

EFF. DATE: 11-29-05

ORDINANCE NO. 2143

AN ORDINANCE APPROVING A PRELIMINARY SITE PLAN FOR VILLAGGIO EAST – LOCATED ON THE SOUTHWEST CORNER OF 135TH STREET AND MISSION ROAD.

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

SECTION 1. PRELIMINARY SITE PLAN GRANTED. Pursuant to Section 16-3-10 of the Leawood Development Ordinance, permission is hereby granted to use the following property, in the manner set forth in the Preliminary Site Plan, on file with the Leawood Planning Department, 4800 Town Center Drive, Leawood, Kansas, 66211, and in accordance with Section 16-2-6.3 of the Leawood Development Ordinance, and subject to all other laws and regulations:

Legal Description:

A part of the north 1/2 of the Northeast 1/4 of Section 33, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas more particularly described as follows:

Commencing at the Northwest Corner of said North 1/2 of the Northeast 1/4; thence North 87° 43' 6" E, along the North line of said North 1/2 of the Northeast 1/4, a distance of 1315.01 feet; thence S 01° 55' 41" E, a distance of 60.00 feet to the South right-of-way line of 135th Street as now established and being the True Point of Beginning; then N 87° 43' 6" E along said South right-of-way line of 135th Street, a distance of 770.31 feet, thence S 88° 28' 04" E, a distance of 180.35 feet, then N 87° 43' 06" E, a distance of 300.00 feet; thence S 40° 06' 16" E, a distance of 48.92 feet to a point of the West right-of-way line of Mission Road as now established; thence S 02° 08' 55" E, a distance of 289.42 feet; thence S 18° 24' 49" E, a distance of 103.95 feet; thence S 02° 01' 04" E, a distance of 825.82 feet; thence S 87° 46' 12" W, a distance of 1312.48 feet; thence N 01° 55' 41" W, a distance of 1264.57 feet to the True Point of Beginning, all in the City of Leawood, Johnson County, Kansas.

SECTION 2. CONDITIONS AND STIPULATIONS. The preliminary site plan and final site plan referenced in Sections 1 above is hereby approved and adopted contingent upon the performance and observation of the following additional and supplementary regulations, stipulations, conditions, and restrictions:

1. A minimum of 50% of the SD-NCR portion of the development shall be developed as office. The RP-4 portion of the development shall contain a maximum of eight 12 unit condominiums along with a pool and clubhouse for a density of 7.32 dwelling units/acre.
2. The applicant/owner shall be responsible for a park impact fee in the amount of \$.10/sq.ft. of finished floor area for nonresidential development and \$300 per unit for residential development. This fee will be required prior to issuance of a building permit the commercial portion of the development and at the time of final plat for the residential portion of the project. This amount is subject to change by ordinance.
3. The applicant/owner shall be responsible for a public art impact fee or a piece of public art. Approval of the design and location of the art will need to go before the Arts Council and Planning Commission at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of \$.10/sq.ft. of finished floor area prior to issuance of a building permit. This amount is subject to change by ordinance.

4. The applicant/owner shall be responsible for a K-150 Impact fee in the amount of \$.40/sq.ft. for office and \$1.34 for retail prior to issuance of a building permit. This amount is subject to change by ordinance.
5. The applicant/owner is responsible for a fee of \$200 per linear foot of frontage along Mission Road.
6. The applicant/owner shall be responsible for the construction of a second eastbound left turn lane from 135th Street onto Mission Road prior to the occupancy of any buildings within the development.
7. The property owner shall be responsible for the construction of 137th Street along the frontage of their property and Fontana from 135th Street to 137th Street prior to final occupancy of any of the buildings within the development.
8. The completion of the design and construction of 137th Street from Roe Ave. to Mission Road shall be under a single set of construction plans.
9. All power lines, utility lines, etc. (both existing and proposed, including utilities and power lines adjacent to abutting right-of-way) are required to be placed underground. This must be done at the time of widening 135th Street and Mission Road and prior to final occupancy of any building within the project.
10. The development shall meet section 16-4-5.3 of the Leawood Development Ordinance that requires no more than 40% of any site boundary length that fronts onto a public street to be developed as parking areas. The remaining 60% of such site frontage shall be developed as either a landscape or building condition to a depth of 90' from the property line.
11. The parking that serves the pad sites along 135th Street shall be reoriented to reduce the number of curb cuts associated with the pad sites.
12. Prior to final site plan application the applicant owner shall investigate alternative designs to reduce the number of dead end parking areas.
13. Pedestrian connections shall be aligned to so that connections are made to all the pedestrian trails within each area.
14. All landscaped islands shall be a minimum of 8' in width and 60 sq.ft. in area.
15. The existing trees along the south property line shall be preserved by placing these trees within a no build/no cut easement. These trees shall be clearly marked and reviewed with City Staff prior to any grading.
16. The applicant/owner shall attempt to preserve significant existing trees on the site by clearly marking all trees to be removed and reviewing them with City Staff prior to any grading.
17. The applicant/owner shall construct pedestrian crossings on all adjacent arterial and collector streets within the Market Square District.
18. Prior to final site plan application, the applicant/owner shall demarcate additional pedestrian crossings within the development.
19. In accordance with the Leawood Development Ordinance, all trash enclosures must be screened from public view with a 6 foot solid masonry structure to match the materials used in the buildings and shall be architecturally attached to the individual buildings and accented with appropriate landscaping. The gates of the trash enclosures shall be painted, sight obscuring, decorative steel.
20. All downspouts are to be enclosed.
21. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities and meter banks, shall be screened from public view with landscaping or with an architectural treatment compatible with the building structure.

22. All rooftop equipment shall be screened from the public view with an architectural treatment, which is compatible with the building architecture. For purposes of this subsection, the phrase screened from public view," means not visible at eye level from an adjoining property line or any street right-of-way.
23. Lighting fixtures along 137th Street, Fontana and Mission Road shall be of a special design chosen by the City of Leawood.
24. All monument signs shall be placed within a common area designated as a separate tract of land to be maintained by the homes association.
25. All landscaped areas shall be irrigated.
26. A more detailed landscape plan that meets the requirements of the Leawood Development Ordinance shall be submitted at the time of final site plan application.
27. All shade trees must be at least 4 inch caliper and all evergreens shall be 7 feet tall when planted. In addition, all shrubs shall be at a minimum five-gallon with a minimum height of 36" when planted.
28. Lighting plans, photometric studies and specific light fixtures must be included in the final site plan application.
29. Materials boards must be submitted at the time of final site plan application.
30. A 3 dimensional model must be submitted at the time of final site plan application.
31. Design guidelines for the overall development shall be reviewed and approved at the time of final site plan application, including sign design and calculations.
32. The applicant must obtain all approvals and permits from the Public Works Department, per the public works memo on file with the City of Leawood Planning and Development Department, prior to recording the plat.
33. The applicant must obtain all approvals from the City of Leawood Fire Department, per the Fire Marshal's memo on file with the City of Leawood Planning and Development Department, prior to issuance of a building permit.
34. An erosion control plan for both temporary and permanent measures to be taken during and after construction will be required at the time of application for building permit.
35. A cross access/parking easement for the entire development shall be recorded with the Johnson County Registrar of Deeds prior to issuance of a building permit.
36. The Owner/Applicant must establish a funding mechanism to maintain, repair and/or replace all common areas and common area improvements including, but not limited to, streets, walls, and storm water system improvements. The mechanism will include a deed restriction running with each lot in the development that will mandate that each owner must contribute to the funding for such maintenance, repair and/or replacement and that each lot owner is jointly and severally liable for such maintenance, repair and/or replacement, and that the failure to maintain, repair or replace such common areas or common area improvements may result in the City of Leawood maintaining, repairing and replacing said common areas and/or improvements, and the cost incurred by the City of Leawood will be jointly and severally assessed against each lot, and will be the responsibility of the owner(s) of such lot.
37. All sidewalks shall be installed as per street construction standards.
38. This preliminary plan approval shall lapse in two years, if construction on the project has not begun or if such construction is not being diligently pursued; provided, however, that the developer may request a hearing before the City Council to request an extension of this time period. The City Council may grant such an extension for a definite period of time for good cause shown by the developer.

39. No occupancy permit for any outlots or pad sites shall be issued until the construction of 30% of the principal shopping center buildings has begun. All buildings on out parcels or pad sites will conform to the architectural style of the principal center buildings as set forth by the developer and recommended by the Planning Commission and approved by the Governing Body.
40. All building setbacks shall be not less than 75' from the common property line with Leawood Meadows.
41. Berms shall be constructed along the common property line with Leawood Meadows and shall be landscaped with evergreens or other appropriate foliage.
42. The 1st phase of Villaggio East shall be the installation of storm water management handling facilities including the retention pond, screening, buffering and landscaping along the common property line of Leawood Meadows.
43. Any lighting of buildings directly north of Leawood Meadows, including the condominiums shall primarily be limited to the north side of the buildings. The south sides of the buildings shall be equipped only with sufficient lighting to ensure security in a non-intrusive manner and not directed toward the residents of Leawood Meadows.
44. Any street and parking lot lighting shall be the type that has recessed lenses and directed downward.
45. The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through forty-five.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication as required by law.

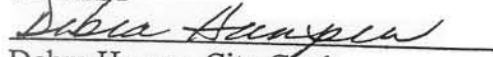
PASSED by the City Council this 21st day of November, 2005.

APPROVED by the Mayor this 21st day of November, 2005.

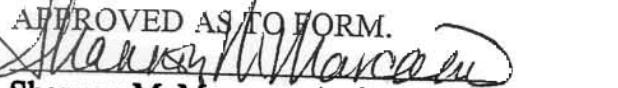
(SEAL)


Peggy Dunn, Mayor

ATTEST


Debra Harper, City Clerk

APPROVED AS TO FORM.


Shannon M. Marcano, Assistant City Attorney