The meeting of the Overland Park City Council was called to order at 7:35 p.m. by Mayor Ed Eilert. The following members were present, constituting a quorum:

Mr. Thomas C. "Tim" Owens, Council President; Mr. Neil S. Sader; Dr. Jack Halligan; Mrs. Georgia Erickson; Mr. Michael J. Lally; Dr. Jay F. Lehnertz; Mr. Byron C. Loudon; Mr. Greg L. Musil; Mr. David Belpedio; and Mr. Carl R. Gerlach.

Also present were: Mr. Don Pipes, City Manager; Mr. Roger Peterson, Director of Planning and Development Services; Mr. James Cox, Director of Parks and Recreation; Ms. Kristy Cannon, Director of Finance, Budget and Administration; Mr. Sean Reilly, Manager, Communications; Mr. Mark Stuecheli, Sr. Transportation Planner; Mr. Bob Lowry, Director of Public Works; Mr. Chuck Thacker, Chief of Risk Management; Mr. Dennis Meyers, Fire Chief; Ms. Mary Jane Perry, Aquatics Supervisor; Mr. Mike Garcia, Manager, Personnel Services; Mr. Keith Faddis, Police Captain; Mr. Bob Lindeblad, Administrator, Current Planning; Mr. Bart Budetti, Sr. Assistant City Attorney; Mr. Brad Cooper, Kansas City Star; and Ms. Nancee Ellis, Sr. Recording Secretary. There were 15 persons in the audience.

PLEDGE OF ALLEGIANCE

Mayor Ed Eilert led the audience in the pledge of allegiance.

MAYOR ED EILERT

For public information, the Mayor advised that the Bistate Commission has been conducting its meetings around the metropolitan area in the counties who are part of that bistate area. He reported that the Bistate Commission would meet this Thursday in these Council Chambers at 6:30 p.m. and invited anyone who is interested to attend.

CITY MANAGER DONALD E. PIPES

No report.

CONSENT AGENDA:

PUBLIC SAFETY

STAFF CONSENT ITEM:
APPLICATION FOR RENEWAL OF MASSAGE THERAPY BUSINESS LICENSE - Prairie Life Center, 10351 Barkley, Neal Huston, applicant.

PUBLIC WORKS

STAFF CONSENT ITEMS:

RESOLUTION NO. 2954 - Directing the City Clerk to provide public notice of the public hearing to consider the proposed assessments for Improvement District No. 95-166 for the installation of a concrete storm sewer and the necessary surface appurtenances and lateral lines to improve certain channels, ditches, and substandard storm drainage systems and to help alleviate certain flooding and eroding conditions beginning on the north side of 75th Street and approximately 500 feet east of Antioch Road, thence northerly to an existing concrete ditchliner north of 74th Street and west of Mackey Street, including Antioch Acres and Oak Ridge Estates.

RESOLUTION NO. 2955 - Directing the City Clerk to provide public notice of the public hearing to consider the proposed assessments for Improvement District No. 95-172 for the installation of a concrete storm sewer and the necessary surface appurtenances and lateral lines to improve certain channels, ditches, and substandard storm drainage systems and to help alleviate certain flooding and eroding conditions located along the existing earthen ditch beginning on the east side of Walmer Street and approximately 400 feet south of 67th Street and continuing east to an existing concrete box culvert, in and including Southmoor.

RESOLUTION NO. 2956 - Directing the City Clerk to provide public notice of the public hearing to consider the proposed assessments for Improvement District No. 95-168 for the construction of 133rd Street from Switzer Road to a point approximately 1336.14 feet east of Switzer Road.

RESOLUTION NO. 2957 - Directing the City Clerk to provide public notice of the public hearing to consider the proposed assessments for Improvement District No. 95-269 for the construction of Grant Street from 135th Street to 133rd Street.

RESOLUTION NO. 2958 - Directing the City Clerk to provide public notice of the public hearing to consider the proposed assessments for Improvement District No. 96-173 for the construction of approximately 1,450 feet of Nieman Road to the centerline of 135th Street.

RESOLUTION NO. 2959 - Directing the City Clerk to provide
public notice of the public hearing to consider the proposed assessments for Improvement District No. 95-167 for the improvement of 97th Street from a point 350 feet east of Quivira Road to the intersection of 97th Street with 98th Street and the construction of two multilevel parking structures on the Oak Park Shopping Center tract.

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

STAFF CONSENT ITEMS:

CONFIRMATION OF INVESTMENTS

City investments totaling $3,500,000 were confirmed by the Council.

COUNCIL MINUTES - July 14, 1997

The Council approved the referenced meeting minutes.

CAPITAL PROJECTS EXPENDITURE ORDINANCE - Outlining the expenditures from the Capital Projects Funds for November 6 through November 12, 1997.

NOTE: The following applications for Cereal Malt Beverage Licenses, Drinking Establishment Licenses, Private Club Licenses and Caterers Licenses have been checked out with the Police and Planning and Development Services Departments and are ready for approval.

APPLICATION FOR NEW CEREAL MALT BEVERAGE LICENSES:

American Drug Stores, Inc., d/b/a Osco Drug #2251, 12691 Antioch, Wallace L. Fairfield, manager.

American Drug Stores, Inc., d/b/a Osco Drug #2288, 12290 College Boulevard, Bruce Waggener, manager.

APPLICATION FOR RENEWAL OF CEREAL MALT BEVERAGE LICENSES FOR 1998:

McKinzie Enterprises, Inc., d/b/a Cherokee Sun Fresh, 8701 West 95th Street, Leonard B. McKinzie, manager.

Nguyen-Tran Food Services, Inc., d/b/a Dragon Palace Chinese
Restaurant, 9601A Metcalf, Peter M. Nguyen, manager.

Greek Cuisine, 11811 College Boulevard, Paramjit K. Gill, owner and manager.

Frank's Food Mart, Inc., d/b/a Milgram IGA, 10310 Mastin, Robert E. Henry, new manager.

7-Eleven Sales Corporation, d/b/a 7-Eleven Store #25726, 8700 West 95th Street, Kristin Lank, manager.

7-Eleven Sales Corporation, d/b/a 7-Eleven Store #27832, 11724 Quivira Road, Deborah Turney, manager.

Brian S. Cooper d/b/a Short Stop Groceries No. 2, 7010 West 83rd Street, Brian S. Cooper, owner and manager.

Golf Operations Management, LLC, d/b/a Westlinks Pavilion, 12501 Quivira Road, David W. Eleeson, licensee and manager.

Golf Operations Management, LLC, d/b/a Overland Park Golf Club Clubhouse, 12501 Quivira Road, David W. Eleeson, licensee and manager.

APPLICATIONS FOR RENEWAL OF DRINKING ESTABLISHMENT LICENSES FOR 1998:

Johnny's Tavern, Inc., d/b/a Johnny's, 6765 West 119th Street, Louie Riederer, manager.

Amarillo Mesquite Grill, Inc., d/b/a Amarillo Grill, 6800 W. 95th Street, Johnnie Holler, new manager.

A & L Enterprise, Inc., d/b/a Andy's Wok, 6705 W. 119th Street, Anne K. Ai, manager.

Bo Ling's Chinese Restaurant, Inc., d/b/a Bo Ling's Chinese Restaurant & Lounge, 9055 Metcalf, Far Ling Ng, manager.

Chi-Chi's of Kansas, Inc., d/b/a Chi-Chi's Mexican Restaurante, 10586 Metcalf, Brandy Barnett, new manager.

Chili's of Kansas, Inc., d/b/a Chili's Hamburger Grill & Bar, 9099 Metcalf, David Uphoff, manager.

The Italian Restaurant Co., LLC, d/b/a Cielio's, 11885 W. 95th Street, Pete W. Lawrence, new manager.


Kansas 19th Hole Corporation d/b/a Deer Creek Golf Club, 7000 West 133rd Street, Terry Wylie, new manager.
Fat Cats LLC, d/b/a Fat Cats Bar & Grill, 7300 W. 119th, Michael Calcarra, manager.

Kansas Ja-Del Inc., d/b/a Fiorella's Jack Stack Barbecue, 9520 Metcalf, John Case Dorman, manager.

R and R Corporation, d/b/a Hikari Japanese Steak House, 9058-A Metcalf, Chen Kok Yong, manager.

Hotel Clubs of Corporate Woods, Inc., d/b/a Doubletree Hotel, 10100 College Boulevard, Scott Woidela, new manager.

Sam Wilson's/Kansas, Inc., d/b/a Houlihan's Old Place, 11600 W. 95th Street, Stephen Scott Crume, manager.

Jalapenos of Kansas, Inc., d/b/a Jalapenos Mexican Restaurant, 7729 W. 151st, Ben Hernandez, manager.

Darryl's of Overland Park, Inc., d/b/a J. Gilbert's Wood-Fried Steaks, 8901 Metcalf, Mary Elizabeth (Lisa) Sanchez, new manager.

Jock's, Inc., d/b/a Jocks A Sports Bar, 9103 Elmhurst, Vernon W. Jones, Jr., manager.

Royal China, Inc., d/b/a Royal China Restaurant, 7800 W. 63rd Street, Kil Woo Lee, manager.

La Cocina Del Puerco of Overland Park, Inc., d/b/a La Cocina Del Puerco, 9097 Metcalf, Larry Gaines, manager.

Longbranch Steakhouse Saloon, Inc., d/b/a Longbranch Steakhouse Saloon, 9095 Metcalf Avenue, Walter Coffey, manager.

Lucky Tai's Inc., d/b/a Empress Garden/Fuji Japanese Steak House, 8623 West 95th Street, Kai Liang Tai, manager.
Metcalf Restaurant, Inc., d/b/a Dick Clark's American Bandstand Grill, 10975 Metcalf Avenue, Cindy D. Moriarty, manager.

Midwest Outback-I, Limited Partnership, d/b/a Outback Steakhouse, 9501 Quivira Drive, Edward McCasland, manager.

Mulvaney's Beef and Brew, Inc., d/b/a Mulvaney's Beef and Brew, 7955 East Frontage Road, Jane L. Marlo, manager.

General Mills Restaurants of Kansas, Inc., d/b/a Olive Garden Restaurant, 6750 W. 95th Street, Judy Barnett, new manager.

General Mills Restaurants of Kansas, Inc., d/b/a Red Lobster Restaurant #69, 9475 Metcalf Avenue, Robert Byrnes, manager.

Rock Bottom Kansas, LLC, d/b/a Rock Bottom Brewery, 11721 Metcalf Avenue, Thomas J. Netolicky, new manager.

Chili's of Kansas, Inc., d/b/a Romano's Macaroni Grill, 9292 Metcalf Avenue, Dave Garner, manager.

T. B. & G. Inc. of Kansas, d/b/a Tanners, 10146 West 119th Street, Mark J. Brentano, manager.

Main Street Midwest, Inc., d/b/a T.G.I. Friday's, 11851 West 95th Street, Richard Broaddus, new manager.

Torrean Restaurant Company, 9129 Elmhurst Dr., Denice L. Ibarra, manager.
B & N, LLC, d/b/a Trumpets, 11942 Roe, Steve G. Cresto, manager.

APPLICATIONS FOR RENEWAL OF CATERERS LICENSES FOR 1998:

Hotel Clubs of Corporate Woods, Inc., d/b/a Doubletree Hotel, 10100 College Boulevard, Scott Woidela, manager.

Kansas 19th Hole Corporation, d/b/a Deer Creek Golf Club, 7000 West 133rd Street, Terry Wylie, manager.

APPLICATIONS FOR RENEWAL OF CLASS A PRIVATE CLUB LICENSES FOR 1998:

Brookridge Golf and Country Club, Inc., 8223 West 103rd Street, Judi Renzi, manager.

Milburn Golf and Country Club, 7501 West 69th Street, Gerold Janzen, manager.

Mr. Thomas C. "Tim" Owens moved for the approval of the preceding consent agenda as recommended. The motion was seconded by Mr. Neil S. Sader.
Dr. Jack Halligan asked that Resolution No. 2955 be removed from the consent agenda so he could abstain.

After a roll-call vote, the consent agenda was approved unanimously, with the exception of Resolution No. 2955, which was removed for separate voting.

Mr. Michael Lally moved for the approval of Resolution No. 2955. After a second by Mr. Carl Gerlach, the motion carried by roll-call vote of 9-0-1. Dr. Halligan abstained from voting due to a conflict of interest.

REGULAR AGENDA:

PUBLIC SAFETY

COMMITTEE REPORT: Georgia Erickson, Chairwoman

No report.

STAFF REPORT:

Captain Keith Faddis said there was no report.

PUBLIC WORKS

COMMITTEE REPORT: Byron C. Loudon, Chairman

At a Special Public Works Committee meeting, which was held earlier this evening, the Committee unanimously recommended granting of a stormwater variance request for the 2nd Plat of Metcalf 105, in the vicinity of 107th and Barkley, subject to stipulations recommended by staff, and Chairman Loudon so moved. After a second by Mr. Owens, the motion carried by a 10-0 vote.

Chairman Loudon reported that because of the Thanksgiving holiday, the regularly scheduled Public Works Committee meeting has been changed to next Monday evening at 7:30 p.m., in Conference Room No. 1.

STAFF REPORT:

Director of Public Works Bob Lowry advised that this item was a bid tabulation for the disposal of various retired trucks and equipment. He said the total amount of revenue resulting from the sale of these items is $95,518, and staff recommended acceptance of the following bids: Items 1 (Boom Truck) and 2 (Dump Truck) were awarded to Wiglesworth Truck Company in the amount of $21,106 and $5,206 respectively; Item 3 (Dump Truck) was awarded to City of Savannah in the amount of $6,001.29; Item 6 (Tandem) was awarded to A-1 Sewer & Septic Service in the amount of $8,000; Item 7 (Gallion Roller) was awarded to Carbon Tractor Parts, Inc., in the amount of $3,051; Item 8 (Case Tractor) was awarded to Elgene Verdught in the amount of
$3,051.01; Item 9 (Motor Grader) was awarded to Carbon Tractor Parts, Inc., in the amount of $42,677; Item 10 (Bobcat) was awarded to Dixie Surplus Machinery in the amount of $6,268; Item 18 (Paint Stripper - Airless) was awarded to Trantex, Inc., in the amount of $50; Item 21 (Generator) was awarded to Ernie Rieke Equipment Company in the amount of $108.

Mr. Owens moved for the preceding bid tabulations as recommended by staff. After a second by Mr. Lally, the motion carried by a 10-0 vote.

AGREEMENT - Board of County Commissioners of Johnson County for the public improvement of Antioch from 85th Street to Santa Fe Drive (1998 Street Improvement and 1998 CARS project)

Mr. Lowry said staff recommended approval of this Interlocal Agreement between Johnson County, Kansas and the City of Overland Park to receive CARS money for maintenance regarding the Overlay Program.

Mr. Owens moved for the approval of the referenced agreement as recommended by staff. The motion was seconded by Mr. Gerlach and carried by a 10-0 vote.

CHANGE ORDER NO. 9 - Excel Constructors, Inc., for remodeling of the Antioch Justice Center for a deduct of $1,022.

Mr. Lowry advised that this change order was ready for approval.

Mr. Owens moved for approval of the referenced change order. Seconding the motion, which carried by a 10-0 vote, was Mrs. Georgia Erickson.

FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT

COMMITTEE REPORT: Neil S. Sader, Chairman

No report.

STAFF REPORT:

APPLICATION FOR NEW DRINKING ESTABLISHMENT LICENSE - Marano Enterprises of Kansas, LLC, d/b/a Z-Teca Fresh Mexican Grill, 9220 Metcalf, Kristin K. McKinney, manager.

Director of Finance, Budget and Administration Kristy Cannon said staff recommended approval of the referenced application subject to the approval of a Temporary Certificate of Occupancy (TCO)

Mr. Greg Musil moved for the referenced application, subject to approval of a TCO) as recommended by staff. The motion was seconded by Mr. Sader and carried by a 10-0 vote.
APPLICATION FOR TEMPORARY PERMIT FOR SERVING ALCOHOLIC BEVERAGES - Colombia Cultural Association, for an event to be held on November 29, 1997, at the American Legion Post 370, 7500 West 75th Street, Carlos D'Achiardi, manager.

Ms. Cannon relayed that this was placed on the regular agenda because staff did not have all the material they needed; however, that material has been provided, and staff recommended approval.

Mr. Owens moved for the approval of the referenced application. The motion, seconded by Mrs. Erickson, carried unanimously.

COMMUNITY DEVELOPMENT

COMMITTEE REPORT: Greg Musil, Chairman

Chairman Musil advised that there would be a meeting, this Thursday evening from 5 p.m. to 6:30 p.m., in the Multipurpose Room, with the Infill and Redevelopment Guidelines Task Force. He invited all Councilmembers to join him and Dr. Halligan.

STAFF REPORT:

Mayor Eilert asked that the next four items be taken together.

BID TABULATIONS:

St. Andrews Golf Course Driving Range Lights.

Director of Parks and Recreation Jim Cox advised that staff recommended that the low bid from Schmidtlein Electric, Inc., be accepted in the amount of $57,650.

Vertical Turbine Pump Station

Mr. Cox stated that staff recommended rejection of both bids received for the pump station since the City could not obtain a building permit due to the objections from the Shannon Valley Homes Association.

St. Andrews Golf Course Cart Rental Fleet and Refreshment Cart.

Mr. Cox said staff recommended acceptance of the bid from E-Z-GO Textron with a three-year lease for 75 golf carts, to be made in three annual payments of $49,770; one beverage cart at $10,585; and a maintenance agreement of $30 per year per cart, including the beverage cart.
Sidewalk Renovation - 1997

Mr. Cox relayed that staff recommended acceptance of the low bid from National Streetscape, Inc., in the amount of $28,466.

Mr. Owens moved for the approval of staff recommendations on the preceding four items. After a second by Dr. Lehnertz, the motion passed by a 10-0 vote.

AGREEMENT - Esther Toombs for planning, conducting, and implementing the City's Aerobics Program.

Mr. Cox said staff recommended approval of the referenced agreement with two changes. One change entailed a slight additional amount being paid to the City. The other change was that child care at Tomahawk Ridge for morning classes has been dropped from the agreement because child care has been used significantly less by patrons than in previous years.

Mr. Cox stated that the referenced agreement was in order and ready for consideration.

Mr. Loudon moved for the approval of the agreement with Esther Toombs as recommended by staff. The motion was seconded by Mr. Owens and passed by a 10-0 vote.

ACCEPTANCE OF KANSAS SPECIAL WARRANTY DEED - Westlinks Golf Course, vicinity of 133rd Street and Westgate.

As outlined in a memo to the Governing Body, dated November 11, 1997, from Mr. Cox, staff recommended acceptance of the referenced document for approximately 8.65 acres at the Westlinks Golf Course. This is part of the remaining property currently leased by the City per the Lease Agreement executed in 1991.

Mr. Owens moved for the acceptance of the Kansas Special Warranty Deed as recommended by staff. After a second by Mr. Musil, the motion carried unanimously.

GRANTING OF RIGHT-OF-WAY - Johnson County Waste Water District in the vicinity of 140th Street and Switzer.

Mr. Cox asked for authorization to grant additional right-of-way to the Johnson County Waste Water District to connect a private residence at 13950 Switzer to the existing sewer line that terminates on the extreme south end of Community Park. Shortly after that approval date, he noted that the Waste Water District requested that the engineer do some realignment, which changed the legal description as written on the previous right-of-way. Therefore, Bird Engineering Company requested that this new right-of-way grant be resubmitted for approval.
The previous right-of-way grant was never filed with the County, and the original document has been returned to the City.

Mr. Owens moved to approve the granting of right-of-way to the Johnson County Waste Water District as outlined by staff. The motion to grant the right-of-way passed unanimously, after a second by Mr. Loudon.

Before considering the Planning Commission consent agenda, Mayor Eilert clarified that the applicant for item number 12, under the regular agenda, has requested a continuance. Administrator, Current Planning Bob Lindeblad concurred, adding that the applicant for item 11 has also requested a continuance. He said both items would be continued to the December 1, 1997, Council meeting.

Mr. Musil moved to continue items 11 and 12 to the Council meeting of December 1, 1997. After a second by Mr. Sader, the motion passed by a 10-0 vote.

Regarding item 4 on the consent agenda, Mr. Lindeblad said a revised plat has been submitted removing the right-of-way from the plat. Therefore, no acceptance of right-of-way is needed for Plat No. 97-110, and the item can be removed from the agenda. Item 9 (Rezoning No. 97-28) should also be removed.

CONSENT AGENDA OF PLANNING COMMISSION RECOMMENDATIONS:

PLANNING COMMISSION CONSENT ITEMS:

SPECIAL EVENT PERMIT NO. 97-408 - 8479 West 95th Street. Ms. Patty Lusher, applicant, is requesting a special event permit to allow a banner for Santa Surplus from November 22 to December 28, 1997. This property is currently zoned CP-2, Planned General Business District.


PLAT NO. 97-112 - FINAL - Shadowbrook, 3rd Plat. Vicinity of 145th Street and Metcalf. Mr. Bob Sailors, applicant. The Planning Commission approved this item on October 27, 1997, by a vote of 7 to 0.

REVISED PRELIMINARY PLAN APPROVAL - Corporate Lakes Office Park. Vicinity of the southeast corner of 121st Street and Metcalf. Nolte & Associates, AIA, Inc., applicant. Mr. Larry Rieke, owner. CP-0 zoning granted under Rezoning No. 96-67. The Planning Commission approved this item on October 27, 1997, by a vote of 7 to 0.

SPECIAL USE PERMIT NO. 97-38 - 7000 West 133rd Street. American Golf Corporation, applicant, is requesting a special use permit for a five-year period of time to allow a drinking establishment. This property is currently zoned R-1, Single-Family Residential District. The Planning Commission approved this item on October 27, 1997, by a vote of 8 to 0. Ordinance No. Z-2572.

SPECIAL USE PERMIT NO. 97-45 - Vicinity of the southwest corner of 107th Street and Barkley. Henry Hotels, Inc., applicant, is requesting a special use permit for an indefinite period of time to allow the construction of a hotel. This property is currently zoned CP-0, Planned Office Building District. The Planning Commission approved this item on October 27, 1997, by a vote of 8 to 0. Ordinance No. Z-2573.

REZONING NO. 97-28 - Vicinity of the northeast corner of 135th Street and U.S. 69 Highway. Mr Andrew Schlagel, applicant, is requesting RP-3, Planned Garden Apartment District, to permit the construction of an apartment complex. This property is currently zoned R-1, Single-Family Residential District. The Planning Commission DENIED this item on October 27, 1997, by a vote of 8 to 0. Ordinance No. Z-2557.

Mr. Loudon moved for the approval of the consent agenda as recommended by the Planning Commission, with the exclusion of item numbers 4 (Plat No. 97-110) and 9 (Rezoning No. 97-28). The motion was seconded by Mr. Owens.

Mayor Eilert opened the public hearing for anyone wanting to address item number 1 (Special Event Permit No. 97-408 at 8479 West 95th Street); item number 7 (Special Use Permit No. 97-38 at 7000 West 133rd Street); and item number 8 (Special
Use Permit No. 97-45 at the southwest corner of 107th Street and Barkley). With no one wanting to comment, the public hearing was closed.

The motion carried by a 10-0 roll-call vote.

Returning to item number 9, Rezoning No. 97-28, Mayor Eilert clarified that the applicant is appealing a Planning Commission recommendation for denial.

Mr. Lindeblad concurred, adding that the Planning Commission unanimously denied this item at their August 11, 1997, meeting. The City Council considered this item on September 8, 1997, and voted to return the application to the Planning Commission without any presentations or discussion for the purpose of reviewing the following site plan issues: (a) Requiring emergency access to the north through the proposed office park; (b) Consider allowing a reduced Greenway Linkage along U.S. 69 Highway in return for the dedication of the floodplain for parkland; (c) consider a time of performance for the applicant for this request.

The applicant is requesting rezoning from R-1, Single-Family Residential District to RP-3, Planned Garden Apartment District, to allow the construction of 248-unit apartment complex.

Mr. Lindeblad advised that this tract is currently undeveloped and is located at the crossroads of two developing corridors—a north/south corridor between U.S. 69 Highway and Metcalf; and 135th Street, a developing office and commercial corridor which runs east/west. Tomahawk Creek runs at an angle through the middle of the property, essentially, dividing it into two tracts. He said the majority of the surrounding property is currently undeveloped.

One issue relating to this request is the appropriateness of garden apartments in a office corridor because of the access to this property and restricted access along K-150. The only median break access to this property will be through the tract to the east, which already has an unpublished CP-O zoning approved. Mr. Lindeblad said the tract to the north of Tomahawk Creek would only be accessible through a future public street Foster, which would run south, through the Southridge Office Park and would dead-end into this property.

Mr. Lindeblad recalled that when the K-150 Corridor Study was done and the land uses were reviewed and determined along this corridor, there was a conscious effort not to cross Tomahawk Creek with a reverse frontage road or any streets. Because of the way the creek ran through diagonally from the highway to Metcalf, it was presumed that everything north of Tomahawk Creek could be developed together as office. No expensive structures
would need to be put across the creek for access to the south because there would be adequate access from K-150 or 135th Street and Metcalf into that office and commercial locations southeast of the creek. The applicant's plan is to develop a garden apartment complex with temporary access from a right-in, right-out on 135th Street. When access is available through the tract to the east, which would be office, and to the Payless Cashway's median break, the temporary access would be closed. Mr. Lindeblad indicated that the applicant is proposing to construct a bridge across Tomahawk Creek to access a small tract north of the creek for further development.

In reviewing these land-use issues, staff reviewed the Master Plan and a number of its goals and policies, which are included in Staff Comments. Mr. Lindeblad noted that Master Plan policies encourage that there be large, continuous tracts of office development to create these office corridors with no other land uses among them.

Another issue relating to the bridge and the tract to the north which concerned staff was the availability of adequate access other than the bridge. The Fire Department had also expressed concerns that there would not be emergency access through to the north tract if the bridge was not usable. Mr. Lindeblad said future Foster Street would be stubbed to the property line from Southcreek Office Park; however, he did not know how soon.

Mr. Lindeblad said staff recommended denial of the rezoning because it is not in conformance with the Master Plan and the site does not have desirable access to support the residential development.

When the Planning Commission initially reviewed this application, Mr. Lindeblad said they voted unanimously to deny this rezoning because it is not an appropriate land use at this location, and Office is more appropriate. Again on October 27, 1997, the Planning Commission reviewed items as requested by the Council which were: (1) Requiring emergency access to the north through the proposed office park; (2) Consider allowing a reduced greenway linkage along U.S. 69 Highway in return for the dedication of a floodplain for parkland; (3) Consider a time of performance for the construction of the bridge. It was the opinion of Planning Commissioners that these were minor items compared to the land use issue. Commissioner's voted again, on October 27, 1997, by an 8-0 vote to recommend denial because the application is not in conformance with the Master Plan, and the site does not have adequate or desirable access for residential development.

Mr. Lindeblad said there were some other unresolved issues with regard to the floodplain; the design and location of the bridge; and whether some of the units proposed on the south side of the creek are out of the floodplain and the steep slopes along the
bank of the creek.

Mayor Eilert asked if the ability existed to tie into a public street to the north out of this project, on the north side of the creek. Mr. Lindeblad said this would not be possible until the developer of Southcreek Office Park builds Foster, a public street, which would come south from 129th Street.

Regarding traffic concerns on 135h Street, the Mayor asked if this type of land use had any overall positive benefits to the traffic numbers in this area. Mr. Stuecheli replied that he had not done an analysis; however, this use would be a lower trip generator than office use.

Mr. Musil clarified that the plan before the Council included a reduced greenway linkage to 40 feet, and Mr. Lindeblad concurred. Mr. Musil asked what the justification was for this reduction from the normal 100 feet that is maintained with other developments along U.S. 69 Highway. Mr. Lindeblad thought that Mr. Schlagel visited with Mr. Cox regarding this issue who may have agreed, along with planning staff, that a reduced greenway was appropriate.

Whether or not there is an office park here or a multifamily development, Mr. David Belpedio said when Foster is developed it would tie into that development. For accessibility purposes, he noted that Mr. Stuecheli had indicated there would be more traffic with an office park than with a multifamily development. Mr. Lindeblad said the issue related to land use and whether the Council wanted a little triangle of 100 units at the south end of an office park, with an inclusion of an expensive bridge. He pointed out that in looking at where other multifamily is along the two corridors, they are at the edges of Office and Commercial development, being used as transitional land uses to lower densities—not placed right in the middle of the corridors. Mr. Lindeblad said there were many other locations more appropriate for medium-density residential than this piece.

Referring to the bridge expense, Mrs. Erickson clarified that this would be the responsibility of the developer, noting that if the developer could not obtain the proper FEMA approvals and erosion control approval, then the project could not be developed. Mr. Lindeblad concurred, adding that he wanted to show that this may not be a good land use here if the developer has to build a bridge to bridge the two pieces together with a common land use.

If a developer proposed to put a commercial development here, Mrs. Erickson asked if he would be granted access onto 135th Street. Mr. Stuecheli said that developer would be granted a temporary access as is being proposed here, until the property to the east is developed. Mrs. Erickson clarified that the same access, and no other, would be available to a commercial
developer. Mr. Stuecheli concurred.

Mr. Gerlach clarified that these were private drives which the developer would be responsible for maintaining. Mr. Lindeblad agreed. Mr. Gerlach asked who would be responsible for maintaining the bridge if, in 20 years, for instance, the developer is gone. Mr. Lindeblad replied that the property owners would have that responsibility.

Mr. Musil asked when this site was master planned as office. Mr. Lindeblad said when the K-150 Study was approved in 1986.

Mr. Musil was concerned about the cost of the bridge because it would require maintenance. Over time, it could necessitate reserving a considerable amount of money for someone to do the repairs. City Manager Don Pipes commented that Councilmembers could recall the numerous requests the City has had with respect to erosion control in lakes in cases where the private developer offered the City assurances at the time of development that it would be private responsibility. He believed that maintenance on a bridge of this size would be considerable. Mr. Pipes said if this matter is to receive favorable considerable, there should be some special provision to guarantee maintenance of that structure. Otherwise, in 10 or 15 years, another Governing Body may have to take over the maintenance, which may not have been done at the same level the City would have supplied had this been a public bridge.

Mr. Lally thought some form of a bridge would be needed even if Office development was put here. Mr. Lindeblad said it would not be a bridge but some large culverts that would take care of the drainage areas. Mr. Lally clarified that the cost of a culvert was a great deal less than the contemplated cost for the proposed bridge.

Mr. Andy Schlagel, planning consultant representing the applicant, Mr. Mike Schlup and his engineer Jim Green, wanted to ensure the record was clear that this was not a garden apartment project, but rather a town home project.

This property is difficult to see from 135th Street, and there is no visibility northward into the back of the site. The site is divided by floodplain, and the state took away access on the west side. While he understood that staff had good intentions, Mr. Schlagel said staff wants to remove access on the south side.

Mr. Schlagel said this was not a bad plan. He said the office land use would generate notably more traffic in the area than the use proposed by the applicant.

Mr. Schlagel said the applicant had an extensive amount of work to do to complete the floodplain analysis and study. The appli-
cant knows that the bridge and the entire project will be costly, but does not see that as a problem.

Mr. Schlagel said the applicant was in agreement with staff stipulations. He added that the applicant would be glad to take additional access off 135th Street. He stressed that the applicant has agreed not to contest the City restricting access at this location. Mr. Schlagel said this is a difficult piece of property to work with and the access problem will not change.

Mr. Belpedio asked staff if there has been any proposals for office development over the last several years. Mr. Lindeblad was not aware of any.

Should the Council move forward with this application, Mr. Belpedio wondered if a stipulation could be included which specifies that the developer maintains the bridge on an indefinite basis. Mr. Lindeblad did not think such a stipulation could be enforced. Mr. Schlagel said the applicant would have no problem with that stipulation.

Mr. Musil asked if the applicant had protested any of the master plan review on this parcel that changed any of the designations to Office. Mr. Schlagel did not know, but added that this land was held as investment property for a number of years.

Referencing the earlier comment regarding bridge maintenance, Mr. Pipes agreed with Mr. Lindeblad regarding the uncertainty of enforcing such a stipulation; however, the City Council is on record that this bridge is eternally subject to private maintenance only--not maintained by public monies.

Mr. Scott Beeler, attorney represented Metcalf 135, the partnership that owns the tract in question. The subject property has remained vacant as zoned for almost 12 years, and during his client's ownership of this property, there have been no proposals made to build an office park. There have been, however, approximately two dozen proposals made to build a retail complex and this present proposal for multifamily.

In response to whether or not the suitability of the subject property is good for the use to which it has been restricted. Mr. Beeler's client believed that Office was not an appropriate zoning for this particular property. He said the marketplace indicates that multifamily is an appropriate zoning use for this property due to quick and easy access. Another Golden Decision factor relates to the extent to which the removal of existing restrictions may detrimentally affect nearby property. Mr. Beeler pointed out that the applicant is not removing restrictions--in fact by downzoning, the applicant is voluntarily affecting restrictions on this property by taking it to a less intense use than already zoned.
Mr. Beeler recognized that staff recommendations were part of the
Golden Decision, as well as a comprehensive plan as it exists.
He said this is not the perfect plan; however, the majority of
the Golden Decision factors are satisfied by the present
application.

Referring to an earlier question regarding if this property was
developed as Office and a bridge was built, Mr. Beeler said there
would be no immediate access from the north because Foster is not
built.

In other developments in the City, emergency access is via public
streets, and Mr. Beeler said it would be the same on this project
because Foster is a public street.

Mr. Beeler said this application is not an infill development.
He thought that this was a perception versus reality question,
with perception being a long smooth interrupted office zoning
corridor, running between Old Metcalf and the highway. In
reality, development there presently includes a driving range and
a convalescent home. He said this is not a smooth office
corridor and it won't be.

Referring to Staff Comments from the October 27th Planning
Commission meeting, page 52, Mr. Beeler read into the record:
"Staff has traditionally considered office and apartment uses to
be somewhat interchangeable in terms of the Future Development
Plan. However, in this instance, staff believes the proposed
multifamily development would not be an acceptable substitute for
Office because of the developing office corridor along Metcalf
and, because there's no need for a transitional use at this
location with no single-family subdivisions surrounding this
property." Mr. Beeler's point was that as one element to be con-
sidered, staff in this City and in most cities treat office and
apartment uses as interchangeable in terms of the comprehensive
plan. Further to the east, Mr. Beeler pointed out that this
Council has downzoned similar properties in similar locations
from Office to Multifamily.

Mr. Beeler noted that the property (three or four acres) not
shown on this plan, which is immediately due west, bordering
135th Street and Metcalf, is through agreement by the applicant
in hopes that the Cloverleaf ramp will be built. This is also
the property owner who is prepared to deed seven acres of this
property for green space in the parkway development. This is the
applicant who agreed to seek access via the property owner,
Mr. Wallingford, to the east, but was denied. As a result of
that denial, Mr. Beeler said the applicant sought the City's
cooperation and to see its needs and desires; however, that was
also denied. This is the reason the applicant has a temporary
access agreement with the City because it is the only access that
could be afforded to this site. Mr. Beeler said this applicant
wants to be a good neighbor and find the right way to develop
this property, which this proposal addresses.
Mr. Musil asked if Mr. Beeler thought the City used Office and Apartment master-planned zoned areas interchangeably. Mr. Beeler said those two terms are often used interchangeably for comprehensive plan purposes but not in every instance. Mr. Musil said the two terms are defined differently, and the City has used them differently. Mr. Beeler concurred.

Dr. Lehnertz said staff indicated that this stretch, particularly with the current zoning and the property to the immediate north, represented a sizable office concentration and that as the section north of the creek develops, it would be appropriately developed as Office. He noted that Mr. Beeler challenged that viewpoint and thought as it was now developing, it deviated from the Master Plan's intent. Mr. Lindeblad said the only deviation was the Walnuts project because everything else between Metcalf and U.S. 69 is nonresidential. Staff believed that when Foster comes in from the north, this would be a great location for an office development. There would be highway visibility, and a natural creek would be the boundary. In that case, staff saw no need for a bridge.

Concluding, Mr. Schlagel said sometimes in the Council's desire to keep things proper and simple, opportunities are missed. He said this was a good plan.

Mayor Eilert appreciated staff's position and the Planning Commission's recommendation, along with all of the questions from the Council this evening; however, the question is whether or not the requested zoning is appropriate for this tract, and he had no opposition to the rezoning request.

Mr. Lally clarified that the major concern Mr. Pipes had related to the bridge. Mr. Pipes agreed, however, he said it was a Council policy decision.

Dr. Halligan moved to affirm the Planning Commission's recommendation for denial of Rezoning No. 97-28. The motion was seconded by Mr. Lally.

Dr. Halligan was not sure that building apartments here would be the optimal use of the land. The access would be strictly right-in and right-out. Furthermore, any access off Foster is somewhere in the future. Lastly, there continue to be problems regarding emergency access, which may be increased with apartments compared to an office development. Dr. Halligan thought that some kind of inviolable fund would have to be set up by the developer to guarantee maintenance of the bridge.

Mr. Sader agreed with Dr. Halligan. He did not like the necessity for a bridge as proposed. Given the plan that the City is attempting to fulfill for office development in this corridor, it seemed to be premature, at an important intersection, to break the hopeful continuity which may take some discipline and will-
power to maintain.

Mr. Musil referred to some of the Golden Decision factors such as, the zoning and uses of properties nearby are office uses. He also agreed that the length of time the subject property has remained vacant as zoned has been a long time for an individual owner but not for a City. Another Golden Decision guideline related to the relative gain to the public health, safety and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner. Mr. Musil did not believe that the plaintiff's property value was being destroyed by keeping it as Office zoning. With regard to the suitability of the subject property for the uses to which it has been restricted, Mr. Musil said this property is suitable for Office development. He agreed with Mr. Schlagel that sometimes the Council misses opportunities, while other times, approval is given to the first proposal that presents itself because of the fear that the cycle is wrong.

With no further discussion, the motion to uphold the Planning Commission recommendation for denial passed by a 6-4 vote. Those opposed were Mr. Owens, Mr. Belpedio, Mr. Loudon, and Mrs. Erickson.

REGULAR AGENDA OF PLANNING COMMISSION RECOMMENDATIONS:

SPECIAL EVENT PERMIT NO. 97-415 - Vicinity of various intersections in Overland Park. Warren's Christmas Tree Farm, applicant, is requesting a special event permit to allow the display of directional signs at various intersections in Overland Park from November 28 to December 18, 1997. This property is currently zoned R-1, Single-Family Residential District.

Mr. Lindeblad said Warren's Christmas Tree Farm is the applicant who is requesting a special event permit to allow promotional signs to be displayed at off-site locations from November 28 to December 18, 1997. The signs would advertise the applicant's Christmas Tree Farm which is located outside the City limits within Johnson County at 11233 West 159th Street. Four-foot square signs are proposed to be placed at 12 to 14 intersections in the south part of the City.

In general, the City has not allowed off-site signage to be posted for multi-day events such as this. Furthermore, the applicant is promoting a business which is outside the City limits. Staff recommended denial of the application; however, should the Council find the application acceptable, staff recommended inclusion of stipulations a through d shown in Staff Comments.

Mr. Buzz Warren, representing Warren's Christmas Tree Farm, said he and his family have operated this business for 18 years. They
have been selling trees for 12 years and putting signs out for that length of item. Last year, he was informed that he needed a permit. He showed Councilmembers an example of what the signs look like, and he said he gave the Planning Commission a list of locations where the signs are proposed to be placed.

The Mayor asked Mr. Warren if he had seen stipulations a through d shown in Staff Comments, and Mr. Warren had. Mayor Eilert suggested that if the Council wants to approve this request that all four stipulations be included.

Mr. Lally moved for the approval of Special Event Permit No. 97-415, with stipulations a through d. Mr. Belpedio seconded the motion.

Commenting about increased complaints about the amount of signs near or around intersections, sometimes in the right-of-way or on private property, particularly on weekends, Dr. Lehnertz asked if staff had resources to monitor compliance should this application be approved. Mr. Lindeblad said monitoring on weekends is a problem for all kinds of businesses.

Mr. Loudon asked if the applicant was aware that the staff recommendation was only for four signs, and Mr. Warren said he was.

The motion carried by a 9-1 vote. Dr. Lehnertz opposed.


Mr. Lindeblad said the applicant has requested that this item be continued until the December 1, 1997, Council meeting.

**REVISED PRELIMINARY PLAN APPROVAL** - Trail Winds Center. Vicinity of the northeast corner of 151st Street and Antioch. Mr. Andrew Schlagel, applicant. Trail Winds Center, LLC, owner. CP-2J zoning granted under Rezoning No. 79-52. The Planning Commission denied this item on October 27, 1997, by a vote of 7 to 0.

Mr. Lindeblad said the applicant for this request has requested a continuance to the December 1, 1997, Council meeting.

**Mr. Andy Schlagel**, representing Arbey's, relayed that the applicant could not be present due to some scheduling conflicts.

Mr. Musil moved to continue both of the preceding items as requested. Mr. Sader seconded the motion, which carried by a

Mr. Lindeblad stated that the applicant is appealing the decision of the Planning Commission to deny a request for a sign deviation to allow a larger monument sign than is permitted.

The Venture store is located within a shopping center which includes five pad sites. Several smaller tenants are located within the same building as Venture. As relayed in Staff Comments, the shopping center has been in place for many years and no monument sign was requested until 1992, when the current monument sign was erected for Northwest Fabrics. The Unified Development Ordinance (UDO) allows only one monument sign per shopping center.

Mr. Lindeblad verbalized that the applicant has requested a deviation to allow the construction of a monument sign to replace the existing sign which is larger than permitted. The present sign, along Metcalf, is approximately 80 square feet in size and 10 feet high. He said the applicant has requested to remove that sign and install a 165-foot sign. The maximum size allowed in this zoning district is 100 square feet. Mr. Lindeblad said the reason for the larger sign request is because the property owner has promised, in a lease to a new tenant next to Venture, that they utilize the entire existing sign. Staff understands that the new tenant will not lease the property unless they get the entire existing sign. Therefore, Venture is requesting a sign of 165 feet, which would accommodate both Venture and the new tenant.

Included in Staff Comments is a letter from the applicant relaying the reasons for the request which include limited visibility for the building's wall signs.

Mr. Lindeblad said the UDO allows sign deviations if all five criteria can be met, as listed in Staff Comments.

Staff believes that in this instance, the problem is between the tenant and landlord. Granting of the deviation, in staff's opinion, would be opposed to the general spirit and intent of the ordinance which allows all CP-2 users to use 100-square foot signs throughout the City. Mr. Lindeblad said since all five of the conditions cannot be met to receive a deviation, staff recommended denial of the request.

Mr. Lindeblad conveyed that the Planning Commission considered this item on October 27, 1997. While there was general agreement with the applicant that the wall signs of Venture were not
visible from 95th Street and Metcalf, the majority of the Commission believed that the issue of the land owner not allowing Venture to use any portion of the existing sign was not one of the criteria for granting the deviation. Commissioners were concerned that granting approval of this request would set a precedent for similar disputes in other shopping centers. A minority of the Commission present felt that the sign was needed to help Venture stay a viable business in this area, but voted 4 to 3 to deny the request.

Mr. Belpedio stated that he would not participate in voting on the item due to a conflict of interest.

Mr. Arthur Barnes, director of design and construction with Venture Stores, distributed materials to Councilmembers outlining Venture's monument sign proposal. Page 1 of the handout included some photographs showing that due to other developments and mature landscaping in the area, the Venture Center is invisible from the intersection of 95th Street and Metcalf.

Also included in the handout was a site plan drawing, which showed the location of the existing sign. Mr. Barnes explained that was the exact location where the new modified monument sign was proposed to be placed after removal of the existing sign. Page 6 of the handout showed details of the proposed monument sign. Mr. Barnes stressed that the applicant tried to minimize the square footage and any potential for visual clutter at this site by keeping the panels low to the ground without wasting any spacing of the sign material.

Referring to other retailers of similar size to Venture in the area, Mr. Barnes pointed out that those retailers either have signage representation on Metcalf or they have excellent visibility. A few good examples of this could be seen all up and down Metcalf with retailers like K-Mart, Jumbo Sports, Comp USA, Best Buy and Best Buy/Petsmart, Walmart, and Kohls. Mr. Barnes noted that Kohls and Walmart also have effective visibility from side streets, which Venture does not enjoy. While not all of these retailers have signage on the Metcalf frontage, they do have tremendous visibility and are easily identified by passing motorists. More examples of signage with good visibility for large retailers on Metcalf were Bed Bath and Beyond, Computer City, Babies R Us, and Target.
Mr. Barnes explained that the point he wanted to stress was that Venture, at this location, has a unique position because there is neither a strong visibility from the street nor the ability for Venture to access the monument sign that exists there today. Since Venture cannot dramatically impact its visibility from Metcalf, Mr. Barnes was making this request, which he believed to be reasonable and legitimate.

Mr. Barnes remarked that some of the Planning Commission members looked at this request as a redevelopment of an existing core
retail business. The newer retailers that have located in the southern area of the City do not have the congestion issues that Venture has or are they subject to many of the same constraints which has resulted with the development of the out parcels that have occurred over time. He asked that this be part of the Council's consideration by not only focusing on new retail districts properly but also retaining the mature retail markets.

Mr. Barnes said the Venture Center remains a viable retail concern because of development that has occurred over the years since the center was originally built.

Mr. Barnes said some Planning Commissioners did understand the applicant's point that this was a unique situation with the out-parcel development and mature landscaping. He saw no other retailers of Venture's magnitude that are in a similar situation and therefore, he did not see how approval of this application could set a precedent.

Mayor Eilert clarified that this was a landlord/tenant question that keeps Venture off the sign. Mr. Barnes said that was correct, noting it was a point that was between the landlord and the adjacent tenant--out of the control of Venture. While a sign exists, Venture has no rights to it, and for that reason, the applicant was asking that the City recognize Venture's legitimate concern to have some representation on Metcalf.

Mr. Terry Jarvis, 4509 Normandy Lane, Kansas City, Missouri, said he has been involved in retail as president/CEO for the Jones Store in Overland Park for over 14 years. He retired a few years ago, but is now trying to help Venture because the store has had some difficulty in the last few years and has been near to closing. Even though Kansas City stores had a 9 percent increase in October, the Overland Park store showed a significant decrease. Having been involved in retail for a long time, Mr. Jarvis firmly believed that a large part of that is that this store is surviving mostly on return customers who know where the store is. Mr. Jarvis noted that customers routinely call to ask where the store is located. He stressed that Venture would have never built a store that they knew would not be visible. The situation has taken place over the years and Venture now realizes the store is not visible anymore. The store had no local representation until this year to pursue the problem.

Mr. Jarvis said the Northwest Fabric store that used to be next to Venture originally got the sign that now exists. Mr. Jarvis said this center was sold to Metropolitan Life Insurance who leased a space to Northwest Fabrics. Since then, the sign has been tied to that location where Northwest Fabrics was located. Therefore, Mr. Jarvis explained that Venture did not lose the rights to the sign because they never had it. He confirmed that there was no 100,000-square foot building anywhere that he has
seen that is not visible from a main street. This is why there should be no concerns about setting a precedent for this type of sign deviation because these same circumstances are nonexistent.

Mr. Jarvis said it takes more traffic for a 100,000-square foot store to survive, and visibility creates a great deal of that traffic.

Mr. Jarvis said Venture employs approximately 100 people and pays approximately $138,000 in sales tax to the City. He was unsure the store could survive without the Council's positive consideration.

He said a petition was left at the store for customers to sign regarding whether they would support Venture asking the Council for a sign. Within an hour, 40 customers had signed the petition.

Presently, improvements were being made to the store, such as improved landscaping and refurbishing the store to make the store viable.

Concluding, Mr. Jarvis asked Councilmembers to consider these factors in the unique situation: (1) There is no other retailer of this size without visibility regardless of how or why it happened; (2) This size of building requires 10-20 times the traffic of a smaller $1- to $2-million operation; (3) The topography of the site is not good because the building sets low; and (4) The configuration of the out-parcel developments and mature landscaping have over a period of time blocked the store from view.

Mr. Owens said he has been concerned about the property management and ownership at this location. He said the existing sign is one of the least attractive in the City. He recalled that whether Venture was responsible or the landlord was responsible, the City tried to repeatedly to get Venture to address concerns of the surrounding neighbors to this property.

Mr. Owens said there have been repeated requests to have the property owner take care of the berm along Foster that separates the Venture property from the homes association that is there. Mr. Owens said residents in that area are upset over the lack of maintenance or concern for a good neighbor policy by the businesses. Mr. Owens asked the applicant if the Council could expect some positive action regarding these problems if Venture is granted a variance, such as putting up an attractive sign, taking care of the berming and to be responsive and available when things are not done appropriately. Mr. Jarvis agreed, noting the plans to re-landscape were ready, and the parking lot would be re-stripped. He said he personally would be the City's local contact if that was the Council's desire, and he would get things done. Mr. Jarvis said the best single operating store in Kansas City for Venture is in Independence, which showed a 21
percent increase in October, after the parking lot was refurbished and re-striped the parking lot, redone all of the landscaping, and repainted the building. He said the applicant was willing to do the same thing here.

Mr. Owens asked if Mr. Jarvis would assist the City in seeing that the berm along the west side is addressed, and Mr. Jarvis concurred.

Mr. Sader asked staff if a deviation could be tied to a particular tenant or to a particular sign. Someday if Venture is no longer there, he wondered if the sign deviation would remain. Mr. Budetti thought that a reasonable time limit could be placed on the deviation to let Venture get the return on the investment of the sign. He said the deviation would run with the land. Mr. Sader asked who owned the land, and Mr. Jarvis replied that is was Metropolitan Life. Mr. Lindeblad did not think it would be possible to restrict whose name would be on the sign.

Dr. Lehnertz asked if there could be a time limit placed on the sign variance if it is granted. Mr. Budetti concurred. Dr. Lehnertz clarified that if there was a change in ownership or rental of this space the City could require that the sign come into compliance with the City's existing sign ordinance, and Mr. Budetti again concurred.

Dr. Lehnertz then moved to grant the sign deviation request for Venture at 9600 Metcalf, for a five-year period of time. The motion was seconded by Mr. Loudon.

Although Mr. Sader was troubled by the application, he said he would support the motion. He said the Council was not making a land-use decision, but rather the viability of an individual business. He was also not convinced that the City would not receive similar requests from other landowners.

Mr. Loudon recalled that when this building was built, it had a high visibility to the north along 95th Street. Office buildings were then constructed to the north, blocking off the view to Venture. He hoped approval of this request would be helpful.

Responding to the remark about the City receiving other requests, Mr. Jarvis agreed the City will probably receive requests. The difference is that there is no 100,000-square foot building without visibility anywhere in Overland Park or Kansas City. From that standpoint, this application is unique. Mr. Gerlach wanted to be sure it was clear to all concerned that the proposed sign would be no higher than what now exists. Mr. Barnes concurred.

The motion, allowing a sign deviation for a five-year period of time, carried by a 9-0 vote. Mr. Belpedio did not participate.
OLD BUSINESS:

MOTION - To rescind action of the Council at the regular Council meeting on October 20, 1997, approving Rezoning No. 97-30.

REZONING NO. 97-30 - Vicinity of 125th Street, west of Hemlock. Mr. Fred Logan, applicant, is requesting MP-1, Planned Industrial Park District, to allow the development of a self-storage facility. This property is currently zoned MP-1, Planned Industrial Park District. The Planning Commission denied this item on September 22, 1997, by a vote of 8 to 3. Ordinance No. Z-2564.

Mr. Loudon reported that he was withdrawing the preceding item because the matter has been resolved.

NEW BUSINESS:

At 10:15 p.m., Council President Owens moved to recess into executive session for a period not to exceed 10 minutes to discuss matters of attorney/client privilege. Mr. Sader seconded the motion, which carried unanimously.

ADJOURNMENT

Councilmembers reconvened at 10:25 p.m. to adjourn on a motion from Dr. Halligan and a second from Mrs. Erickson, which carried unanimously.

Minutes transcribed by Nancee Ellis.

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Ed Eilert, Mayor

ATTEST:

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Norma Moffet, City Clerk