

**City of Leawood
Planning Commission Agenda**

**April 23, 2002
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

CALL TO ORDER/ROLL CALL: Colloton, Henderson, Carper, Conrad, Brain (tardy), Duffendack, Breneman, Munson, Pilcher (absent)

APPROVAL OF THE AGENDA: A motion was made by Henderson and seconded by Conrad to approve the new business agenda. Motion approved unanimously.

A motion was made by Carper and seconded by Henderson to approve the consent agenda. Motion approved unanimously.

APPROVAL OF THE MINUTES: Approval of the minutes from the March 12, 2002 and March 26, 2002 meetings. A motion was made by Duffendack and seconded by Munson to approve the March 12, 2002 and March 26, 2002 minutes with the editorial corrections made by Henderson. Motion approved unanimously.

CONTINUED TO THE MAY 28, 2002 MEETING:

CASE 70-01 CHRIST COMMUNITY CHURCH Request for approval of a preliminary plat, plan and special use permit. Located at 142nd Street and Kenneth Road. **Public Hearing**

CASE 71-01 CORNERSTONE VILLAGE Request for approval of rezoning from AG to SD (OH) and SD (CR), preliminary plat and preliminary plan. Located at the southeast corner of 135th Street and Nall Avenue. **Public Hearing**

CASE 33-02 LDO AMENDMENT – SECTION 2-4.12 – HEIGHT LIMITS An amendment to section 2-4.12 of the Leawood Development Ordinance. **Public Hearing**

CASE 41-02 PRAIRIE STAR ELEMENTARY – MOBILE CLASSROOM Request for approval of a special use permit, preliminary site plan and final site plan. Located at 143rd Street and Mission Road. **Public Hearing**

CONSENT AGENDA:

CASE 27-02 VILLAGE OF CAMDEN WOODS – 29TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 31-02 VILLAGE OF CAMDEN WOODS – 27TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 32-02 VILLAGE OF CAMDEN WOODS – 28TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 29-02 VILLAGE OF CAMDEN WOODS – 30TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 35-02 STATE LINE COMMONS Request for approval of a final plan. Located at 81st and State Line Road.

CASE 38-02 ST. MICHAEL THE ARCHANGEL EDUCATION CENTER Request for approval of a revised final site plan. Located at the northeast corner of 143rd Street and Nall Ave.

CASE 42-02 PLAZA POINTE – REECE & NICHOLS Request for approval of a revised final site plan for a sign. Located south of 135th Street and west of Roe.

CASE 43-02 WHITEHORSE – 5TH PLAT Request for approval of a final plat. Located at approximately 148th and Nall Avenue.

CASE 44-02 VILLAGE OF CAMDEN WOODS – 31ST PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

NEW BUSINESS:

CASE 13-02 LDO AMENDMENT – ROOFING Sections 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5) – Request for an amendment to the sections of Article 3 that pertain to roofing materials and colors.

STAFF PRESENTATION: Staff recommended continuing this case to the next meeting due to some recent comments from the City Attorney. Binckley recommended opening the public hearing in order to hear any citizen comments on the issue.

PUBLIC HEARING: Meg Gilmore, 9134 High Drive, represented the Leawood Estates homes association. Gilmore presented a document to each of the Commissioners. Gilmore stated the main concern of the homes association is to maintain the high quality and distinctive character of single-family residences in Leawood. The homes association is also interested in consistency between the City requirements and homes association requirements, to the extent legally permissible and practicable. They believe the proposed ordinance is unclear about who would have the right to appeal the City's approval of new roofing materials. How would the citizens of Leawood be able to voice their opinion prior to the approval of new roofing materials? Gilmore asked if the requirement that laminated composition roofing materials have a minimum thickness of 3/16 inch is an aesthetic issue or if it relates to the grade or quality of the roofing material. Gilmore asked if the City would provide a list of approved roofing materials to homeowners upon request. She suggested the City add a requirement that weight for laminated composition roofing shingles be a minimum of 350 lb. per square in order to restrict the use of materials to those with greater definition and a more "shake-like" quality. Would also like to add a more specific requirement concerning color. In particular, the homes association dislikes the composition roofs comprised of very dark shingles (black, charcoal gray) with little color gradation. For composition and asphalt shingles, they suggest limiting to colors that mimic weathered shake. For stone coated steel, they suggest limiting colors mimicking tile to those with a more subtle appearance. They also encourage the City to pursue a vigorous approval, inspection and enforcement policy.

The homes association's main concern is in the composition roofs that are being used in some parts of Leawood that are dark black and give the effect of tar paper. The color does not allow for the definition of the tiles to show. They hope the City will restrict that color combination.

A motion to close the public hearing was made by Carper and seconded by Conrad. Motion approved unanimously.

A motion to continue to the May 28th meeting was made by Conrad and seconded by Munson. Motion to continue approved unanimously.

CASE 24-02 CAPITAL IMPROVEMENTS PROGRAM

STAFF PRESENTATION: Joe Johnson, Director of Public Works and Kathy Rogers, Director of Finance were present to answer any questions.

PUBLIC HEARING: With no one present to speak at the public hearing, a motion to close was made by Carper and seconded by Henderson.

Henderson asked if the schedule would change. Johnson replied if the formulas and money change, that would change the money that the City gets from the County. If it were a decrease, then it would certainly change the schedule. That would show up at the next annual update. Henderson asked if the City would announce if the schedule changes before the annual review. Rogers responded Staff would not have an answer from the State until we meet on the budget in later June, the two will need to fit together in order to maintain the City's mill levy. Staff is asking the Commission to approve the concepts that fit within the planning role and responsibility and will always look at the entire outlook.

Conrad asked if the City has been given a sufficient amount of study from a planning standpoint. Johnson responded the City is going in the right path with the level of funding especially as far as streets.

A motion to approve was made by Carper and seconded by Breneman. Motion approved unanimously.

CASE 25-02 COMPREHENSIVE PLAN REVIEW Request for approval of the 2002 Comprehensive Plan and 135th Street corridor plan.

STAFF PRESENTATION: Presentation by Diane Binckley. Staff has made three recommendations on the map. The first area is the location of 114th Street and Tomahawk Creek Parkway. The City currently owns that property, it is public and will continue to be shown as public. It is currently shown as a justice center, and Staff would like to keep that designation because we don't know when or if that will be developed. The second change is 135th Street and Nall; that property has been annexed into the City so Staff would like to change the boundary to include it in the City of Leawood. The third change is the area at 141st Street and Nall. It is currently shown as institutional, but has recently been approved as residential and Staff would like to show it as medium density, which would allow for RP-1 and RP-4. There have not been any amendments made to the Comprehensive Plan policies.

PUBLIC HEARING: With no one present to speak at the public hearing, a motion to close was made by Henderson and seconded Conrad. Motion to close approved unanimously.

Colloton asked if there are any plans to change the property at 89th Street at the country club. Binckley stated it would not change at this time.

A motion to approve was made by Henderson and seconded by Conrad. Motion approved unanimously.

CASE 16-02 SOUTHWESTERN BELL – UTILITY BOX Request for a Special Use Permit for a utility box. Located south of 129th Street and east of Roe Avenue.

STAFF PRESENTATION: Presentation by Mark Klein. The applicant is requesting approval of a special use permit to locate a DSL utility box within a residential subdivision which is zoned as R-1, single-family residential. The DSL box is to be located on tract A of the Woodlands, third plat located approximately south of 129th Street and east of Roe Avenue. The proposed location for the DSL box is currently directly behind the monument sign at the southeast

corner of the subdivision. The applicant held an interact meeting and received some comments from a few people. At that time, the box was to be located 100 ft. further south and one resident was opposed to that location. Since then, they have met with the resident and addressed his issue by moving it directly north behind the monument sign. That resident is okay with the change. The boxes themselves are cream in color and will stand about a foot higher than the monument sign. Staff has recommended sinking the boxes further so that they will not be visible over the monument sign, or adding additional landscaping to screen. Staff is supportive of this case.

Conrad asked if the retaining wall would be cut into the hill. Klein responded there is a berm behind the monument sign and the applicant would require a retaining wall. Conrad expressed concern with not being able to understand what the project would eventually look like. Conrad asked the purpose of the DSL box. Klein responded it is for faster internet service.

Henderson was concerned that the retaining wall would act as a catch basin for loose paper and trash.

APPLICANT PRESENTATION: Presentation by Chris Carroll, Director of External Affairs on behalf of Southwestern Bell. The retaining wall would be no higher than three or four feet along one side of the structure. The site has been moved from original proposed site. The applicant feels, with the landscaping that is there and the additional landscaping that will be provided, it will be hidden behind the retaining wall.

Henderson asked how far the box would be above the wall. Carroll responded you would be able to see about a foot of the box behind the wall.

Duffendack asked if the technology would evolve in the future. Carroll stated this would be the second of this type of box SWBT has brought into the city. There is one at the Public Works site. Within the City of Leawood, SWBT would anticipate maybe one more being proposed this year, but overall, not more than eight structures total. This technology brings high-speed internet service. This structure would provide to about a 12,000 ft. reach from this sight. SWBT is limited with the technology that they presently have from their office. In order to reach farther into the communities, these structures will be necessary to provide broadband services to the residents of this community and others. There are about 17 of these boxes approved in Overland Park. The City of Overland Park has developed an ordinance that governs the placement of these types of structures. SWBT tries to locate these in commercial areas, but when you have a heavily dense population, some of these boxes are going to have to go into residential areas. The applicant will do a very good job shielding with the landscaping. Staff has a couple of recommendations that the applicant would like to address. The applicant cannot accept a five-year restriction on this application. They have received approval for an indefinite period of time in other cities. There is an average investment of about \$320,000 to \$330,000 to build one of these sites. To provide the services of high speed internet, the applicant would not want to assume any kind of risk of losing the service. It would be problematic for SWBT not to guarantee the future of the service. It is the applicant's understanding that the homes association is comfortable with extending the time period.

Carper asked if the cell towers in the City require special use permits, and what the limits are. Binckley responded the cell towers require special use permits. The City approved ten years for the one out south. Staff chose five years on this application because almost all special use permits Staff looks at, unless it's a permanent structure like a church or school, have five years through the direction of Council and the Commission. This utility box is large, but not nearly as invasive as a cell tower. Staff would not have a problem with recommending a longer amount time.

Brain asked if the special use permits must have a specific amount of time. Binckley responded not all special use permits have a specific amount of time, but the cell towers do.

Conrad asked who owns the property where the applicant is requesting the permit. Carroll responded the homes association. Conrad asked if they would have access to the box at any time. Carroll responded there would be a vault to allow access. It will be to the left of the sign and the second tree in the right of way. Conrad asked if the

project would require any type of handrail or height of wall since it will have a four-foot offset. Carroll responded if it were any taller, there would need to be, but not at this newly proposed site. Conrad stated it would have a large impact. Binckley stated the building official has looked at this as a non-pedestrian area and has not required a fence in similar locations. Conrad asked if SWBT would maintain all of the plantings within the easement. Carroll responded, yes.

Henderson asked if there is a written agreement filed with the homes association stating the use of the land. Carroll responded SWBT has purchased the easement from the homes association. Henderson then asked if this could be sold back to the homes association if the technology is no longer being used. Carroll responded he would not be opposed to adding a stipulation to the agreement stating that if it were no longer needed, SWBT would sell it back to the homes association. Carper stated the Commission does not have the right to require that type of stipulation. Brain stated the reason there is generally a specific amount of time on special use permits is because the City doesn't want it for an indefinite amount of time in case things change later.

Munson stated he has counted at least 24 utility boxes along 119th Street between Roe and State Line Road. He believes there is already a problem of not screening utility boxes, and recommended adding landscaping, as the applicant has requested.

PUBLIC HEARING: Mark Chapman, 12948 Granada Lane, the neighbor who asked to have the DSL box further away from his property. Does not have any issues with the new location. Is happy with the changes.

A motion to close the public hearing was made by Henderson and seconded by Carper. Motion approved unanimously.

Brain stated the City has historically not approved these types of uses and does not see this any differently than cell tower use. He believes the investment placed in this is significantly less than that people have placed in towers. Carroll responded there are alternate ways to reach that wireless signal. When copper wiring is used, there is no other way to reach people's homes. This location will not just be provisioning services. This will be providing basic phone service. The applicant cannot agree to a five-year term and service customers. The customers cannot be served if the box were moved. Brain stated it is not the City's intention to interrupt service, but it does need to be re-visited periodically.

Duffendack asked if there are any utility boxes in the City with a special use permit. Binckley responded none of the utility boxes have special use permits, just the cell towers. Conrad asked if that is because the utility boxes sit on the right-of-way. Binckley responded that is part of it, but it's also the size of this unit, it is much larger than the other utility boxes. Conrad asked where the right-of-way for Roe is. Binckley responded there is a 30 ft. build line. Duffendack stated if the City doesn't have any restrictions on the utility boxes, his fear is that SWBT would put it out in the right-of-way. Binckley responded it would be against our policies and they would have to get it approved to put it in the right of way. Duffendack stated he doesn't think it's right to have all of the landscaping for this structure when there isn't any for the utility boxes. Binckley stated Staff is not against going further than the five-year time frame; will leave it to the Commission to decide.

Henderson asked if the City could grant a special use permit for 10 years, then re-visit it. Binckley stated that would be the process.

Breneman agreed with Brain's comments. If cell towers have a special use permit limit for 10 years, then there is no reason to extend the length of this special use permit past 10 years.

Munson asked if there would be any widening around 124th and 125th around this area. Binckley responded it would be turned into four lanes, but we have enough right-of-way to not go into the easement.

Brain stated he believes that technology will change. He would like a 10-year limit, but no longer. Carroll stated the other boxes have not been restricted to a certain amount time. Brain asked what type of time frame the applicant would like to suggest. Carroll responded a lease of 99 years would satisfy his company. Brain commented on the difficulty in deciding the quality of the plantings and structure; it could become a nuisance and an eyesore. Brain stated the infinite amount of time is not feasible and did not believe there could be a decision made at this meeting. Carroll stated the Commission was being punitive to him at this particular place and box. He stated the other boxes are not regulated and was concerned with precedent. Brain recommended hearing from legal counsel.

Munson asked if there would need to be a box every two miles. Carroll responded it's just referred to as "the last mile".

Carper recommended to either table it for later in the meeting or for the next session.

Carroll asked what would happen if this gets approved as 10 years. Binckley responded the case would go to Council in three weeks and the applicant would have the opportunity to request the application to be remanded back to the Commission or make a further request of the Governing Body. Carroll suggested the Commission approve it for 10 years tonight, and then he would oppose it at Council after legal has had a chance to look at it.

Brain stated he would like to have the questions raised tonight answered by the legal counsel and recommended having this continued to the next work session.

A motion to continue this case to the May 28th meeting was made by Munson and seconded by Breneman. Motion approved unanimously. (See end of minutes for date change to May 14th.)

CASE 21-02 TUSCANY RESERVE – RESIDENTIAL Request for approval of a final plat and final plan. Located at the southwest corner of 135th and Chadwick.

Commissioner Duffendack recused himself from this case.

STAFF PRESENTATION: Presentation by Jeff Joseph. The applicant is requesting approval of a final plat and final plan. This property is located at the southwest corner of 135th and Chadwick. The applicant has made some changes from the preliminary plan. One lot was removed from the RP-1 portion of the development as recommended by the US Army Corps of Engineers. Also, the applicant has decided to construct Pawnee Street instead of Chadwick. This project has a unique Tuscan architecture. The applicant is proposing several pedestrian-friendly features such as pavilions and meandering sidewalks. All 20-ft. street-side setbacks will need to be approved by the Board of Zoning appeals. Staff would like to add stipulation number 23 as stated on the memo given to the Commission, which was recommended by Council at preliminary plan approval. Staff is recommending approval of this case with the attached stipulations.

APPLICANT PRESENTATION: Brick Owens, landscape architect with HNTB. Owens stated the design team was in attendance to answer any questions. Also present were Jason Meyer, also with HNTB, Harold Phelps, with Phelps Engineering and Chase Simmons, with Polsinelli, Shalton and Welte. Owens stated he has worked closely with Staff in regard to all issues of engineering and storm water management. The applicant is in agreement with all the stipulations. Owens stated the first change is to remove the northeastern-most lot, due to storm water drainage issues. In addition, they would now be using Pawnee as the main entrance. There will be sidewalks on both sides and special paving around the road. The developer has created architecture to simulate a bridge. Owens showed some elevations.

Henderson asked how the developer would know if the deepest pond were to become completely silted. Phelps responded the silt would not be a problem in regard to detention, because it is above the normal water elevation.

The homes association will maintain it if it becomes a visual problem. Henderson asked if the City has a procedure to check on the silt of the pond. David Ley, City Engineer, stated the City has a program where the homes associations have to hire a registered engineer (or the City would do it and charge the homes association) to monitor the silt on an annual basis. Henderson asked if the Highlands Group is satisfied with this. Binckley stated Mr. Donahoo just wanted to make sure the City is aware of his concerns. Owens responded it is in the stipulations that the homes association would maintain the ponds.

Conrad asked if the pond could be a dry basin. Owens responded not for this level of home. It is an amenity as well as a very functional element.

Munson asked if Chadwick is a finished street. Binckley responded it stops about two-thirds of the way down from 135th Street. Munson asked if the development would have only one access. Binckley responded there would be two entrances.

Carper asked when the construction would start if this case were approved at this meeting. Owens responded the build-out date would be in three years, but the applicant would like to get construction started as soon as possible. Phelps stated all of the streets would be built as one phase. Carper asked if the "50% built" statement in the Staff's stipulations includes the homes. Binckley responded it includes the homes. The concern was having attached units come in if the developer went away. Carper stated he wouldn't want to have the applicant only 25% done by 2005. Binckley stated the applicant would then come back to assure the Commission of what they intend to do.

Chase Simmons stated he worked on this stipulation with the City Attorney and it is not completely to his liking. The land would not automatically go back to AG, but the applicant has agreed not to protest it if it does. The City's concern was that the developer would put the streets in and then nothing would happen. As soon as the plats are approved, the applicant will be under deed restrictions for these lots to be single-family residences. Carper asked what 50% complete actually means. Simmons responded it is 50% build-out and if there is anything less than that, then the City could re-zone. This type of stipulation has been used a couple of other times on other projects.

A motion to approve with an amendment to change stipulation number 23 to say "build-out" instead of "complete" made by Carper and seconded by Munson. Motion approved unanimously.

CASE 28-02 DERMATOLOGY AND SKIN CANCER CENTER Request for preliminary site plan to construct an office building. Located at the southeast corner of Roe Avenue and 115th Street.

STAFF PRESENTATION: Presentation by Jeff Joseph. The applicant is Jeff Davis. The applicant is requesting approval of a preliminary plan. This property is located south of 115th Street and east of Roe Avenue. The project is within the first plat of Town Center Business Park. The office building will be used for medical use. The applicant has provided a statement that this facility will not be using general anesthesia to perform their procedures. The applicant is proposing 15 underground parking spaces. Staff is concerned about the width of the drive that leads to this garage. The width should be a minimum of 24 ft. Staff is concerned about the location of the trash enclosure. Staff recommends this location be moved to inside the parking garage or attached to the south side of the building. Staff is recommending approval of this case with the attached stipulations.

APPLICANT PRESENTATION: Presentation by Ron Davidow, a principal at ACI Golden. Jeff Davis, the project architect was present, as well as Glenn Goldstein, M.D. the physician who will be occupying this space. In regards to the trash enclosure, the applicant would like to put it inside the building, rather than putting it on the south side. Their only hesitation is that they have not reached an agreement with the company that will remove their trash. The applicant believes the area that has been proposed is better than the location on the south that Staff has proposed. The applicant would like to put the trash enclosure off to the corner, as JD Reece did, and would like to discuss this at final application. In regard to the width of the private drive that leads into the parking garage, the applicant will

agree to have it 24 ft., but would prefer to keep it 18 ft. to allow for more green space. There would rarely be two-way traffic because only 15 staff members will be using that garage. Davidow pointed out a mistake in the Staff report. It stated the applicant will be providing 97 parking spaces, but they will be providing 91 parking spaces.

David Ley stated Staff would be agreeable to a width of 20 ft. for the driveway into the garage. Davidow agreed to the recommendation of 20 ft. Binckley stated Staff is comfortable waiting until the final application to decide about the trash enclosure. Brain asked if the applicant would agree to the changes. Davidow responded, yes.

Davidow stated the applicant has tried to emulate the character of what the nearby subdivision would be as well as the surrounding area. The colors will be in the same pallet as approved in the master plan, the same as the JD Reece building. The applicant was asked by the City to cover their rooftop equipment from the view from the second floor of the JD Reece building, and the applicant has agreed to do so.

Duffendack asked the height of the brick wall that is covering the rooftop equipment. Davidow responded it would be 9 ft. tall. Duffendack asked if there would be any penetrations in the wall. Davidow responded none are planned, but it could change if needed.

Conrad asked where the air intakes would be for the parking on the lower levels. Davidow responded there are three louvers on the front side to make it look like the rest of building, there is an areaway on the backside where the emergency generator will be. Conrad asked if it would be a concrete building. Davidow responded it will be steel framed and brick covered. Conrad asked if the renderings represent the coloring for the signage. Davidow responded it would be darker than shown on the rendering. The applicant wanted to make sure that they match the aluminum look, but this will be decided at final application.

Henderson asked if Staff is comfortable with the storm water coming down a 17 ft. decline. Ley responded there is a minimum grade of 4 to 1, so that will still allow the grass to keep a stand and the storm water will be caught in the parking lot.

PUBLIC HEARING: With no one present to speak at the public hearing, a motion to close was made by Henderson and seconded by Colloton. Motion approved unanimously.

Henderson asked if the 20 ft. road would be wide enough for emergency vehicles. Brain responded emergency vehicles would not be going into the building at that location. It will be adequate for two cars going opposite ways.

A motion to approve with the amendment to stipulation number 7 stating the trash enclosure will be decided at final application was made by Carper and seconded by Colloton. Motion approved unanimously.

CASE 30-02 ZIPZI SPIRITZ Request for a special use permit to allow liquor sales. Located at 135th Street and Roe Avenue within the Plaza Pointe development.

STAFF PRESENTATION: Presentation by Mark Klein. The applicant is requesting approval of a special use permit to allow the sale of liquor within the Plaza Pointe development, located at 135th Street and Roe Avenue. This will be located inside the Zipz! convenience store, which has received final approval. The only thing that has changed on the plan is that the applicant is proposing to have a sign that reads, "Zipz! Spiritz", on the north elevation as well as on the west elevation. With the exception of the sign on the north elevation, Staff is recommending approval of this case with the attached stipulations.

Colloton stated the plan is not at all like what the Commission had originally approved. She also stated she would not want to allow the sale of packaged liquor near a childcare center, but is not sure if the Commission has any right to regulate this.

Henderson asked if the Commission is approving the special use permit or the liquor license. Brain responded, just the special use permit.

APPLICANT PRESENTATION: Presentation by Jerry Kalovich. Kalovich stated the intent of the development has not changed. Kalovich described the elevation of the project. Klein pointed out the location of the Zipz! Spiritz store on the elevation plan. Kalovich stated there will be wine columns and wine racks. The intent is to allow a person who is in a hurry to be able to purchase liquor.

Breneman asked if a person would be able to walk into the liquor store from the convenience store. Kalovich responded it would have a separate entrance, due to State regulations. Breneman then asked if the applicant would still be using the oval sign as proposed. Kalovich responded it would be brushed aluminum and back halo-lit, not the oval sign that was originally proposed.

Kalovich stated he has a few letters from homeowners that live near the current Zipz! Location stating it is not an eyesore.

Brain asked if there would only be wine sold at this location. Kalovich responded about 80% of the inventory would be wine.

Colloton stated she does not believe there is any place in Leawood where a liquor store is close to a gas station. She was concerned about teenagers drinking and driving. Carper stated the issue is not whether or not they will be selling alcohol to minors; the problem is the parents who buy the liquor and allow their children to consume the liquor. Kalovich responded there would be no liquor sold to any minors. Colloton stated it is a safety issue in approving the special use permit for a liquor store. Kalovich responded he could still sell packaged liquor (beer) in the convenience store. Carper stated he knows there is a liquor store next to a barbershop in the Ranch Mart shopping center and there have not been any issues.

Brain asked what types of considerations the Commission could use to restrict or deny the approval of the special use permit. Wetzler responded it is at the discretion of the Governing Body and the Planning Commission.

PUBLIC HEARING: Mike Stinson, building a house at 4001 W. 140th, currently living near the Zipz! store located at 127th and Antioch, will be living near the one being proposed. Stinson is in favor of the special use permit. He believes it is done in very good taste and sees no problem with it whatsoever.

A motion to close the public hearing made by Henderson and seconded by Colloton. Motion to close approved unanimously.

Brain stated he would be more concerned if this was located near a high school, rather than near a daycare. He did not find it objectionable.

Conrad asked if the awning and the vestibule entry have already been approved. Klein responded both have already been approved, but one change has been made to the vestibule to open into the Zipz! store. Conrad is supportive of Staff's recommendation not to allow the sign on the north.

Colloton stated a liquor store with a gas station might bring a crowd of people who might not be careful drivers. She is concerned about small children being released at the same time as the heavy traffic. She believes the City has provided for the safety of the daycare in and of itself. She is still concerned, but the intent is just the safety question, and she does not see enough reason to deny the special use permit.

A motion to approve was made by Duffendack and seconded by Conrad. Motion approved unanimously.

CASE 36-02 HEARTLAND BANK TEMPORARY ATM Request for a special use permit for a temporary ATM. Located south of Town Center Drive and west of Roe.

STAFF PRESENTATION: Presentation by Mark Klein. The applicant is requesting approval of a special use permit to allow a temporary ATM. The applicant is proposing a temporary ATM to service their customers until the bank is constructed. Staff is supportive of the application, but there are some stipulations. Stipulation number 2 states, "the special use permit shall expire when the bank facility receives an occupancy permit or one year from issuance of a building permit, whichever is shorter". Staff is limiting the time to ensure the ATM is a temporary one, and not a permanent one. The drive lane would have the ability to stack about four cars. It also has a single pole light that will be located directly behind the ATM. Staff would like it to match the other pole lights within Town Center Plaza because it would actually be moved later to the permanent facility.

Henderson stated there was a similar proposal in the past, and the temporary ATM was moved to the front of the lot for two reasons: not enough light, and an area where it could be easily removed by a large truck. He then asked if this would be vulnerable to theft. Klein responded that if the applicant is comfortable with the safety of the ATM, then Staff is comfortable with it. There will be spillover lighting from the other buildings.

Conrad was concerned about the exiting of vehicles from the proposed location. Staff had some of the same concerns. It was a trade-off of the location here and the location where the bank would be being built at the same time. Staff is recommending this because it is temporary. Conrad asked if it could be moved to the south parking lot area.

APPLICANT PRESENTATION: Presentation by Kite Singleton. The applicant is comfortable with the light level. They might have concerns if this was a permanent location, but this is only temporary. Locating this temporary ATM where it allows the construction to go on.

Henderson expressed concern about the ATM being stolen. Singleton responded he does not believe there will be a problem.

PUBLIC HEARING: With no one present to speak at the public hearing, a motion to close was made by Duffendack and seconded by Colloton. Motion to close approved unanimously.

A motion to approve was made by Colloton and seconded by Munson. Motion approved unanimously.

CASE 37-02 LORD OF LIFE LUTHERAN CHURCH ADDITION Request for a final site plan for a church tower. Located at 3105 W. 135th Street.

The applicant requested a continuance to the May 28th meeting.

CASE 39-02 CARPET CORNER – PLAZA POINTE, LOT 8 Request for a final site plan. Located at 135th Street and Roe Avenue within the Plaza Pointe development.

STAFF PRESENTATION: Presentation by Jeff Joseph. The applicant is requesting approval for a final site plan. This project is located at the southwest corner of 135th Street and Roe Avenue. The proposed building consists of 7,974 sq. ft. and is located at the southeast quadrant of the Plaza Pointe development. Plaza areas are shown on

the north and south sides of this building. The applicant is proposing two signs, one on the north side and one on the east side. Staff is concerned about the size of the sign on the north facade. Staff is recommending the letters be halo lit and pin mounted. The applicant is proposing a standing-seam metal roof. Staff looked at several buildings that have been constructed within this development, and found that the slate roof had a better initial appearance than the standing-seam metal roof. Staff is recommending a slate roof or a combination of both for this development. Staff is recommending approval of this case with the attached stipulations.

Duffendack asked for clarification on the roofing material. Joseph responded the Reece and Nichols and Financial Advisory buildings have been built and they have two different types of roofing materials. Staff likes the slate roof better than the standing-seam roof. Binckley stated Staff believes the synthetic slate provides a better impact on the buildings with a shallow roofline, like Carpet Corner.

Conrad asked where the signage would be located.

APPLICANT PRESENTATION: Jack Shank stated the sign being proposed is very simple; the letters would be white with a bronze color as a frame. They would be internally lit. The sign would consist of 1.4% of the entire north side of the building. The City ordinance allows for 5% of the façade. The applicant believes an internally illuminated sign would be appropriate for this particular project. They are objecting to the halo lighting because the light is behind the letter and it depends upon the contrast of the light being produced. If the letters were halo-lit, it would be a dark letter at night. With the brick being proposed as a dark brown, halo illumination would not be sufficient for the sign to be reasonably visible at night.

Conrad asked if internally lit signs are allowed within the ordinance. Binckley responded they are allowed. Conrad asked if there are lights on either side of the entry on the north elevation. Shank responded, yes.

Shank stated they would like to have the standing seam roof because it is an attractive material and provides a more contemporary look, rather than the synthetic slate. The applicant has received permission from Council for the standing seam roof. Brain asked if there is a cost difference between the two types of roof. Binckley stated, yes. Shank stated the applicant chose the material because of appearance, not to save money.

Duffendack did not think it was right to have a design presented and approved, then suggest changing the material because Staff doesn't prefer it. He thought the standing seam is fine.

Brain stated he believes the halo sign is appropriate, because it will be more of a weekend and day location and it would not be a drive-by location. Shank asked if Staff would approve the internally lit signs if the applicant reduced the size of the sign by two inches. Brain suggested the applicant ask for a continuance to decide on the sign.

Shank requested to continue this case to the May 14th meeting.

A motion to continue this case to the May 14th meeting was made by Colloton and seconded by Henderson. Motion to continue approved unanimously.

CASE 40-02 STATE LINE IMAGING CENTER Request for a final site plan to add an exterior entrance. Located at 8700 State Line Road.

STAFF PRESENTATION: Presentation by Mark Klein. The applicant is requesting approval of a final site plan to allow construction of an additional exterior entrance into the building. This project is located at 8700 State Line Road. It is a large office building that has numerous entries that feed into interior corridors. All of the office spaces are accessed through the interior entrances. The applicant is located on the north side of the building and faces out toward a row of parking within that development. The applicant is an MRI center and has stated the reason they

would like to add another entrance is to allow their patients another entrance directly into their office. Staff has been to the site and has paced off the difference between what they currently have and what it would be for the one they are requesting. The east side has an entrance that would require going down steps. From the west entrance, there is a minimum of six ADA parking spaces that someone could use and walk along the sidewalk. The closest ADA space would be 42 steps. Staff is recommending denial because this building currently functions as an internal office building. Staff is concerned this would set a precedent for the other offices and the applicant's office is close enough to the ADA spaces.

Duffendack asked why Staff is concerned that there would be too many exterior entrances. Klein responded it is Staff's opinion that the building was designed to operate in a certain way and would like it to remain the same. Duffendack stated he doesn't believe there will be any visual change from the elevation that is already there. Klein responded the applicant has not requested any extra signage. Colloton asked what the difference would be between the allergy clinic and this location. Klein stated the allergy clinic issues had to do with filtering the air of the interior corridor. This situation is more of just allowing people with disabilities to get into the clinic. If a customer parked closest to the entrance that the applicant is proposing, there would be 24 steps, however on the west side of it there is ADA parking adjacent to the curb.

Brain asked if this entrance would need to be handicapped accessible, including the doors. Klein responded, he would believe so, but would need to check with the building official.

APPLICANT PRESENTATION: Chase Simmons, appearing on behalf of the applicant. Also present were Doctors Robert Taccus, Robert Bruce, Thomas Samuelson and Barry Rose, all to be owners and operators of this facility. Gary Northcraft, executive director of State Line Imaging, Gary Miller with the management company of the MRI center, Janet Peek, who is also with State Line Imaging, and Tony Young, the foreman. The applicant was surprised that Staff would be against it, but does understand their concerns. The exterior changes are very minor. There might be another sign above the door, but the applicant would need to come back for that. The impact to the City of Leawood would be minimal. The parking lot would not be impacted in any way. Staff seems to be concerned with the idea of precedent. If this building had been originally built with this door, the applicant doesn't believe this would have been looked at. There are a number of reasons for needing this exterior door. There are other doors within that corridor that wouldn't work well with a person on crutches or in a wheelchair. The applicant was under the impression that the extra door wouldn't be a big deal, so they are already under construction. The applicant would never have chosen this space if they believed that this door would not be approved. They have reviewed the Staff stipulations and agree to all of them.

Doctor Robert Taccus, speaking on behalf of the owners of this business, stated their intention is to bring a quality medical service to that area of Leawood. There will be patients on crutches or with bad backs and they will have difficulty getting in and out without this added door.

Brain asked if the doors would be ADA compliant. Simmons responded there will be a small ramp, the door will be powered and will comply with ADA standards. Brain asked what the applicant anticipates for signage. Simmons responded the applicant would eventually be asking for a canopy above the door and a stenciled suite number along with the name of the group on the door.

Henderson asked if the applicant would be changing the entire office to be ADA compliant and if the imaging would be opened or closed. Taccus responded it is a new machine that allows the patient to get in without being claustrophobic.

Conrad asked if the enclosure for the mechanical equipment could be placed in a different location. Young responded it is the closest place for it. There will be a chiller and two air conditioning units. Binckley responded the slope goes towards the building. Landscaping would be much better than the cedar fence that would be difficult to maintain.

A motion to approve was made by Carper and seconded by Colloton.

Carper stated he does not believe the City will be setting a precedent with this case, but would like the applicant to know the sign will be looked at in detail in regards to size. Conrad added the canopy would also need to be looked at during that time. Brain stated he would hope that this does not set a precedent so that if another medical group moves in, there would be more exterior doors put in.

Motion approved 6-1. Henderson against.

Brain explained SWBT has stated they have an FCC permit that will expire, and they have asked to continue their case to the May 14th agenda.

Brain stated tonight was Commissioner Colloton's last meeting. He will remember her as very studious and she always contributed greatly to the Planning Commission's work and was always prepared. He appreciates her service to the City and wishes her well in her endeavors.

Meeting adjourned.

Don Brain, Jr.

Chairman