

City of Leawood
Planning Commission Minutes

February 25, 2003
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Henderson, Rohlf, Carper, Conrad, Duffendack, Brain (absent), Williams, Munson, Pilcher

APPROVAL OF THE AGENDA

Mark Klein referred the Commission to a letter given to them by Peterson requesting a continuance for case 03-03, Park Place. Duffendack stated case 03-03 would be moved to the March 25, 2003 meeting.

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

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

APPROVAL OF THE MINUTES: Approval of the minutes from the January 28, 2003 meeting. A motion to approve the minutes from the January 28, 2003 meeting, with Henderson's changes, was made by Carper and seconded by Henderson. Motion approved unanimously.

OLD BUSINESS:

CASE 91-02 TOWN CENTER PLAZA – UPTOWN REMODEL Request for approval of a final site plan. Located at 4800 W. 119th Street.

Staff presentation: Presentation by Jeff Joseph. The applicant is Ed Nelson of Leawood Hopps. The applicant is requesting a final site plan to remodel the existing Uptown Diner building. This building is located on the south side of Town Center Plaza. This case was continued from the February 11th Planning Commission meeting. The applicant has submitted revised plans reflecting some of the changes and suggestions given by the Commission to keep the character and architecture of the building intact. At the time of plan review, it was Staff's belief that all of the existing neon on the building would be removed. Since then, the applicant has indicated that only the neon around the signage would be removed. The EIFS part of the building will be resurfaced and the color will be changed to "putty". The name of the restaurant will be changed to "Fenton's Bar & Grill". The existing tiles along the base of the building will be replaced with red colored brick veneer. A patio will be added on the east side of the building. Staff is recommending approval of this case with the stipulations stated in the staff report.

Applicant presentation: Presentation by George Lafferty. Lafferty reminded the Commission of some of their comments regarding the previous submittal. They were: the building was not up to Leawood's standards, the revisions made washed out what character the existing building had, and the building did not meet the same standards, characteristics, and design quality as the other buildings along 119th Street. The applicant spoke to the owner of the building and asked if they would be interested in razing the building, and they stated it would not be an option. Most of the other restaurants are clad either entirely or mostly in brick masonry. The footing does not allow for brick masonry. The applicant has tried to landscape this building to the greatest extent possible to help soften the appearance of the building and create a better environment for those wishing to use the outside patio. There were some concerns with painting the stainless steel. The stainless steel is an important element and the applicant would like to keep it in order to keep some of the character of the building. The applicant is proposing to remove the purple color and to change it to a gray/tan base. The applicant is proposing to replace the purple and white porcelain tile with a more muted, earthy product, which would be brick veneer. A screen will be added to shield the delivery and trash storage area. The patio would be about 885 sq. ft. and would seat no more than 50-55 people. There is adequate plumbing inside for that. There is a precedent for a patio in Leawood. Lafferty stated he has a letter from the Dryvet company that lists other projects where they have used this product to resurface the EIFS.

Williams asked to see a color sample of the Dryvet. Lafferty stated it is very close to what is on the rendering, and then showed the Commission an example of the color.

Conrad asked if the clock would remain. Lafferty responded, yes.

Williams asked where the neon would remain. Lafferty stated the neon would remain along the stainless steel band. The applicant feels it is an important part of the original design. Duffendack asked if the neon is white. Lafferty responded, yes.

Duffendack asked if the brick veneer would be applied. Lafferty responded the applicant is planning to mechanically fasten the cement board through to the framing, and then put the veneer on that. The applicant has been told by contractors that this is the best, most long-lasting method. Williams asked how they would handle the top edge. Lafferty stated the top edge projects out enough that it should be taken care of the same way as the porcelain tile.

Henderson asked if the neon is separate exterior lighting or part of the sign. Lafferty stated he believes the neon is part of the exterior lighting. Duffendack asked if there would be additional lighting for the patio area. Lafferty stated the applicant is not proposing any at this time, but could decide to add some localized lighting on the tables. There is a lot of lighting in the parking lot area already and he does not anticipate adding any other pole lights. Duffendack stated because this is a final site plan, the Commission would need to know if they are proposing any extra lighting for the patio. Lafferty stated the applicant is not planning on adding any additional lighting, other than table lights.

Henderson likes that the shape of the building is being retained, but is concerned about having no additional lighting for a patio that can seat 55 people. Klein suggested adding a stipulation that states the applicant would need to come back in order to add any photometric lights, not just table lights. Munson stated he believes the time to approve the lighting would be now. Klein stated the applicant is not proposing any additional lighting. Carper agrees with Munson, that the project should not be approved now, knowing that they might come back in 6 months to request additional lighting.

Lafferty stated it is the applicant's intention to use table lighting. He does not believe the applicant is planning on coming back to request additional lighting.

Pilcher suggested the City codes department look at the issue of lighting. Klein stated the City inspectors would check as far as the electrical safety, but they would not be checking the amount of light it was emitting.

Carper asked if Yaya's and Yahooz has some sort of music that is allowed and also if they have additional lighting on their patios. Klein stated he has been at Yahooz and has not had a problem with lighting. As far as the music, if there were ever a problem, they would be subject to the City noise ordinance. Carper was concerned about the stipulation that states, "outdoor music is not allowed". Duffendack asked why the stipulation was added. Klein stated the stipulation was added to ensure there would not be any loud music coming from the location.

A motion to approve was made by Conrad, with the addition that if the applicant wants any additional exterior lighting the applicant would need to come before the Planning Commission. Motion seconded by Pilcher.

Duffendack asked if the motion maker is only referring to permanent mounted lighting, not table lighting. Conrad stated table lighting would not require coming back before the Commission. Henderson stated concerns there would not be enough lighting for the patio after dark.

Motion approved unanimously.

NEW BUSINESS:

CASE 05-03 MISSION FARMS Request for approval of preliminary site plan, preliminary plat and rezoning from RP-A and SD (C-R) to MXD. Located at approximately 105th Street and Mission Road.

Staff presentation: Presentation by Mark Klein. This project was seen on Dec. 16, 2002 and received preliminary approval for generally the same plan. There was a zoning conflict at that time. The applicant is requesting to rezone the property that was formally zoned as RP-A to MXD. Some of the homes encroached upon that portion. Since it was seen last, those seven units were pulled out. Staff has requested the applicant rezone the entire property from SD(C-R) to MXD. The old ordinance SD(C-R) zoning allowed for residential units with a special use permit, whereas, the new MXD zoning allows for residential. In creating the new MXD zoning, the City removed the option to have residential units in the SD(C-R) zoning. Since this case was approved under the old ordinance, they would be allowed, but since they're coming back anyway, staff requested they rezone to MXD to also take care of the conflict. Staff is recommending approval of this case with the stipulations stated in the staff report.

Henderson asked if this is a new proposal or if this is an update of an old proposal. Klein stated it's a new proposal, but the site plan being proposed is generally the same. The main differences are that the applicant moved the town homes away from the pool to increase the setback and they have added a right-in that is at the southwest corner of the property. Staff is recommending the drive that is fairly close to the entrance that allows a north-south movement to be made one-way, but if they keep it two-way they would need to remove some of the parking spaces that are directly in front of buildings A and E. Staff is recommending removal of that due to the sight distances and the close proximity to the bridge that is near there. The applicant reconfigured the parking on the east side of the building C, in doing so they are doing what was requested. They also aligned the islands in such a way to create more of a buffer between Leawood Estates and the mixed-use portion of the development.

Henderson stated it is a substantial change and it seems the Commission has been almost exclusively concerned with land use issues, not concerned with the relationships between the property owners and the developers.

Applicant presentation: Presentation by Doug Weltner, representing the applicant and one of the partners of Saddle Properties LLC. Also in attendance was Jason Clement with CDFM² and Dave Preston, one of the partners of Saddle Properties LLC. Clement passed out colored renderings. Weltner stated the applicant is in agreement with all of the stipulations. The applicant is also in agreement with the change from the south to north drive to one-way, per David Ley's recommendation. Weltner requested a deviation in setback that the Commission has the ability to grant and the applicant would assume that would be included with the approval of this case, and that would allow the variance required along 135th Street and would not require a variance from the BZA. Weltner requested a setback deviation at the pool area and stated he would be required to go back to the BZA for the setbacks by the clubhouse lot.

Duffendack asked if the traffic flow on the colored site plan is the one-way. Weltner pointed it out on the site plan and stated it is too close in proximity for left-hand turn stacking. The applicant is making it one-way, in order to not delete any parking spaces. Duffendack asked if staff is in approval of that change. Ley stated that is what staff recommended.

Conrad asked about the phasing. Weltner stated A, B, & C would be phase one, as well as the town homes. Conrad asked if anything has been done to look into the hydraulic balusters possibility. Klein stated it is a stipulation that would need to be addressed at final application. Conrad asked about the additional units. Weltner stated the seven units south of the clubhouse lot were not included in the original plan.

Rohlf asked to be shown where the setback problem lies. Weltner stated it is the north part of the property, next to the existing residential development. The Planning Commission has the ability to grant this deviation. Klein stated the residential deviation requested is so great that it would need to go before the Board of Zoning Appeals for approval, however, the Commission does have the ability to grant the deviations to the building setback of the 30 ft.

Henderson asked if the setback problems are the reason they are proposing town homes instead of four-plexes. Weltner stated it was proposed because of how it fit on the property. Henderson questioned stipulation number three, and asked what would happen if the residential portion wants to separate from the commercial portion. Klein stated the stipulation was added because of the private drive that goes through the town homes. Staff wanted to make sure the town homes were not the sole support for maintenance and upkeep for that private drive. When this was discussed before, it was the proposed solution to make them perpetually owned, so there would be sufficient funds to maintain that private drive. Bennett stated if the commercial and town homes were to ever be separated, it would need to come back to the Commission for approval and it would need to be in the association's covenants on how that would be handled. Carper stated the private street is there to provide for the residential, and he feels it should tie the private street to the town homes in the form of a homes association. Klein stated it is his understanding that in the past the City has been asked to make certain private streets public, because there has not been enough funding to maintain them well. In this case, these streets do not meet public street standards.

Pilcher asked how many homes are being proposed. Klein responded 22. Pilcher stated it would be a very small homes association and it would make it stronger to tie the responsibility of the private street to the entire project. Carper stated if the applicant is okay with leaving this as proposed, then the Commission does not have the authority to change it. Duffendack agreed. Munson asked what the right-of-way is for a private street. Ley stated there is no right-of-way for private streets. Munson asked what changes would need to be made in order to make the street public. Klein responded it is not a possibility with the homes proposed. Staff envisioned this as a single project that would fit into the mixed development. The homes were included with the office and retail.

Henderson stated that even though it is not the Commission's concern, he would like everyone to understand that he believes there should be no more private streets.

Munson asked what would be taking place in the loading spaces between the two commercial buildings. Weltner stated there would be trash compactor locations within the buildings. Munson stated that concerns him, because it should be an attraction instead of a trash enclosure to help tie it into the residential. Weltner stated they would be within the building; there would be a view corridor that would go through to the residential portion.

Henderson stated concern that this piece of property has been before the Commission three times within the last three years. Duffendack stated it was his understanding that the reason for the applicant being seen before the Commission this time is just because of the change in the zoning districts with the new ordinance.

Conrad asked if the carports on the site have always been there. Klein stated they were on the previously approved plans. Weltner stated the carports have been deleted since these plans were submitted to staff, the applicant will be building underground parking for buildings B, C, & D for use of the residential units above.

Public Hearing: Presentation by G. Gordan Thomas, 10516 Mohawk Lane, a property owner adjacent to this project. Thomas was concerned with this project and the amount of changes proposed, also concerned about the very high price of the homes. He is afraid there will not be very many young people with children who can move into these types of homes. If there are not enough children coming in there, he is afraid of another school closing. One of his concerns is the parking for 2,400. The area is overhung with clouds from the fumes from the automobiles parking there. The residents will be breathing it. Thomas does not believe a shopping center on Mission Road would be a paying proposition. He was concerned about English common law, the law of ancient lights. The residents would be faced with that, with the heights of the buildings that are put there. Thomas requested a delay of this project so that the people who are not very informed may attend a meeting to understand what is being proposed. The current residents will not be able to afford the tax increase caused by this project.

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

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

Conrad asked the motion maker if he would consider an additional stipulation to require the street be a public street. Munson stated he would not want to add that into his motion.

Motion approved (5-1). Conrad opposed. Williams abstained.

CASE 12-03 CAPITAL IMPROVEMENTS PROGRAM 2004-2009 Request for approval of the Capital Improvements Program for 2004-2009.

Staff presentation: Presentation by Mark Klein. Staff requested this case be continued to the March 25, 2003 meeting, but would like to open this case for a public hearing in order to get the public's comments.

Henderson stated it is very hard for the public to speak in regard to this case without anything to look at.

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

CASE 15-03 CHURCH OF THE RESURRECTION – TEMPORARY BUILDING Request for approval of a one-year extension of a Special Use Permit to allow a temporary building. Located at 137th Street and Roe Avenue.

Rohlf and Conrad recused themselves from this case.

Staff presentation: Presentation by Jeff Joseph. The applicant is Richard Cooper representing the church. The applicant is requesting approval of a one-year extension of an existing special use permit for a temporary office building. The applicant has indicated the temporary offices will be transferred to the new church building once the building is finished. The construction of the new building is expected to be completed by April 2004. Staff is in approval of this case with the stipulations stated in the staff report.

Henderson asked if it would actually only be one more year. Joseph stated the applicant has already begun building the new office and it will not be any longer than this one-year extension.

Applicant presentation: Presentation by Richard Cooper, representing the church. The project is under construction and the anticipated completion date is April of next year. The church is trying to avoid the financial hardship of moving the offices. When the applicant originally applied for a three-year permit, they were only granted a two-year permit.

Munson asked where the structure is located in relation to the passing population. Cooper stated it would be hard to see from the residents to the south, due to the new berm in place. The residents on the Roe Avenue side would not be able to see it very well at all. The property owners to the north are commercial. Cooper passed out some pictures of the site to the Commissioners.

Carper asked if this temporary building was purchased from the City. Cooper stated, yes. Henderson asked whom the temporary building would be sold to when the church is done using it as a temporary office. Cooper stated it could be used for an outreach for another church in a rural area.

Munson asked if it is sprinkled. Cooper stated, yes.

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

A motion to approve was made by Henderson and seconded by Carper. Motion approved (4-1). Munson denied.

CASE 17-03 BRAVO! RESTAURANT – AWNINGS Request for approval of a final site plan. Located at 117th and Roe Avenue within the Town Center Plaza development.

Staff presentation: Presentation by Mark Klein. This project is located within the Town Center Plaza development, where the brewery was originally located. The reason this case is before the Commission is because the applicant is proposing striped awnings with signage on the awnings. There are typically solid awnings in Town Center Plaza, except for Panera. Panera does have some signage on their awnings, also. The applicant is proposing black and white striped awnings over the windows and entrances. The awnings over the entrances would have the name of the restaurant. The awnings over the windows would have different Italian food products, such as pasta or fettuccini. The reason staff has asked the Commission to look at this case is because there are only two other instances of striped awnings in Leawood and those are at TGIFriday's and Panera, both of those were approved at final site plan application, so the Commission had the opportunity to review those.

Carper asked if the Commission is just being asked to look at the awnings, and not the signage. Klein stated this case is in regard to the awnings and the signage on the awnings. Staff has some concerns because Town Center Plaza has mainly solid color awnings and staff is concerned that if these are approved, it will set for a precedent for additional advertisement and stripes. Munson stated he is in approval of the stripes, but he is not sure about the advertisement. Williams stated he believes it is a little excessive because it should be assumed an Italian restaurant would have those items.

Williams asked if these are the same type of stripes as on Panera's awnings. Klein stated Panera has a three-tone stripe with different sizes on the stripes. Rohlf asked if there is a palette for the colors of the solid-color awnings at Town Center Plaza. Klein stated Town Center Plaza reviewed the awnings and thought the City would not approve it, therefore they were not in favor of it. Since then, Town Center Plaza has provided a letter stating they are in approval of the proposed awnings.

Henderson asked if it would be a piano bar. Klein stated the applicant would be better able to answer that question.

Conrad asked where this is located in Town Center Plaza. Klein stated it is to the west of Restoration Hardware, on the north side of the development.

Applicant presentation: Presentation by Jim McKenzie, Director of Development for Bravo. Mike Shale with Kansas City Awning Company was also present. McKenzie passed out some booklets to show some examples of the awnings on other existing restaurants. The applicant's request is based on the concept and branding of the existing buildings. The awnings have architectural elements of standard Italian cuisine.

Pilcher asked what would be the projection of the awning. McKenzie stated the typical projection is 5 ft. 7 inches, but he is proposing 5 ft. for this project because they will be using the frames that were already existing.

Williams asked if the lettering on the awnings would be essential to the brand identity. McKenzie stated it is on all of their other restaurants, he believes it is essential. Conrad reminded the Commission they have had problems in the past with putting menu items on signage. He would be concerned with setting precedence. Williams agreed with Conrad in regard to setting a precedent of having menu items on signs, but he would be in approval of the business name on the awnings. McKenzie stated it is an architectural element, meant to be fun and more Italian, not meant to represent the menu items. McKenzie asked if the Commission would be in approval of "Cucina Italiana" on the awnings instead of what is proposed. Munson asked the maximum number of signs allowed on the façade. Klein stated the ordinance allows businesses to have three signs on the façade. Klein also stated on many of the businesses at Town Center Plaza there is a sign on the façade, then a sign on the awnings, then a blade sign below that. Panera was approved to have "bakery" and a couple of other words on their awnings.

Pilcher stated he is in approval of the words, even though he was not in approval of the Pyramid Pizza signage. Munson stated he would vote against it as proposed. Henderson stated he would also vote against it.

McKenzie asked if there are any recommendations from the Commission. Pilcher suggested maybe only having the name in three places.

Henderson stated the advertising of food items is not the sort of thing the Commission has been endorsing. He would be in favor of the concept, but without the menu items being listed. Williams stated the Italian emphasis on the words is fun, but it would not work for any other business

and he would be afraid of setting precedent. Duffendack agreed he could anticipate other businesses coming before the Commission asking for advertisements on their awnings.

A motion to approve was made by Conrad with a stipulation that the words be deleted from the leading edge. Williams asked if Conrad was saying all lettering off the leading edge, or would he be okay with the restaurant name on the leading edge. Conrad stated he would not want any lettering on the leading edge. Klein stated a lot of the businesses have their name on the awnings over the entrances. **Conrad then withdrew his motion.**

A motion to approve was made by Carper, with a stipulation added to allow signage of the name of the restaurant on the two main awnings below the towers, and a third awning on the triple set of windows. Motion seconded by Munson.

Duffendack clarified Carper's addition of a stipulation to state, **"as designed with the stipulation that three restaurant names be allowed on awnings A, B and C1 on the plan"**. Pilcher asked if the applicant should have the opportunity to request a continuance if they are not in agreement with the new stipulations. Duffendack asked the applicant to speak.

McKenzie stated he would not want to set precedent. McKenzie's understanding is the Commission is approving the awnings as designed and allowing three awnings with the restaurant's name on them. Those three awnings would be the two over the entrances and one over the patio. The applicant is okay with that.

Motion approved unanimously.

ADJOURN

J. Paul Duffendack, Chair