

City of Leawood
Planning Commission Minutes
October 25, 2011
Meeting - 6:00 p.m.
Dinner Session – No Discussion of Items – 5:30 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160

CALL TO ORDER/ROLL CALL: Pateidl, Roberson, Jackson, Neff-Brain, Rohlf, Elkins and Strauss.
Absent: Williams and Ramsey.

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Pateidl; seconded by Neff-Brain. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

APPROVAL OF MINUTES:

Approval of the minutes from the September 27, 2011 Planning Commission Meeting and the October 11, 2011 Work Session.

A motion to approve the minutes of the September 27, 2011 Planning Commission meeting was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

A motion to approve the minutes of the October 11, 2011 Work Session was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

CONTINUED TO THE NOVEMBER 22, 2011 MEETING:

CASE 114-0 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4.6 – PERMANENT SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 90-11 – TUSCANY RESERVE VILLAGE – TUSCANY PIAZZA CONDOMINIUM – Request for approval of a Final Plat – located north of 137th Street and east of Pawnee.

CASE 98-11 – ONE NINETEEN – BALDWIN DENIM BLADE SIGN – Request for approval of a Final Sign Plan, located south of 119th Street and Roe Ave.

CASE 103-11 – MISSION FARMS – LAKESIDE TAVERN – Request for approval of a Final Sign Plan, located at 10551 Mission Road.

CASE 104-11 – PARKWAY PLAZA – KOSAMA COMPLETE BODY TRANSFORMATION – Request for approval of a Final Sign Plan, located at 4800 W. 135th Street.

CASE 105-11 – ONE NINETEEN – SUITE A-129 – Request for approval of a Final Plan for a Tenant Finish, located south of 119th Street and East of Roe Ave.

CASE 108-11 – ONE NINETEEN – VAKO JEWELRY – Request for approval of a Final Sign Plan, located at 4533 W. 119th Street.

CASE 111-11 LEAWOOD CORPORATE MANOR – MONUMENT SIGN – Request for approval of a Final Sign Plan, located at 4701 College.

CASE 112-11 – PINNACLE CORPORATE CENTER THREE – HOEFER WYSOCKI ARCHITECTS SIGN – Request for approval of a Final Sign Plan, located at 11460 Tomahawk Creek Parkway.

Comm. Roberson: I have a question on Case 108-11 – Vako Jewelry. I noticed the sign reads, “Vako Jewels” as opposed to “Vako Jewelry.” Are jewels not a product?

Mr. Rexwinkle: That is part of their legal name.

Comm. Pateidl: I have a question on the re-platting for the Tuscany Piazza Condominiums. Under “Plat Comments:” it says, “The Final Plat proposes dividing each of the two buildings into four condominium units consistent with the building line between each attached unit.” Those units have been marketed as individual condominium units from the beginning. Is there really a change taking place here, or is this just a clean-up?

Mr. Rexwinkle: There is no physical change taking place. Currently, there are no ownership divisions between each of the four units on record at the county. Prior to recording that, they are running it through this process.

Comm. Strauss: I question whether it would be appropriate for us to find out what the artist statement is on the sculpture for Case 110-11.

Chair Rohlf: We can remove that for further discussion. Anything else we need to remove?

A motion to approve the Consent Agenda as amended was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

NEW BUSINESS:

CASE 110-11 – PARK PLACE – BUILDING J SCULPTURE – Request for approval of a Final Plan, located at 11625 Rosewood.

Chair Rohlf: Mr. Strauss, do you have a specific question, or do we need to hear from staff?

Comm. Strauss: I would like to know what the artist’s intent is for the sculpture.

Mr. Rexwinkle: I would defer to the applicant.

Applicant Presentation:

Jeffery Alpert, Park Place Village, LLC, 11551 Ash Street, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Alpert: To be candid, the sculpture we selected was one of a group he already had created on a smaller scale. We selected it in conjunction with our tenant, who is Generale Insurance. They have a very extensive collection of Native American art in their space, and they thought this was somewhat of a

reflection of that collection. It seemed like a bird in flight, and that is why they selected it. We are having it made on a much larger scale than the original.

Chair Rohlf: Does that address your concern?

Comm. Strauss: I just wanted to understand the sculpture to ensure there was nothing offensive about it. It is very abstract, and I wanted to better understand the artist's intent.

A motion to recommend approval of CASE 110-11 – PARK PLACE – BUILDING J SCULPTURE – Request for approval of a Final Plan, located at 11625 Rosewood – was made by Strauss; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

OLD BUSINESS:

CASE 96-11 - ONE NINETEEN – FO THAI RESTAURANT – Request for approval of a Revised Final Plan for a Tenant Finish – Located at the southeast corner of 119th Street and Roe Avenue.

Staff Presentation:

Planning Director Richard Coleman made the following presentation:

Mr. Coleman: This is Case 96-11 - Fo Thai Restaurant and is a request for approval of a revised Final Plan for a Tenant Finish located in the One Nineteen shopping center. This case has been before you several times, and on September 27th, the applicant expressed the desire to continue to use the overhead door that was installed but not approved. The Planning Commission expressed concern with the transom being out of proportion with the rest of the overhead doors. They have added mullions to the overhead transom, and they also propose three speakers and one camera on the façade. This afternoon, after they had gotten our report which stated the same position that had been stated previously, they came in and proposed to modify that overhead door opening by eliminating the transoms over the door and the overhead door so it would just be a garage-type door, but it would look more similar to the overhead doors that are now installed at La Bodega. Staff is supportive of the change. We apologize for having to put it on your dais, but we felt you should be able to evaluate the new drawings. They show the changes I mentioned, and it also addresses some other changes, including removal of the shopping center sconces and the extension of the copper around the brick corner. Staff is supportive of the proposal, and we'd be glad to answer any questions.

Chair Rohlf: You are saying that what we see on our dais has been changed to this, or this is the proposal?

Mr. Coleman: This is the proposal; it hasn't physically been changed to this yet. The proposal is much closer to the original elevation that was approved previously.

Chair Rohlf: Were there outstanding issues with the wood door?

Mr. Coleman: We required that they remove the horizontal logs over the transom and that the door be expressed as continuous. The upper panel shown in the drawing is fixed, and the door is just the lower part where the two upper hinges are shown.

Chair Rohlf: Once again, this is proposed and not currently installed.

Mr. Coleman: That is correct. The wood doors are there but not the metal.

Comm. Neff-Brain: Does this mean the garage door that is there now will have to be replaced, or how are they going to manage that?

Mr. Coleman: They have the capability of adding an additional panel to the door. They will have an additional panel behind the existing transom wall, and after the transom section is removed, it will be visible.

Applicant Presentation:

Tim Bowman, Compass Resources, 20888 Benson, Bucyrus, KS, appeared before the Planning Commission and made the following comments:

Mr. Bowman: I am the general contractor on the project, and I would be happy to answer any questions.

Chair Rohlf: Would you please explain how you plan on handling the changes to this overhead door?

Mr. Bowman: *(Refers to plan on the overhead)* This new drawing came out very late today, and it actually resolves many of the issues as I understand them. What was originally being discussed was that this piece here would be reduced. The big problem that came into play was reducing it down to 4 inches does not offer enough structural capability to hold it without bending down. La Bodega is currently facing that problem. Richard and I discussed the brace, and I checked the jobsite to confirm the capabilities of the brace. Then I realized that the real issue is 19 inches, and the panel is currently 19 inches. This resolves about three problems. This garage door actually gets installed in panels, and we simply have to add another panel. Additionally, I have to add a larger spring. This reduced the height about 2 inches, which is beneficial. Another issue was the two windows. Reducing this forces us to reduce the windows, also. This solution is viable in the field and actually gets you very close to what you're asking for.

Comm. Neff-Brain: You have to take out the top piece and the trim work and then add on another section.

Mr. Bowman: That is correct. The piece we have today is not a structural piece; the structural piece is the door itself. I have to replace pieces of copper to match, and I will replace the window to match, also.

Comm. Neff-Brain: On the entry door, it looks like raised wood panels that make it look almost like blocks. Those are not on there, yet. Is that considered part of the hardware, even though it is wood?

Mr. Bowman: We handmade the doors out of 3-inch cedar planks that connect together. The metal comes over that.

Comm. Neff-Brain: Is it copper?

Mr. Bowman: The look we're going for on that application is a rusty iron Taiwan Sand Pan. This is being done by a local artisan and will be handmade.

Comm. Elkins: What is the purpose of the camera?

Mr. Bowman: I don't know; I'm sure it is a security issue. Right now, I know for a fact that the development itself used to have cameras and doesn't anymore.

Mr. Coleman: I spoke to an owner last week, and he said it was for security purposes.

Comm. Elkins: Can you speak to the decision to move from what I think were vertical folding doors or vertical sliding doors to a horizontal approach on the overhead door?

Mr. Bowman: There are two causes of that. The folding doors fold up, and it takes up table space on the interior. The doors go up vertically and don't roll over like a garage door. Because of this new change, they

actually made additional changes to make the bar come out. Technically, there is really not a difference between folding doors and overhead doors except that the overhead doors are more expensive and the overhead door is automatic.

Comm. Pateidl: Perhaps this is a bit of a correction. In your comments about the garage door, you said that this was, perhaps, more what the City of Leawood is looking for. We are looking for you, as a representative of this applicant, to follow the approvals that are granted by both this commission and the Governing Body. This is about the fifth time this has come back, and it comes back after the fact. No more.

Chair Rohlf: To follow up on Mr. Pateidl's comment, I'm not sure, as a body, we have actually approved this overhead concept. We have discussed it again at the Council's request, and we still had concerns about the overhead door. Tonight, we've been presented with further modifications to a system that I'm not sure we're all a proponent of. I'm not sure we've been asked to vote on it because we've continued it a number of times. Once again, we really have to visualize it in our own minds because we don't have an elevation of it. I'd like to get comments about the concept.

Comm. Pateidl: I think this is like the approved elevation; we did approve this.

Comm. Neff-Brain: I think this sketch looks a lot better than what we saw in the packet. I don't know if it is the right thing to do, but it is improved.

Comm. Roberson: It is very similar, now, to La Bodega.

Chair Rohlf: It is similar, but what strikes me is the La Bodega one is ultimately the same width. La Bodega has the three panels and the door. It just doesn't look so much like a garage door.

Comm. Roberson: La Bodega has a four-panel garage door on the other side. I have to admit, this is a much better plan than what we've seen in the past. The window is also similar to La Bodega's window.

Chair Rohlf: The drawing shows two windows.

Mr. Coleman: No, the proposed drawing has four panels across, and the window is one panel.

Mr. Bowman: Today, there are two, but it will be one.

Mr. Coleman: La Bodega only has one panel over the entry door, also. That was part of the reasoning. Also, the mullion is 5 ½ inches thick, so it didn't really fit with the rest of it.

Mr. Bowman: (*Refers to overhead photo*) The mullion sags here. I don't want to put up something that will sag. I have no problem doing it, but I ran into a problem with the technical engineering portion of it. This gets awfully close, and it will not fail.

Chair Rohlf: Now the door and the window are in alignment.

Mr. Bowman: Yes, it aligns perfectly.

Chair Rohlf: From the few comments I've heard, it sounds like we're moving a step closer. Mr. Elkins, you had concerns originally.

Comm. Elkins: I still do. My preference is still for the originally approved elevations with the vertical doors. I concede that the plan proposed tonight is the best that we've seen since the originally approved plan. I am

not persuaded that it needs to be consistent or compliant with what La Bodega had; I think there is enough space between the two. It still looks like a garage door to me. I'm not satisfied a garage door is appropriate in that place; I liked the folding doors.

Comm. Strauss: Is the function of the garage doors to be up and for seating to be outside the doors?

Mr. Bowman: Yes, there is a patio that has been approved.

Comm. Strauss: The picture shows a staircase to the right of the door. Then I see some landscaping. Will they have access to continue walking by the seats?

Mr. Coleman: I can speak to that. We already approved the plan for the patio, so they will have seating and will be required to keep the path clear. A railing, which was a controversial issue originally, is no longer required.

Mr. Bowman: There will be plenty of space to walk through. One of RED Development's concerns was a vacant space between us and La Bodega, and they need to have access to that space. RED Development was involved in the planning for the layout. Gates would have made it difficult to access the space.

Comm. Strauss: It looks like only about 10 feet between the garage door and the landscaping, but I understand if it was previously approved.

Mr. Coleman: There is a large circular area for a patio out in front, but you can walk from there to La Bodega and the other space.

Mr. Bowman: It is pretty substantial.

Chair Rohlf: It appears the pedestrians would be walking through tables.

Mr. Coleman: They would be walking between the overhead doors and the patio area, which is where the tables and chairs would be.

Chair Rohlf: I think I missed the meeting when the patio configuration was changed, but is there a fence around it?

Mr. Coleman: No, there is no fence, and that was the big issue because the fence extended perpendicular from the building, which blocked people from walking through. That won't be there.

Chair Rohlf: Does that answer your questions?

Comm. Strauss: Yes.

Comm. Jackson: I think the overall effect with these changes will be quite nice. I don't think it will look quite so much like a garage. The door at La Bodega seems to disappear into the other effects around it. I am hoping the same thing will happen with this.

A motion to recommend approval of CASE 96-11 – ONE NINETEEN – FO THAI RESTAURANT – Request for approval of a Revised Final Plan for a Tenant Finish, located at the southeast corner of 119th Street and Roe Avenue – with Stipulations 1-5, changing No. 3 to state that the approval is for the layout dated 10/25/11 that was presented at the Planning Commission meeting – was made by

Jackson; seconded by Strauss. Motion approved with a vote of 4-2. For: Roberson, Jackson, Neff-Brain and Strauss. Opposed: Pateidl and Elkins.

NEW BUSINESS:

CASE 81-11 – LEAWOOD JUSTICE CENTER – Request for approval of a Rezoning from SD-NCR (Planned Neighborhood Retail) to SD-CR (Planned General Retail), Preliminary Plan, Final Plan and Final Plat, located south of 117th Street and west of Tomahawk Creek Parkway. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 81-11 – Request for approval of a Rezoning, Preliminary Plan, Final Plan and Final Plat for the City of Leawood Justice Center, located at the southwest corner of 117th Street and Tomahawk Creek Parkway. The property owner and applicant is the City of Leawood. The applicant proposes rezoning the site, consisting of 12.2 acres, from SD-NCR (Planned Neighborhood Retail) to SD-CR (Planned General Retail) to allow building height of 46 feet. The SD-NCR district permits a maximum building height of 40 feet, and the proposed district permits 50 feet. The applicant is proposing a Final Plat to re-plat the property and reduce the number of lots to two. Lot One will measure 7.46 acres in area, and Lot Two will measure 4.65 acres in area for a total of 12.2 acres. The applicant is also requesting approval of a Preliminary Plan and Final Plan for the construction of a proposed 66,557 sq. ft. Justice Center and associated site improvements, which will be located on Lot One. The proposed Justice Center building will be located at the northeast corner of the site and will generally frame the intersection of 117th St. and Tomahawk Creek Parkway with an east/west wing along the south side of 117th St. and a north/south wing along the west side of Tomahawk Creek Parkway. Municipal court offices will be located in the east/west wing, and police will be in the north/south wing. The site slopes downward from west to east, creating the appearance of a one- to two-story building from the south and west and a three-story building from the northeast and the east. The maximum proposed building height is 46 feet, 4 inches near the northeast corner of the building. Other site improvements include a plaza area immediately southwest of the building. This plaza area will include pedestrian amenities such as benches, landscaping and weather-protected bicycle parking facility, which will be located in the northwestern part of the plaza area. A five-foot-wide sidewalk will be constructed along Tomahawk Creek Parkway along both Lots One and Two, which will provide a connection to the existing sidewalk at the water waste site. This is the only segment of sidewalk along Tomahawk Creek Parkway and Mission Road in Leawood that is not constructed yet. An eight-foot-wide sidewalk will be constructed on the south side of 117th Street. Sidewalks on the interior of the site to both entrances are provided from both of these sidewalks. The plan also proposes surface parking to the south and west of the plaza area and a two-level parking garage south of the police wing. The parking garage will be for the use of the police department and will feature two access points: one from the west in the surface parking area to the top level of the garage and one from the south from the Tomahawk Creek Parkway drive that will provide access to the bottom level of the garage. The predominant building materials are pre-cast red brick, which matches the color of City Hall's brick. Other materials include pre-cast concrete around the base of the building as well as pre-cast stone around the top of the building and vision glass. The predominant materials on the garage are proposed to be pre-cast concrete and some red brick across the top of the garage walls. Two signs per tenant space are proposed, including a wall sign above the court entrance reading, "Municipal Court" and another above the police entrance reading, "Police." A monument sign on a retaining wall northwest of the court wing, which faces toward 117th Street, will read, "Leawood Justice Center" and will include a city logo. There is also a wall sign on the east side of the garage facing Tomahawk Creek Parkway that will also read, "Leawood Justice Center" but will have a police logo. Each of the signs complies with the requirements of the Leawood Development Ordinance. All minimum landscape requirements have been satisfied with the proposed plans. The fire marshal has provided a memo requesting that the plan be amended to remove two of the proposed parking lot island trees in the easternmost corner of the parking lot. The bulk

regulations of the SD-CR district and the parking requirements are also satisfied. The floor plans show the potential for a basement underneath the court wing. If this basement is constructed, it will add an additional 10,000 square feet of floor area to the building, which would increase the required minimum number of parking spaces beyond what are provided in this plan. The applicant is showing land-banked parking on the west side of the proposed lot that will be constructed if the basement is constructed. Stipulation No. 2 in our Staff Report requires approval of a Revised Landscape Plan prior to construction of the land-banked parking to review the removal and relocation of any landscaping in the area. Should the basement be constructed, the building will still comply with the bulk regulations of the SD-CR district, including floor area ratio and building height. The architect indicates that the basement addition would not alter the exterior appearance of the building. A summary of the Interact Meeting has been attached to the staff reports, and there will be a Public Hearing. Staff is supportive of this request and is recommending approval, subject to the stipulations in the report. The architect is here tonight to provide a presentation with visual aids to further illustrate the project.

Applicant Presentation:

Ken Henton, Hoefler Wysocki Architects, 11460 Tomahawk Creek Parkway, Leawood, KS, appeared before the Planning Commission, showed a computer presentation and made the following comments:

Mr. Henton: This was a unique project since the city was involved in the design. We have met with them at least half a dozen times to fine-tune every stage. We were hired eight or nine months ago to do a master plan of the entire site and to look at some alternative uses. (*Refers to overhead aerial plans*) You can see a vacant lot directly across the street. We are trying to create a civic campus for the City of Leawood. The city was very interested in matching the building types with City Hall and the library. We saw this as an opportunity to give Leawood a civic downtown with a lot of energy. The wing with the courthouse is actually diagonal to the street, and we are trying to reinforce access to City Hall and the library. Richard Coleman had an idea to put the building at the front of the site, more in concert with what the ordinances are today. We have nested the parking in the back of the property. The site drops fairly drastically from the west to the east, thus exposing an additional story. The courthouse will be a one-story building with a partial basement. If the alternate is accepted, we may have a full basement under there with unused space at the beginning. Along Tomahawk Creek Parkway is a three-story police station with a two-level parking garage. Police will have the ability to walk in from the parking garage from the lower level and on the upper level. Generators will be inside the building and not visible, and the building will have underground fuel storage.

In front of the courthouse and police entries is a very nice plaza. It was very important to all that these buildings have two distinct entries because of the separation of the court function and the police function. A fence is proposed around the site to keep the pedestrians from walking into the parking area. As the site drops down, the building becomes three stories. Along Tomahawk Creek Parkway, the façade has extended 2/3 down the building. That was done to try to make this building not look like a judicial center with a parking garage attached to it and to really unify the architecture. When we take a look at City Hall, we see compatibility with our proposed buildings. Things have changed over the years, but we plan to use a brick that is identical in color. The glass will have a slight grey tint to offer more privacy while still allowing natural light. The roof will be identical. On the left is the entrance to the court with "Municipal Court" carved in the cast stone above the entryway. "Police" is carved above the entry to the police station. On the back side, we felt it was necessary to do a rotunda or end cap to the civic campus. That circular area in the corner of the building actually houses several different functions. It was not designed to be an entryway but rather to create a termination of the civic campus. Across the street is park land.

The police will have a two-story lobby on the inside and will have some overlapping spaces inside the building that will be as dynamic as this building is here. Then the courts will be more of a one-story lobby. We also have specialty lighting as part of the building.

I also have Chris Birkenmaier here with a 3-D model

Comm. Roberson: If this is approved, could you give a timeline for construction to begin and how long it will take?

Mr. Henton: If this is approved through you and Council, we will be bidding the project toward the end of the year with construction to start after the first of the year. MC Realty is already pre-qualifying some general contractors that will be bidding the job, so they will be hiring a professional manager. We think it will take 16-18 months to build the building.

Chair Rohlf: I really like these plans, and I think it's nicely done. I would like to clarify the decision on the basement. When would that be made?

Mr. Henton: The city is very optimistic and has been good with saving the money to do the facility, but there is a limit to the funds. This is a pretty expensive addition to the project at over half a million dollars. If the funds are there, they would like to build it, even though there is not a need for it currently, as one will arise in the future. When the bids come in, they will make a decision.

Comm. Neff-Brain: Are these general obligation bonds?

Comm. Roberson: It is paid for.

Comm. Neff-Brain: I think it's a great plan, but do we just wait for trees to grow up to block the Hen House area behind the buildings?

Mr. Henton: The berm that separates the grocery store and the other buildings from this site is built up fairly high there, and we are going to extend that berm out. We are saving all those mature trees and are reinforcing putting more in there. Initially, quite a few trees will block the view of that, but also long term, we're going to make it even denser so it is more of a controlled campus so you're not looking at loading docks and such. That was a very big issue with the police and court staff as well.

Comm. Strauss: Along 117th and Tomahawk Creek Parkway, it looks like sections of retaining wall. They seem like they would be functional as such, but is there something more to them?

Mr. Henton: These are limestone boulders, and they stick out of the ground from 10 to 14 inches. The ground comes up behind them, so they are actually nesting themselves out of the ground. With the planting going in there, we are allowing the water to flow between them naturally, enhancing our planting scheme. Even along the 117th St. side, you see some walls coming out from the building and returning up. Those are going to stick out of the ground 10 – 14 inches on the low side, and they'll be flush on the top side. It will look like a terrace and will be very easy to maintain.

Comm. Strauss: It is not concrete. And one thing I really love about Leawood is opportunities to include art and sculpture in the buildings, which brings an extra dimension to the livability. Was that ever discussed?

Mr. Henton: Going back to our Site Plan, you can see a circular patio with rings of sidewalks. We are leaving that open as an opportunity space. I've heard everything from a clock tower to public art to a fountain. We've also got an island across the street for flags. At the entrance off 117th Street is a great opportunity for public art. These are inside the campus. As you go along the outside at the corner of 117th and Tomahawk Creek Parkway, you will see a circular area with sidewalks. This is another opportunity for public art, a fountain or a water feature of some type. We have tried to set up several opportunities for that to happen along there. It would also be possible to nest public art along this vegetative garden along Tomahawk Creek Parkway and make it more naturally plugged in to the terrain.

Comm. Strauss: Thank you. I think that is a great opportunity for people walking, biking or driving along Tomahawk Creek Parkway to enjoy that. The building itself is beautiful, but something out front and on the inside corridor is terrific for that.

Comm. Jackson: The proposal talks about some roof units that come up pretty tall. Where are those?

Mr. Henton: If you can't see them, it's a good thing. We're doing the rooftop units exactly like they are done on City Hall. The roofs come up with a canyon in the middle, and the units will nest down in there. I believe one unit on the curved area on the corner of the building sits behind, but it will be completely screened. Those are fresh air intake units only. The mechanical system is not like City Hall's. They are actually doing a geothermal HVAC system and will be drilling wells out on the site to pump water in and change temperature with the earth.

Comm. Jackson: At what part of the building is it taller than the usual allowed?

Mr. Coleman: It is not; it is in conformance with the zoning ordinance. It is part of the rezoning to this district, which allows maximum height of 50 feet. They are under that at 46 feet, 4 inches.

Comm. Strauss: From the picture, the garage looks like a secure garage with doors on it. Is that how it works? Is it just for police use?

Mr. Henton: Yes, it is a completely enclosed garage. You will not see vehicles from the street. It will have a few glass panels of spandrel glass and also fresh air louvers. The thought is it will be for police vehicles and maybe the judge so she can enter from a more secure point.

Comm. Strauss: It is public parking on top.

Mr. Henton: No, it is staff parking on top. The public parking will be in the lot, and we are trying to replace the exact number of stalls you have here at City Hall.

Comm. Strauss: The façade along Tomahawk Creek parkway will not look like a garage; it will just look like windows on a building.

Mr. Henton: Yes, it will, and we pulled the parapet wall up higher than a normal garage along Tomahawk Creek Parkway so it will block the cars better and you won't see the headlights coming up over the top of the wall. It's a little higher than minimum. There is some ornamental work over there to make it look lacier than just a standard garage wall.

Comm. Elkins: On the south side of the surface parking lot, is there a similar brick and metal fencing for the staff parking lot?

Mr. Henton: Yes, there is. (*Shows the view on the 3-D presentation*) There is a brick and cast-stone pilaster every 20 feet with the rod iron fencing between. It is not on the computer rendering. It is an alternate that we are bidding with the police, but it is their highest priority to get the fence and create that nice separation and also to help define the edge and keep people from wandering in there.

Comm. Elkins: It screens the autos, to a certain extent. On the back side of the building, I presume the walls coming out toward the sidewalk will be of the same limestone material as the parts that Commissioner Strauss was referring to earlier?

Mr. Henton: Yes, they are. In this model, they jut out of the ground, but they will be very low.

Comm. Elkins: What is their function?

Mr. Henton: We have a pretty significant grade change of almost 15 feet as we go down the site. Their function is to create a terrace with something like patios on relatively level ground so it's easy to maintain and mow.

Comm. Elkins: The water flow is away from the building down toward the sidewalk down to the street?

Mr. Henton: Yes, we'll catch the water before it hits the street.

Comm. Elkins: And presumably, the city will not run into natural gas and oil when they dig their hydro-thermal wells.

Mr. Coleman: We would hope not.

Comm. Elkins: As you get to the larger plan with an idea of a campus, who owns the land that is immediately to the south that is obviously very blank here?

Mr. Henton: The city does.

Comm. Elkins: You were not engaged to create any sort of plan for that, I take it.

Mr. Henton: We looked at alternative use studies months ago to make sure if we put the building on the corner with the parking that it would be compatible with alternative uses there. One idea was if property located on the south portion of the site had parking demands that were inverted to the courts one or two days a week, it could be a shared amenity for those facilities and might save somebody quite a bit of money since it's city property.

Comm. Elkins: I know very little about the technology for the geothermal heating and cooling. Will the wells be drilled on the vacant land or on the land the land that is shown as part of your plan?

Mr. Henton: It will be drilled under the parking lot. It's a closed-loop system, so we're not exchanging water with the ground or anything like that. Once you put those in, the maintenance on something like that is very minimal.

Comm. Elkins: Can you also address any other attributes of sustainability in this design?

Mr. Henton: We are filtering the storm water runoff that comes off the site, and it will be cleaned through the landscaping. There are also some special separators underground that are more like mechanical units that are buried and are inside the pipes that will get the sediments out of the

water. It's a little contrary to the idea of a police station, but there are a lot of windows on this building. We're trying to give as much daylight and views as possible. Of course, energy efficiency throughout the right types of light sources and the mechanical system are some of the most amazing things. It was a tremendous premium to buy this geothermal system, but it has less than a ten-year payback, and it will pay back forever. We've designed the building with a three-generator unit rather than one big generator. Even though it's technically not a LEED principle, the idea is that it could be possible, at different times of the year, for one small generator to run this entire building. If the demand is right, the other generators will step up and step down by themselves, so that can be a tremendous savings if we get into a brownout scenario like in the winter with an ice storm. This building has to keep functioning 24/7, so this is an important aspect of the building.

Comm. Elkins: The generators are gas generators?

Mr. Henton: Diesel.

Comm. Elkins: Does the design, as proposed, meet any level of LEED certification?

Mr. Henton: We did a checklist early in the job when we were setting things up, and the city decided they did not want to certify the building. I am positive we could get some level of certification. We would have to analyze it to see how high that level is. We have done a lot of things that are LEED principles, and the city has been very good because the operating budget comes out of the same purse as the building budget.

Comm. Elkins: Mr. Coleman, could you comment on the decision not to LEED certify? Is it an issue that the city made a decision to be compliant with LEED principles but the certification process itself was not worthwhile, or is there another issue there around LEED compliance versus certification?

Mr. Coleman: The city felt they could address most of the energy and sustainability issues without going to the cost of the LEED program.

Chair Rohlf: Anything else for the applicant?

PUBLIC HEARING

As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

Chair Rohlf: This takes us up to discussion, hopefully leading to a motion.

Comm. Strauss: Mr. Ley, I read a memorandum that talked about the traffic impacts associated with this project. Do you feel a signal is warranted at 117th and Tomahawk Creek Parkway with the additional traffic?

Mr. Ley: Probably not because the traffic is already here and comes here anyway; it is only moving a few blocks to the east. We will continue to monitor it, and we will install them when they are warranted.

Comm. Strauss: Is a signal planned or anticipated at this intersection?

Mr. Ley: It is anticipated, but it is not in the budget.

A motion to recommend approval of CASE 81-11 – CITY OF LEAWOOD – JUSTICE CENTER – Request for approval of a Rezoning, Preliminary Plan, Final Plan and Final Plat, located at the southwest corner of Tomahawk Creek Parkway and 117th Street, subject to the stipulations provided in the Staff Report – was made by Neff-Brain; seconded by Roberson.

Comm. Elkins: I would like to compliment the architect and the city staff. I agree with my colleague who suggested this is a very attractive plan and something the City of Leawood can be very proud of. I can't be more pleased with the aesthetic and the thought that has gone into the design, as well as the thought that has gone into sustainability issues. It is good to see the city walking the walk about sustainability. Having said that, I have two issues I feel I would be remiss if I didn't comment upon. One has to do with the idea of planning in total. When we looked at the Preliminary Plan, we had a discussion, and my sense was that staff thought the discussion may have gotten a bit out of hand, and I appreciate staff's sensibility. But it seems to me, if we're going to do planning, it would be appropriate for the city to bring a comprehensive plan for its governmental or municipal campus. We are all being remiss in not talking about the appropriate use and plan for that piece of property immediately to the south of the municipal center. We tell others that they are not bound to Preliminary Plans, but I think if we, as a commission, are to effectively do our job in assisting the planning process from the city, it would have been appropriate. I'm disappointed that what was brought to us didn't include at least some suggestion about the appropriate use for that property. To be quite frank about it, I will most likely be voting in favor of the plan, but essentially, we lock ourselves in and limit our options. I believe, as a community, we should be maximizing options. By deciding this particular group of buildings and parking lots is going to go on this particular site limits what you can bring before us, what the Governing Body can approve and what we, as a community, can do with that piece of property. My second mild disappointment is the decision by the city not to pursue LEED certification. I think if we're going to go through the effort of designing with the LEED principles in mind and we are close to that, I think it would be a statement by our city that our municipal center and perhaps even the campus can claim the LEED certification. In the world of planning and architecture, I am told that this is a very positive thing. I still, however, am very pleased with the design.

Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

CASE 134-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-12.3 – SPECIAL USE PERMIT REQUIRED – Request for approval of an amendment to the Leawood Development Ordinance pertaining to wireless communication towers and antennas. **PUBLIC HEARING**

Staff Presentation:

Planning Director Richard Coleman made the following presentation:

Mr. Coleman: This is Case 134-11 – Leawood Development Ordinance Amendment to Section 16-4-12.3 – Special Use Permit pertaining to wireless communication tower antennas. As you may be aware, the wireless communication facility at 135th and Briar, which is a legal, non-conforming cell tower, is due to expire next March. The purpose of this amendment is to allow more time for the applicant to make proposals and work with the city on what will take place at that site. There is a City Council Work Session on November 7th to discuss this issue.

Chair Rohlf: If this becomes part of the ordinance and we get a request for an extension, would the five years run after that extension on the SUP?

Mr. Coleman: No, this would be an application for a one-year extension of the existing.

Chair Rohlf: And then it would come back for approval again for another five years if it is modified or removed or comes into compliance?

Mr. Coleman: If they did, yes, that would be correct.

Chair Rohlf: They would have to come in at the end of this expiration.

Mr. Coleman: They actually would have to come in before.

Comm. Elkins: As I recall, we have a Special Use Permit in place for the tower, and we have a series of Special Use Permits in place for the antennas placed on the tower. Is that correct?

Mr. Coleman: That is correct, but they all have been approved with one expiration date in mind.

Comm. Elkins: Are the tower and antennas right now in synch so the Special Use Permits expire all at the same time?

Mr. Coleman: For the most part, they are.

Comm. Elkins: So a practical outcome of us approving this modification of the ordinance is not only the tower, but the antenna owners would all have to come to seek a year extension for each of their respective SUPs.

Mr. Coleman: That is correct.

Comm. Roberson: How tall is the current tower?

Mr. Coleman: I believe it is 170 feet tall.

Comm. Roberson: How many carriers are on that tower?

Mr. Coleman: Six.

Comm. Roberson: If it is lowered to 150 feet, how many could fit?

Mr. Coleman: Six could, but the number of antennas and coverage could be affected.

Comm. Roberson: Are there any other towers in the city that fall under this change? The reason I am asking the question is the tower has been here for a long time. Why would we force them to shorten the tower at this point?

Mr. Coleman: Currently, the ordinance is 150 feet.

Comm. Roberson: But it is legally non-conforming.

Mr. Coleman: Yes, but the ordinance requires that, at the expiration of the SUP, they bring the tower into conformance with the current ordinance. This amendment allows them to make application to extend it for a year so that we can look in more detail at how to deal with the issue.

Comm. Roberson: In essence, we are choosing to pick on one tower to change the ordinance.

Mr. Coleman: I believe it is the only tower that is non-conforming at that height, and it expires in March.

Comm. Elkins: I think the reality is that we are not picking on the tower; we are modifying the ordinance for one particular tower because the owners couldn't get their minds together to get this thing resolved before they came to their expiration date. On their expiration date, the legality of their non-conformance goes away.

Comm. Roberson: But this was built before the ordinance came about, was it not?

Comm. Elkins: Yes, but once their SUP expires, they lose the grandfathering.

Comm. Roberson: I understand that point. I guess I really have a problem when we change an ordinance and force something like this on a business to come into compliance, to spend funds or maybe to rip it down. I find it inappropriate.

Mr. Coleman: The amendment would give us more time to deal with that issue.

Comm. Elkins: This is to the benefit of the owner. It's a complex issue because this tower was built many years ago and is not in conformance with our ordinance in more than the height aspect.

Comm. Pateidl: Under the ordinance, is there an opportunity for a deviation to be granted on the height of the tower?

Mr. Coleman: Not under the current ordinance.

Comm. Pateidl: What do you anticipate we will see in the course of this next year if we approve this?

Mr. Coleman: I anticipate you'll see a lot of discussion and some correspondence and presentations by the representative of the tower company about the various aspects of what they can and can't do to bring the tower into conformance.

Comm. Pateidl: Is there really merit in postponing this for a year?

Mr. Coleman: I believe so, yes. It is complex because there are six carriers, a tower owner and a number of attorneys involved in it.

Comm. Jackson: Is part of the problem on the tower that the smaller antennas come away from the face and are not flush-mounted?

Mr. Coleman: That is one of the non-conforming issues, yes.

Comm. Jackson: Does that also change the coverage range when you go to those flat antennas?

Mr. Coleman: That is a technical question, and I'm not really sure. It probably more affects how many antennas you can get at that level of the tower. With the platforms, you have a larger circumference and not

just the diameter of the tower, so you can get more antennas at that level. When you remove the platforms, you have less surface area on the actual tower pole.

Comm. Jackson: I agree with the other commissioners' disappointment that we haven't figured it out in time for this date, but in addition to all the corporations that will be upset, you have a lot of individuals whose cell phones will be affected. I don't think you can just take it down at this point without some prior planning. It is disappointing that planning has not occurred.

Ms. Shearer: I would like to add that we have been in discussions with the antenna and tower owners for over a year. This amendment is meant to give us some more time to work through this process. We have a Work Session with the Council on November 7th, and that is our first serious discussion with them about changing the ordinance and if we are or are not going to do that.

Comm. Neff-Brain: I understand that, and I understand the complications. However, if you give them an inch, they'll take a mile. A year has been a long time. Yes, it is hard to get six cell companies in, but will that just keep getting prolonged? A year should have been plenty.

Ms. Shearer: And I would agree. I don't think that has been the intention of anybody on staff or anybody on the Governing Body. I think you will see a decision made about our ordinance because that's what we have control over.

Mr. Coleman: The reason this is before you is that it is coming to a head, and we are getting information that we have requested from the representative of the tower company that we can now give to City Council.

Comm. Neff-Brain: Didn't they know that a year ago?

Mr. Coleman: They had to conduct studies and gather information and have RF patterns and different technical things showing where each of these carriers' coverage is. We didn't have that six months ago.

Comm. Pateidl: Mr. Coleman, if we did 90 days instead of a year, would that send a message that this needs to be addressed on behalf of the antenna companies and tower owner?

Mr. Coleman: Part of it is we are trying to work with both the facility operators, and the corporations. We are also trying to work with City Council. Eventually, this will come back to you. Trying to work with everybody to come up with a solution for the issue, whether it is the tower coming down or modification of the ordinance or both happening, will all take time. The simple thing is to remove the tower, but that may not be what City Council wants to do.

Comm. Pateidl: I think Commissioner Neff-Brain has a good point, that 90 days before the year extension, we will still be looking at the same situation. That is the concern.

Mr. Coleman: I understand, and I know that sometimes, these things seem to move slowly. Now that we have the information we requested from the operators and Council is going to look at it, the issue is now moving. We just need more time to come to a good solution.

Comm. Jackson: Commissioner Pateidl, I may think about a six-month extension, and if they want to come in, make them go through the time and expense of another six-month extension. It would put the pressure on them to get moving a bit because it does cost them something to come in and ask for another extension.

Comm. Elkins: I agree wholeheartedly with Commissioner Jackson, although I don't know that we see any of the owners here tonight. I don't know exactly what expense they've gone through. It is unfortunate that staff has had to carry the water.

Comm. Jackson: They do have to come in to ask for a new SUP.

Mr. Coleman: They have to come in and make an application before March, and it is up to twelve months.

Comm. Elkins: I don't know that we have a whole lot of choice here. The citizens of Leawood are probably more dependent on their mobile devices than in other communities. The tower has been there for a long time, so it's not like this ordinance has changed in the last year. This ordinance has been in place for a long time.

Comm. Neff-Brain: They've had five years to work on this.

Comm. Elkins: This is not anything that staff has done, but I don't know that we have a choice. I am intrigued by Commissioner Jackson's suggestion that we do it on a six-month basis.

Chair Rohlf: You're saying in March, they will have to come before us to for this extension. At that time, we can say three months or whatever. As of tonight, you are saying that they won't be able to make the modifications they need to make or the city cannot make the decisions of what they would expect by March, so we're just giving them a window to ask for an extension.

Mr. Coleman: That is the anticipation. Like Franki said, we have been working with them for quite a long time to get to this point, and we have finally gotten the information from them. We feel there is movement.

Chair Rohlf: If they get any inkling that, perhaps, we won't give them another year and that it might be a shorter window, it might help.

Mr. Coleman: That is certainly up to you. They can make the request for up to twelve months, but it is up to you and City Council whether it should be extended or not.

Comm. Neff-Brain: I wholeheartedly agree because they've known about this for five years. Until their feet are to the fire, they don't do anything. I'm sure you've requested this multiple times from them a while back. I would definitely let them know that they are probably not going to have a year.

Comm. Elkins: It bothers me that we are changing the rules to the game because they couldn't meet the rules of the game.

Ms. Shearer: I will say that now that we are in possession of the information we requested, we, as a city, do not intend to drag our feet in making a decision about the ordinance changes. That is why we are having the Work Session in two weeks. I have been working on a memorandum and some other things in preparation of that. I can't make any promises, but we do not intend to put this off for a year.

Chair Rohlf: Anything else for staff?

PUBLIC HEARING

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

Chair Rohlf: That takes us up to further discussion.

Comm. Elkins: I just want to make it perfectly clear that none of my comments should be taken as criticism of staff at all. Staff has worked diligently, I know, to get this resolved. We appreciate the diligence with which you are pursuing this, and our concern is not with you; it is with the applicants we will be seeing in March.

Comm. Pateidl: Given the fact that we are looking at March 12th in making a final decision as to the length of time that may be granted under the extension, I want to be perfectly clear on the language. I would suggest we include the words, "up to, but not to exceed" after "Upon application, subject to pre-existing wireless communications, facilities, towers and antennas may receive an extension of expiration of their permit." This makes it perfectly clear that we have the capacity to make an extension of less than twelve months.

Chair Rohlf: With that additional language, are we ready for a motion?

A motion to recommend approval of CASE 134-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-12.3 – SPECIAL USE PERMIT REQUIRED, pertaining to wireless communication towers and antennas – with the added language, "up to, but not to exceed" after "Upon application, subject to pre-existing wireless communications, facilities, towers and antennas may receive an extension of expiration of their permit" was made by Elkins; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-1. For: Pateidl, Jackson, Neff-Brain, Elkins and Strauss. Opposed: Roberson.

CASE 107-11 – MOLLE OFF-SITE PARKING FOR NEW VEHICLES – Request for a Special Use Permit for and existing parking lot for new vehicles, located at 104th Street and State Line Road.

Staff Presentation:

Planning Director Richard Coleman made the following presentation:

Mr. Coleman: This is Case 107-11 – Molle off-site parking for new vehicles. They are requesting a Special Use Permit for the existing parking lot for one year. Over the past year, we have had no complaints concerning this SUP. Staff recommends approval of the SUP for one year, limited to 56 spaces.

Chair Rohlf: Did we have all these variances noted in the last application for extension?

Mr. Coleman: I believe we did.

Chair Rohlf: Can you just clarify this for me because we have a list of variances from the BZA in the next case. I don't remember seeing these before. I'm assuming if the BZA has approved these, they are set in stone and we are just looking at it to approve the permit.

Mr. Coleman: That is correct. They have been granted. We just put that on there so you would know because the parking lot did not meet some of the setback requirements, but it has been there for a long time. We are just looking at the SUP. The variances have already been granted.

Chair Rohlf: There is no opportunity to look at any of those, maybe not necessarily with respect to this particular SUP, but just in general? I don't remember seeing them set out like this before.

Mr. Coleman: It may have been written differently.

Chair Rohlf: Does anyone else have questions for staff?

Comm. Neff-Brain: You haven't had any complaints?

Mr. Coleman: No complaints.

Applicant Presentation:

Evan Fitts, Polsinelli Shughart Law Firm, appeared before the Planning Commission and made the following presentation:

Mr. Fitts: I have nothing further to add, other than we appreciate staff's support and agree with the stipulations as drafted.

Chair Rohlf: Does anyone have questions?

PUBLIC HEARING

As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Neff-Brain. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

Chair Rohlf: Any other comments before we move on this case?

A motion to recommend approval of CASE 107-11 – MOLLE OFF-SITE PARKING FOR NEW VEHICLES – Request for a Special Use Permit for an existing parking lot for new vehicles, located at 104th and State Line Road with Stipulations 1-7 – was made by Elkins; seconded by Neff-Brain. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins and Strauss.

CASE 117-11 – ONE NINETTEN – Additional Parking – Request for approval of a Revised Final Plan, located at the southeast corner of 119th Street and Roe Avenue.

Staff Presentation:

Planning Director Richard Coleman made the following presentation:

Mr. Coleman: This is Case 117-11. The applicant is requesting additional parking spaces along the south side of the main center, which is the rear of the building facing Tomahawk Creek Parkway. The applicant was granted variances for setbacks from the Board of Zoning Appeals. Employees currently use a shuttle from the former Earl May in Camelot Court to get to the development. The success of the development has led them to look at additional parking for employees in the back. They would raise the retaining wall, relocate the fence on top of the wall, relocate the landscaping and provide the parking spaces there. Staff's only request that was a bit different relates to the existing landscaping. There are eight islands in the new parking area that we had requested to be white pine so that it would reflect more of what was originally back there rather than just ornamental trees. The other trees are relocated long Tomahawk Creek Parkway and other locations in the center. I'd be glad to answer any questions.

Comm. Neff-Brain: I've always thought that whole area looks nice from the street. Are we going to see cars now?

Mr. Coleman: You could probably see a little bit, but it is still up quite high. A wall, a panel or landscaping along the fence should screen the cars.

Comm. Neff-Brain: They have the required number of parking places for the center, don't they?

Mr. Coleman: Yes.

Comm. Neff-Brain: I just think it's a shame to relocate landscaping, and trees often don't live.

Chair Rohlf: How much higher is the wall going to be?

Mr. Coleman: It will be 3-4 feet higher.

Comm. Elkins: Just to follow up on Commissioner Neff-Brain's questions, as we originally approved the plan for One Nineteen, the parking places designed were consistent with what it should have been? I know in other contexts, we have been concerned that our ordinance requires too much in terms of surface parking. This is kind of a high-class problem to have, but it is a problem. I want to confirm that the parking spaces in the original plan were appropriate for the size of the development, correct?

Mr. Coleman: That is correct.

Comm. Elkins: I appreciate staff's concern about the evergreens. I have a question about the white pines. Aren't they the pines that are subject to the bark beetle and also the pines that we are seeing dropping their needles all over the city?

Mr. Coleman: No, those are Austrian Pines. Every tree has some disease, but while pines are more resistant to what you see going on.

Comm. Strauss: Has the fire marshal seen this plan? I'm concerned about the width of the driveway in the back being reduced. Can we get emergency vehicles back there if necessary?

Mr. Coleman: I believe they have seen the plan. I don't recall their comments, but the 21-foot width is sufficient for a fire truck. It occurs at two choke points that are about 6-8 feet wide.

Comm. Elkins: I'm not sure, but I think with BZA approval, we're pretty limited in our ability to criticize or address, in any official fashion, the width of those driveways.

Mr. Coleman: Probably from that standpoint, but there are design issues you have the ability to address.

Comm. Roberson: This has been a wildly successful center, and parking is an issue constantly. The place is packed. Is this a temporary solution?

Mr. Coleman: We asked the same question, and they said they thought it would solve the issue.

Comm. Roberson: The issue you pointed out is a shuttle issue as opposed to employees parking up in the front. I'm assuming most of that is shuttled.

Mr. Coleman: The shuttle is solving the problem currently, but their lease with MD Management is probably not going to last for very long.

Comm. Roberson: The center is not even full yet.

Mr. Coleman: We were told that it was not temporary, but they can address that.

Applicant Presentation:

Bart Lowen with RED Development, LLC, 4717 Central, appeared before the Planning Commission and made the following comments:

Mr. Lowen: I think you had three issues, and I want to clarify them. The parking ratio for the property is at 4.0 per thousand of retail space. The ordinance for the zoning the development is in has a range of 3.5 – 4.5 per thousand. The additional 75 stalls will put it just at 4.5 per thousand, so we're still within the ordinance. Quite frankly, that need is there. To solve the issue today, we are shuttling 75-100 employees offsite to Camelot Court. This frees up all the parking on the shopping center site for the patrons, which is the prime concern. We believe that the additional 75 stalls will solve our parking our issue today with shuttling. It is also a long-term solution for offsite parking elsewhere. We can't continue to shuttle employees. We have looked at some other offsite opportunities, and we polled our tenant prior to coming to staff with this opportunity for 75 stalls. The number one reason we did not want to go to offsite parking was safety and security. A lot of the employees using offsite parking are doing so on Thursday, Friday and Saturday at dinnertime. They have to park and be there until they get off work until midnight or after. If we do it somewhere else, those employees would have to cross streets that late, and we don't want to be liable for what could happen.

The drive width also came up. It is 21 feet in a couple locations. The drive was a two-way drive. We looked at opportunities to make a one-way drive, which can be 12 feet wide. This is the minimum to run a fire truck. We still have plenty of width for the emergency vehicles.

Chair Rohlf: Will these 75 places be designated for employees only?

Mr. Lowen: We won't designate them as employee parking. The fact of the matter is that is how they will be used because the shopping center is one-sided with the exception of the salon on the southwest corner, and there is already parking for that.

Chair Rohlf: How will they get in the various buildings? Are there doors back there?

Mr. Lowen: Yes, every space has doors in the rear.

Chair Rohlf: You don't think it will be long before people find out there are places back there?

Mr. Lowen: If you want to park in the middle of a project and walk all the way around to get to the front door, we would not limit it. The fact is that employees will fill up the back when they show up, and patrons will park in the front.

Comm. Jackson: Is the lighting appropriate for the night use you anticipate?

Mr. Lowen: The lighting it there today, and we are not affecting the lighting in the shopping center at all. The eight islands will still be there after the parking layout.

Comm. Strauss: What percent occupied is One Nineteen now?

Mr. Lowen: It is roughly 70% today.

Comm. Strauss: It does seem like there is a parking issue when I'm there. It seems like this solution is just addressing parkers that aren't even using that space today. It looks like this might be the last opportunity for parking in this area. I have seen some valet parking going on in the area. Is that an option in the future?

Mr. Lowen: All of the valet parking still exists. A valet company can get really aggressive with how they park cars with putting three cars in two spaces. We've sectioned off spaces in the project, and they fill them tighter than how you and I would park. That opportunity would still exist. The immediate resolution with this is the removal of the shuttle and the offsite parking, but the valet opportunity, especially in the holiday season, could very well continue.

Comm. Strauss: That is good because this is a successful development where we are probably in the need of spaces outside the range the ordinance allows. It is a good problem to have but a problem that needs to be addressed to keep people interested.

Commissioner Roberson left the meeting.

Chair Rohlf: This takes us up to discussion and hopefully a motion.

Comm. Elkins: I will be supporting the case, but I would like to note that I have concerns about public safety. Given how busy the center is, I can see more than employees parking back there. It just does not seem to provide for pedestrian traffic. It works for employees because of the back doors, but if a customer parks there, he will have to meander around. That being said, I'll be supporting the plan.

A motion to recommend approval of CASE 117-11 – ONE NINETEEN – Additional Parking – Request for approval of a Revised Final Plan – located at the southeast corner of 119th Street and Roe Avenue – with all staff stipulations – was made by Strauss; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-0. For: Pateidl, Jackson, Neff-Brain, Elkins and Strauss.

CASE 119-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-9 – Fences and Walls – pertaining to fences constructed on top of a deck.

Staff Presentation:

Planning Director Richard Coleman made the following presentation:

Mr. Coleman: This is Case 119-11. We are looking at an amendment to Section 16-4-9 – Fences and Walls. It has to do with fences and decks. We have had a number of cases go to the BZA for construction of fences on elevated decks. The way the ordinance is written is that the top of the fence would be more than 6 feet on a second-story deck and would not be allowed. This provision would allow people to have an enclosure around their deck up to 4 feet, and they would still have to go to the BZA to get an exception to have it higher than 4 feet.

Chair Rohlf: Is this a deck with a railing?

Mr. Coleman: Some have railings; some don't.

Chair Rohlf: I think there is a code issue.

Mr. Coleman: Yes, there is.

Comm. Elkins: Is the issue here the height of the fence underneath or on top of the deck?

Mr. Coleman: It is the height of the fence on top of the deck.

Comm. Neff-Brain: You have to have 4 feet for safety.

Mr. Coleman: That is correct, but if you have an enclosed deck that is three feet off the ground and they run the boards up to 4 feet, you essentially have a 7-foot fence, and you can't do that. This is a clarification that the fence would be allowed at 4 feet as measured from the deck, rather than from the ground. The idea was to address it by stating that it must attach to the deck. Applicants would still be able to have the 6-foot ground-mounted fence within 3 feet of their deck.

Comm. Neff-Brain: This is basically for second-story decks.

Mr. Coleman: And decks that are elevated off the ground more than 2 feet.

Comm. Elkins: The first bullet point in Mr. Klein's memo references lattice. Is lattice within the definition of fencing in our ordinance?

Mr. Coleman: It is within the definition of a fence.

Comm. Elkins: If I have a deck that is 17 feet off the ground and I want to screen the space under the deck with lattice, the 17-foot lattice would violate the fence restrictions in our LDO.

Mr. Coleman: This is correct.

Comm. Elkins: Would this address that and the top part of the deck?

Comm. Pateidl: It seems to.

Mr. Coleman: I believe it does. Part of this was written because we allowed decks to extend into the rear yard setbacks, and this was to address that so they would not be allowed to enclose the deck portion that extended into that setback. If they did that, it could be an enclosure.

Comm. Elkins: What is the maximum height of the fence as proposed?

Mr. Coleman: The maximum is 4 feet on top of any deck. You can get an exception to go to 6 feet as measured from the deck on which the fence sits.

Comm. Strauss: Is there a definition of the deck in the ordinance? I'm worried about instances in which people have wanted a fence higher than six feet. Could they build a deck around the perimeter of their house and add a deck to that?

Mr. Coleman: They could have a 4-foot fence, but they would have to go to the BZA to get anything higher than 4 feet.

Comm. Strauss: But the deck could be 6 feet off the ground, giving them an additional 4 feet on top of the deck.

Mr. Coleman: That is correct.

Comm. Strauss: I am concerned about the definition of a deck. If someone is looking for screening of 10 feet, it could be done with a 6-foot deck with a 4-foot fence.

Comm. Neff-Brain: A deck has to be connected to the house, and you're going to have setbacks.

Comm. Strauss: I could figure out a way to have a connection to a house.

Comm. Neff-Brain: They could do that now without a fence.

Comm. Strauss: I live in the development where "a fence makes sense." I could see my scenario happening with a 6-foot deck, a fence above and lattice underneath.

Mr. Coleman: It states, "Provided the underside of the deck may be screened to a maximum height of 4 feet." The deck has to remain open if it extends into the setback area. You could not create a wall under your deck because you would really be building an addition to your house.

Comm. Strauss: You could have a higher deck without screening and then put a 4-foot fence on top of that.

Mr. Coleman: That is correct. Part of it has to do with where you measure from. Now, you measure from the ground, so if you add a 4-foot fence to your second level deck, it is technically not allowed. This was to try to clarify this so fewer would go to the BZA.

Chair Rohlf: Could you give me an example of a case going to the BZA?

Mr. Coleman: We have one now with a deck that is 30 inches at its highest point above the ground, and they have extended an enclosure for privacy since it is off their bedroom. They went to get a variance to exceed the 6-foot height because it was measured from the ground.

Chair Rohlf: It would allow them a higher fence than they would get from the ground. If it is 30 inches off the ground, they can have 4 feet or go to the BZA and get 6 feet. They could do lattice underneath, but from the ground, they could only go up about 2 more feet.

Comm. Neff-Brain: I assume we are talking about solid plank fences.

Mr. Coleman: That is what we have seen. Both were off bedrooms and were intended for privacy.

PUBLIC HEARING

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-0. For: Pateidl, Jackson, Neff-Brain, Elkins and Strauss.

Ms. Shearer: I need to add a word that was left out of this draft. In the chart, it should say, "The screening of the underside of the deck shall be constructed in accordance with Section . . ."

A motion to recommend approval of CASE 119-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-9 – Fences and Walls, pertaining to fences constructed on top of a deck – with the change in wording in the chart to read, "The screening of the underside of the deck shall be constructed in accordance with Section . . ." was made by Elkins; seconded by Pateidl. Motion approved with a unanimous vote of 5-0. For: Pateidl, Jackson, Neff-Brain, Elkins and Strauss.

MEETING ADJOURNED.