okay. I gotcha.

4 MR. TUTERA: Correct.

5 CHAIRMAN VAUGHN: All righty. I'm
6 concerned that this amount of time is going to
7 give you enough time to do -- make your studies
8 and modifications, if any, and still communicate
9 with the Mission Valley neighbors.

10 MR. PETERSON: I think we can do it. I
11 think if we had a work session scheduled in July,
12 we will commit to call a public meeting once we
13 get sort of a concept, if there is -- I -- I don't
14 have -- we don't have this in our back pocket
15 we're ready to pop out. I think we could get that
16 done and then, you know, we're probably in all
17 likelihood not going to have unanimity whatever we
18 come up with. Maybe some, I hope we can earn some
19 support. We may not have unanimity here, but
20 probably after that exercise, moving to the
21 August, we pretty much got to -- this is what we
22 want to do and -- and put it before the commission
23 for their consideration and vote, if you're ready
24 to vote. So I think we could do it, Mr. Chairman,
25 in that period of time.

1 CHAIRMAN VAUGHN: I would hope that you
2 would be able to get a large number, not
3 necessarily a majority, but a large number of the
4 neighbors --

5 MR. PETERSON: We'll try.

6 CHAIRMAN VAUGHN: -- in agreement with
7 what you propose.

8 MR. PETERSON: We'll try.

9 CHAIRMAN VAUGHN: We can't -- we don't
10 take a vote of the neighbors to determine whether
11 this does or does not happen. But we're really
12 concerned about the neighborhood and they need to
13 -- they need to be enthused about the project,
14 also.

15 MR. PETERSON: Well, we're going to do
16 the best we can. And all I can say is that that
17 checklist was not made up. We have worked through
18 very, very many meetings to do it and we're open
19 to dialogue and suggestions and we'll -- good
20 faith, but I -- I can commit a lot of things to
21 you, we're going to try to look at size, we're
22 going try to look at a few other things, but I
23 can't commit that -- but we'll try.

24 CHAIRMAN VAUGHN: Steve.

25 THE SPEAKER: Thank you, Mr. Chairman. I

1 want to take just two minutes and call a great big
2 steaming pile of hooey exactly what it is. Okay?
3 This developer has had multiple meetings with the
4 neighbors. And you can put the checklist back up,
5 but the one thing that's not on the list is this
6 project is too big and it's too tall. They've
7 been hearing that from the neighbors for a long,
8 long time. And the response has been to reduce
9 the size of the project by 4 percent. I'm happy
10 to continue to waste my time listening to nips and
11 tucks, but this is really frustrating and you have
12 to appreciate that. Thank you.

13 MR. PETERSON: Mr. Chairman, may I
14 respond? Because unfortunately, in part, we've
15 had some opportunity to have some good dialogue,
16 but that is the part that gets a little
17 frustrating. We have reduced the height of the
18 building, we have reduced the square footage of
19 the building. I will commit to you I will do my
20 -- we will do -- I say I -- we will do our very
21 best in that 60-day process to do the best we can
22 and bring it back. And if Mr. Carman continues to
23 be dissatisfied, it won't be because we haven't
24 offered to work with him in good faith. And I'm
25 sure he will dialogue with us in good faith.

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1 MS. WALLERSTEIN: Mr. Chairman.

2 CHAIRMAN VAUGHN: Nancy.

3 MS. WALLERSTEIN: I need to go back over
4 what has transpired. The neighbors have met with
5 the developer numerous times. We have had -- the
6 planning commission has had one presentation where
7 we were just trying to clarify a few questions in
8 the original presentation. We have done nothing
9 but listen to pros and cons. And this is -- right
10 now is the first opportunity we have had to
11 actually have dialogue about this project. So I
12 need for the neighbors to be patient while we go
13 through our deliberations and our considerations.
14 While we completely have read every one of your
15 letters and listened to every one of your
16 comments, we have got to have the time to give our
17 comments to these people so that we can tell them
18 what we would like to see. What I would like
19 to see and what I would like to ask staff is, what
20 is our policy for the height of the building?
21 There is no slope to this ground as in Brighton
22 Gardens or Claridge Court. It is a flat piece of
23 ground. What is the height that we normally
24 accept as they discussed?

25 MR. WILLIAMSON: In terms of the height

1 of the building, it's -- they can do it at 45 feet
2 actually because of the setback. They've gone 40
3 feet.

4 MR. TUTERA: 35.

5 MR. PETERSON: 35.

6 MR. WILLIAMSON: 35, yeah.

7 MR. PETERSON: We -- we cut -- we reduced
8 it. We were at four -- over 40 and we went to
9 40, we're now at 35.

10 MS. WALLERSTEIN: So am I -- so I'm --
11 what I'm hearing is that according to our policies
12 and our ordinances, this height is within our
13 ordinance.

14 MR. WILLIAMSON: It's very similar to
15 what was done at Brighton Gardens. Brighton
16 Gardens is taller, so is -- and -- and Claridge
17 Court, as well.

18 MS. WALLERSTEIN: I -- I think what I
19 would like to see is it broken up a little bit
20 more, possibly some space. Space -- what I'm
21 seeing is just this massive flat -- and I know
22 it's not flat, it's going to have some -- some
23 depth to it, but it just seems so high. And even
24 maybe considering reducing it a story and creating
25 a little bit of space in-between. I think it is

1 that -- the look of Prairie Village is the -- a
2 lot of it is the low flat ranch type houses. And
3 it -- the three stories just seems to be
4 completely out of place when you have all these
5 low ranches around you. So I'd love to see the re
6 -- reduction of the height a little bit.

7 MR. WILLIAMSON: Nancy, because the
8 ordinance says that they can do that --

9 MS. WALLERSTEIN: I know.

10 MR. WILLIAMSON: -- doesn't mean that you
11 have to approve it, you can approve what you feel
12 is proper.

13 MS. WALLERSTEIN: Well, that's what I'd
14 like and I'm telling you what I'm liking.

15 MR. WILLIAMSON: Yeah, right.

16 MS. WALLERSTEIN: So take it for what
17 it's worth.

18 MR. LINDEBLAD: I think the land use is
19 -- the use proposed is a good one. I consider
20 this a transitional site. You've got Mission
21 Road, a thoroughfare abutting the east side and
22 you've got apartments on the north and northwest.
23 So I see this as a transitional site, not strictly
24 a low-density residential site. So I think the
25 mix of the -- mix of the retirement housing is

1 good. I agree with Nancy that where the villas
2 are, the 35-foot setback is tight. Larger -- in
3 most single-family houses while there's a 25,
4 35-foot setback, the houses are further back. And
5 I think that needs to be loosened up. I like the
6 villa concept, the transition. The three -- the
7 partial three-story doesn't bother me. However,
8 maybe in a couple other places, the transition
9 from the two to three stories on the ends like
10 that are done on the front on Mission Road could
11 be done on at least the southwest side so you see
12 more of a transition from one story to two-story
13 to three. But I think it just needs a little
14 loosening up adjacent to the single-family, but I
15 think the villas as a transition is a good
16 concept.

17 MR. PETERSON: Thank you.

18 CHAIRMAN VAUGHN: Other questions? We've
19 talked about the possibility of adjourning this --
20 the hearing tonight, but continuing August 2nd.
21 Is there a motion that we --

22 MR. ENSLINGER: The question is -- the
23 question is, do you want a work session on July
24 2nd, which would be the next meeting that would
25 present design concepts, which is what the

1 applicant is asking for, and then those design
2 concepts or design concept would be further
3 refined for the August 6th meeting? So that's the
4 direction staff needs because --

5 CHAIRMAN VAUGHN: July 2nd is our next
6 regular meeting, right?

7 MR. ENSLINGER: Yeah. We need to know
8 whether to make sure we have reservations for the
9 room. I can tell you that the rooms are available
10 on those two dates, this room is available on
11 those two dates.

12 CHAIRMAN VAUGHN: As a work session,
13 you're talking about?

14 MR. ENSLINGER: Yeah. July 2nd, the room
15 is available. I would assume we would need to
16 hold it here because the capacity of city hall is
17 roughly 98 people. And then the August 6th date
18 is also available for this location. So the
19 question is, do you want a work session or do you
20 want to directly go to the August 6th meeting
21 where they come back with a revised design?

22 CHAIRMAN VAUGHN: What's your pleasure,
23 Nancy?

24 MS. WALLERSTEIN: I think we need a work
25 session.

1 MR. PETERSON: Thank you.

2 MR. KRONBLAD: I -- I don't think -- I
3 don't think it's -- I think to go 60 days and then
4 see something that we're still not comfortable
5 with or vice versa.

6 CHAIRMAN VAUGHN: So that would be
7 following our regular meeting?

8 MR. ENSLINGER: Yes.

9 MR. WOLF: Mr. Chairman, if I ask a
10 question. So they give us a revised plan, do we
11 start this process all over again?

12 CHAIRMAN VAUGHN: No. We continue with
13 the same process.

14 MR. WOLF: But, I mean, are we going to
15 have everyone stand up and give us their comments
16 again?

17 CHAIRMAN VAUGHN: Probably.

18 MR. WOLF: So logistically, are we going
19 to finish in August, the August meeting?

20 CHAIRMAN VAUGHN: Let's hope one way or
21 another, we'll be finished.

22 MR. WOLF: Okay.

23 MS. WALLERSTEIN: So let me make sure I
24 get this clear. We are going to have a work
25 session in July and we're continuing the public

1 hearing.

2 CHAIRMAN VAUGHN: Right.

3 MS. WALLERSTEIN: And that will go into
4 the August meeting, the public hearing?

5 CHAIRMAN VAUGHN: Right.

6 MS. WALLERSTEIN: But the work session
7 will be for the commissioners to just discuss with
8 the developer that their -- their plans or any
9 amendments to their plans that they want to
10 present.

11 CHAIRMAN VAUGHN: Right.

12 MS. WALLERSTEIN: Okay. And there's no
13 public comment during the work session?

14 CHAIRMAN VAUGHN: During the work
15 session, no, there will not be.

16 MS. WALLERSTEIN: But in the public
17 hearing? Is that -- we're still continuing --

18 CHAIRMAN VAUGHN: Public hearing goes
19 beyond that point.

20 MS. VENNARD: Till August.

21 MS. WALLERSTEIN: Yeah, okay. I just
22 want to make sure so that everybody gets a chance,
23 that if they come in July --

24 MR. KRONBLAD: Mr. Chairman.

25 MS. WALLERSTEIN: -- they're not going to

1 able to speak during the work session, right?

2 CHAIRMAN VAUGHN: Right.

3 MS. WALLERSTEIN: Okay.

4 MR. KRONBLAD: Mr. Chairman, I would ask
5 that with that schedule, how will -- will there --
6 how will the applicant interface with the homes
7 association -- Mission Valley association?

8 MR. PETERSON: We'll -- when we -- we'll
9 get this into the sketch form, the concept form,
10 what we're thinking about and we'll keep the
11 neighbors advised, we'll try to call the meeting
12 before the July meeting the best we can. They'll
13 hear it the same time you will in July, we'll
14 commit to meet with them before we -- if we can't
15 get it done then, maybe the best thing is we're
16 going to throw in -- I will tell you that we will
17 keep -- the only people talking to you at the work
18 session will be our design people, not me. Okay?
19 So it will be our design people explaining the
20 design. Hear some further input. I think more
21 logically, because we need a little time to put
22 that part together, we will then between that and
23 the public hearing meet with the neighbors, fully
24 bring them up to what we're going to present to
25 you for a vote in August, take additional input

1 and then we'll bring back the plan view. I think
2 that's -- I think if we tried to rush meeting with
3 the neighbors before July, it'd be more form over
4 substance.

5 CHAIRMAN VAUGHN: Thank you. Nancy.

6 MS. WALLERSTEIN: What I heard tonight
7 was the first opening with the neighborhood
8 association that they had some vision in mind.
9 And I would suggest that you speak with either
10 their representatives or their attorneys and see
11 if there is additional input that they can provide
12 that you could consider when you do any
13 modifications.

14 MR. PETERSON: I will -- I will
15 definitely reach out to John and we'll try to
16 start a -- an avenue for dialogue. I -- I want to
17 close with this and I want to do it on behalf of
18 Mr. Tutera because I know we are not angry. We
19 welcome the input. I tried to make the record
20 before. Some changes have been made, I know not
21 enough, but we have listened and that checklist is
22 not made up. You can go back and see the
23 iterations as we went through that. And we commit
24 to you that we will continue to do so. I know
25 it's emotional, but we will keep a business-like

1 approach and do the best we can to find common
2 ground. We understand it's our burden to earn
3 your support. And part of it is to do the best we
4 can to make it compatible in reality and in
5 perception. Thank you. I guess we need a motion.
6 But thank you very much.

7 CHAIRMAN VAUGHN: We'll recess the public
8 hearing. Do I have a motion?

9 MR. LINDEBLAD: So move to August 2nd.

10 MR. WOLF: What was the motion?

11 CHAIRMAN VAUGHN: It was moved and
12 seconded.

13 MS. WALLERSTEIN: Second.

14 THE REPORTER: Who seconded?

15 CHAIRMAN VAUGHN: Those in favor of the
16 motion.

17 THE COMMISSIONER: (Indicating).

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1 CERTIFICATE

2 STATE OF KANSAS

3 SS:

4 COUNTY OF SHAWNEE

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

16 I further certify that I am not related
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19 representing the parties, and I have no
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21 matter.

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

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