

City of Leawood Planning Commission Minutes

July 26, 2005
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Henderson (tardy), Perkins, Rohlf, Conrad (tardy), Duffendack, Munson, Williams, Azeltine, Reynolds (absent)

APPROVAL OF THE AGENDA: A motion to approve the agenda was made by Munson and seconded by Williams. Motion approved unanimously.

APPROVAL OF THE MINUTES: Approval of the minutes from the May 10, 2005 and May 24, 2005 meetings.

A motion to approve the minutes from the May 10, 2005 meeting was made by Williams and seconded by Perkins. Motion approved unanimously.

A motion to approve the minutes from the May 24, 2005 meeting was made by Williams and seconded by Azeltine. Motion approved unanimously.

CONTINUED TO THE AUGUST 23, 2005 MEETING:

CASE 34-05 PARKWAY PLAZA - LOT 10 Request for approval of a final plat and final site plan. Located at the northeast corner of 135th Street and Briar Street.

CONSENT AGENDA:

CASE 47-05 VILLAS OF WHITEHORSE - 3RD PLAT Request for approval of a final plat and final site plan. Located at approximately 150th Terrace and Nall Avenue.

CASE 48-05 VILLAS AT HIGHLANDS RANCH Request for approval of a final plat and final site plan. Located north of 138th Street and east of Chadwick.

CASE 49-05 LEAWOOD UNITED METHODIST - CHILDREN'S CELEBRATION PARK Request for approval of a final site plan. Located at 2915 W. 95th Street.

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

OLD BUSINESS:

CASE 32-05 REVEDA OF LEAWOOD Request for approval of a preliminary site plan and preliminary plat. Located north of 133rd Street and west of State Line Road.

Staff presentation: Presentation by Mark Klein. At the last meeting the primary concern was the retention pond in the southwest corner. The concern was that the water level was so far below the bank that it would be difficult to see. The applicant has now increased the water level by 2 ft. They have also increased the size of the pond by reducing lot 17 to allow the retention pond to increase. Staff is recommending approval of this case with the stipulations stated in the staff report.

Duffendack asked the size of lot 17 now. Klein stated the applicant could better answer that question.

Commissioner Henderson arrived.

Rohlf asked for an explanation of stipulation number 13. Klein stated it is a stipulation that has been included on other properties that back to 133rd Street. It is to ensure that nobody tries to gain vehicular access from the back of their lot to 133rd Street.

Perkins asked if the deviations requested in stipulation number 6 were discussed during the previous hearing. Klein stated the deviations are the same as presented at the previous meeting. The applicant could have met a lot of the standard requirements, but by allowing the deviations it allows them to pull the buildings a little bit further up, thus increasing the back yards. The distance between buildings is a deviation that has always been requested with this development. Duffendack asked if the increases are within the range allowed. Klein stated, yes. Perkins asked if staff is comfortable with approving the deviations and believes this will not set a precedent for other developments to request these deviations. Klein stated he feels they have given some significant reasons for why they are requesting them. These deviations have been requested on a number of developments, so it is not like they are the first ones.

Henderson stated ordinance 16395 indicates the side yards may be reduced to zero if the City approves adequate open space. He then asked how that works. Klein stated the City has never really granted down to a zero, normally it is to 15 ft. It states they have to provide additional open space. In this case, they have provided at least 56.1 percent, which is 26 percent more than required by the minimum standards of the code. Henderson asked if the ordinance is intending commercial or residential to be reduced to zero. Klein stated they could be condominiums. Binckley stated another concept would be where you could push a villa over to one lot line, allowing for all of the ownership to be on the other side, therefore allowing for a usable side yard. Instead of having 7 ½ ft. on both sides then there would be 15 ft. owned by the same property owner. Henderson stated he did not know the ordinance would permit the lot line to be reduced to zero. He then asked where this has been done in the City. Klein stated it has been done in some commercial projects, but does not believe there are any residential developments where the zero lot line has been granted.

Commissioner Conrad arrived.

Applicant presentation: Presentation by Larry Winn. The applicant has modified the retention basin by using a smaller footprint on unit 17. The developer of the commercial property to the northeast is in the building permit stage, so that project will be complete as early as the next couple of months; well before they would have any vehicular traffic using that street. There is a stipulation that requires that connection to happen prior to any occupancy permit on this project. The deviations requested were actually staff-requested. They accomplished two things. There is a stagger between the buildings and it is also pushed back from the subdivision to the west to gain some larger back yards.

Perkins asked if there will be a cul-de-sac or a straight street. Binckley stated it is a cul-de-sac. It is a public street that runs through this property, but it is a private drive that runs through the property to the east. That allows for Public Works to be able to turn their truck around when they are plowing. Duffendack asked if there would be a curb cut. Ley stated it is a driveway entrance. He believes it is meant more for fire code.

Henderson asked what kind of alternate water supply the applicant will be providing to maintain the surface. Ley stated it is typically a water line that has a valve on it, so if the water gets low then they can go out and open the valve. It is only used in extreme draught conditions. Henderson asked who would supply the water. Winn stated the developer would buy it from the County. Henderson asked if the water is monitored by some type of mechanical advice. Ley stated, no, it is manual. Henderson asked how they would know if the water is low. Ley stated it would be a visual check. If they see it is low, then they would go out and open the valve.

Munson asked what was decided about providing a tornado shelter. Winn stated the applicant will submit a plan for a shelter. It will probably be a laundry room that meets those requirements. They will make that an option for each individual buyer to consider. Munson asked if the applicant will provide a plan to the Commission during the final approval as to how that would be done. Winn stated, yes. Binckley stated the comment is still included in the fire marshal's comments.

Williams asked how they begin to define the front yard, side yard and rear yard. It looks to him like each of these might have a slightly different orientation. Klein stated they typically use the front of the house as the front yard. In this type of situation, where the fronts of the houses are sometimes facing other units, it is taken from the public street.

Azeltine stated during the previous meeting there was a question about who will maintain the retention pond and the answer was the commercial entity. He then asked what the commercial entity meant. Winn stated there will be a homes association. The individual property owners will be assessed for the costs of the continuing maintenance of that area. Richard Eisner stated the retention area will be owned by the commercial development and the maintenance will ultimately be the responsibility of the commercial development to the east. The home owner's association has agreed to maintain half of the property but the ultimate responsibility will be of the commercial piece.

Rohlf asked how the applicant anticipates the buyers picking each of the layouts. Eisner stated there are five models shown on the plan. In any given location, there will be either four or five potential homes. The range of homes is 1,560 to 1,900 sq. ft. There is also a 2,300 sq. ft. home. Rohlf asked if the developer would dictate where each of those homes would go. Eisner stated they let the market make those determinations. It is typically widely spread. Duffendack asked what if everyone in a particular cluster picks the largest home. Eisner stated they would still fit within the setbacks. Rohlf asked if there would be someone who looks at that to ensure the same models will not run in a row. Binckley stated the building department will ensure they stay within the allowed setback. Most of the time with villa projects, the building department submits the plans to the Planning department for approval.

Conrad asked if the pond is detention or retention. Ley stated it is retention. Conrad asked if the adjacent property owner has agreed to maintain it. Ley stated part of the approval for the Village of Seville was that they own and maintain it.

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

Klein stated staff would like to make a modification to stipulation number 6. Part of the intent was to make sure that the homes along the west property line were a minimum 30 ft. away from the Greenbriar subdivision. Staff is recommending stipulation number 6 to include one more bullet point to read, "A minimum of 30 ft. rear setback from the west property line for rear setback, including decks". Duffendack asked if the applicant is okay with that. Eisner asked if that would include concrete patios. Klein stated, no, just wooden decks. Winn stated the applicant agrees to Klein's addition to stipulation number 6.

Henderson stated he is concerned about the retention pond being owned and maintained in perpetuity by the adjacent commercial development. He then asked what would happen if the commercial development, 12 1/2 years after it is built, is bought out by one owner who razes the whole thing and decides they do not want it. Ley stated the retention pond is for this subdivision and the Village of Seville. They would not be able to remove or change the detention pond. The commercial development would be required to certify the size of the pond and the outlet structure every year as part of the City code. Klein stated this is a stipulation for Village of Seville and was approved with that case. The stipulation is reflecting what was originally approved since both developments are affected by the retention pond. Winn stated the developer will always have a provision that if for some reason the commercial entity does not fulfill their obligation then the homes association will step in. They cannot jeopardize the home owner's values by having something happen to that.

Williams asked if they do the 30 ft. that was mentioned, where does the 20 ft. rear yard setback begin to come into play. Klein stated they are showing 20 ft. along the east property line. Williams asked if the property to the north would be considered a rear yard. Klein stated that would be shown as a side yard and it is being shown at 20 ft.

Perkins suggested that stipulation should be broadened to state east or west to get it more defined. Klein stated staff would be acceptable to that. Duffendack stated there is a plan that shows all of the setbacks and that plan will be included with what gets approved.

A motion to approve was made by Azeltine with the change to stipulation number 6 as amended during the course of discussion. Motion seconded by Rohlf. Motion approved unanimously.

NEW BUSINESS:

CASE 44-05 BI-STATE - SPEC. OFFICE/STORAGE BUILDING Request for approval of a preliminary plan. Located at the southwest corner of 143rd Street and Overbrook, within the Bi-State Business Park development.

Staff presentation: Presentation by Jeff Joseph. The applicant is Mario Leon with Rose Construction Company. The applicant is requesting approval of a preliminary plan for the construction of a one-story, 73,000 sq. ft. building on 1.3 acres for an FAR of 0.13. This project is within the Bi-State Business Park, located at the southeast corner of 143rd Street and Kenneth Road. This project is located directly north of the Public Works facility. The parking for this building is located towards the north and south sides of the proposed building. The entrances to the building are along the north side. There is an existing 60-ft. panhandle easement located along the west side of the property. The proposed building will be constructed primarily of brick. This building is proposed to be used as an office/warehouse space. The trash enclosure is shown at the southwest corner, attached to the building. A series of service doors are shown along the south side of the proposed building. Per the LDO, landscape buffering adjacent to buildings is required to be a minimum of 10 ft. This project meets that requirement except on the south side of the project, due to the location of the overhead doors and the exit doors. The applicant is requesting a deviation to circumvent this requirement. Per the LDO, no more than 40% of any side boundary line that fronts onto a public street may be developed as parked areas. This project does not meet that requirement. Staff is supportive of this deviation due to the smaller size of the lot and also the fact that it is surrounded on three sides by public streets. Per the LDO, all downspouts are required to be enclosed. This project meets that requirement except on the south side of the building. Staff is supportive of this deviation due to the fact that the south side of the building is facing towards the Public Works facility and is buffered by a row of Evergreen trees. The submitted preliminary landscape plan does not meet the requirements of the LDO. Since landscaping is reviewed at final plan, staff is recommending the applicant work with staff at that time. Staff is recommending approval of this case with the stipulations stated in the staff report.

Conrad asked if this is an acceptable use for the zoning. Joseph stated business park zoning allows up to 75 percent as warehouse and 25 percent as office space and they are meeting that requirement. Conrad asked if that would allow for any outdoor storage of materials or vehicles. Joseph stated, no.

Henderson asked if Overbrook Road would be wide enough for all of the different large vehicles, since the Public Works facility is adjacent. Ley stated the old Public Works' building was surrounded by commercial vehicles and did not have any problems. Binckley stated there is still quite a bit of activity at the old facility and there have not been any problems.

Perkins asked if this would be bermed at the same height as the Public Works facility. Joseph stated staff is working with the applicant to put in some berms and landscaping, but they are limited to what they can put in due to the panhandle easement.

Applicant presentation: Mario Leon with Rose Construction. David Dehaemers, owner of the proposed building and Judd Claussen, the civil engineer, are also in attendance. Leon showed pictures of the surrounding buildings. The panhandle easement is to the west. The applicant has coordinated with Western Panhandle on a location that is compliance with their requirements. The entry onto the site is to the southwest. The applicant continues to collaborate with staff in regard to the landscaping. They can put shrubs on top of the panhandle easement. They are also okay with berming. After looking at the surrounding buildings, they noticed the building to the west has canopies and to the north they have entry canopies. On the west building there are clear story windows. The applicant has provided some colored glass, clear story type windows and a feature canopy on the west quadrant. The building will be all brick with some banding.

Conrad asked if there is a second floor in the tower piece. Leon stated, no.

Henderson asked if this building would be in the same family of brick as the Cocherl building and the other buildings in that development. Leon stated it would be darker brick than the Cocherl building. Binckley stated staff has not evaluated the

brick. That will be looked at during the final plan application. Henderson asked the risk factors from the applicant's point of view with having the easement on their property. Leon stated they are clear of the easement by about 5 ft. They are providing an Evergreen hedge row along the west side of the building. They are taking some extra precautions in getting farther away from it. They have been in constant coordination with Western Panhandle's planner and they are okay with what the developer is doing as long as they are not putting any trees on the easement. Henderson asked how far away any trees would be planted from the easement. Leon stated about 26 ft. Duffendack asked if a landscape plan has been submitted. Binckley stated staff has spoken to the applicant and at some point will need a letter from Western Panhandle identifying what they will and will not allow in the easement. That is more of a final detail.

Duffendack asked if there is an architect of record for the project. Leon stated that is Chris Heir. Duffendack asked who worked on the plans that have been submitted. Leon stated himself and Brian Notsgill, in addition to the architect.

Rohlf asked if the applicant has given any thought to how they might handle stipulation number 4, regarding the utilities. Claussen stated there is an existing power line that runs on the east side of Kenneth Road, parallel to the gas main. Duffendack asked if they plan on placing that underground. Dehaemers stated they will investigate if it makes sense for them to run it underground on just their property when it is above ground for the rest of the street. Staff has suggested maybe escrowing the money to do it. The applicant is willing to accept the stipulation.

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

Henderson asked if there are any records of any explosions of pipelines. Duffendack stated he knows that construction above and around gas pipelines is fairly common. Binckley stated she does not recall any incidents. They run all over the City and she feels that is why they have such a substantial easement. Henderson stated there is a major law firm in Kansas City and one great segment of which deals with fires and burns from gas explosions and they are regularly busy. It does happen even if it hasn't happened here yet. Duffendack stated it seems to him that the safety requirements have been met.

Munson stated he feels the development is fairly attractive for what they are doing on their building and layout.

Henderson asked what kind of traffic they anticipate. Dehaemers stated he believes the traffic would be similar to what is at the old Public Works facility. There could be an HVAC contractor with small appliance type vans. He does not believe there will be any semi-tractor/trailer traffic. This will not be a warehouse for storing large items. It is intended more for office space.

Williams stated on the south dock side it appears roof top units are visible. He then asked if the ordinance requires the equipment to be covered on all sides. Joseph stated, yes. Binckley stated stipulation number 8 requires that. She believes that they are just showing that is where it would be located on the plan.

Conrad asked if parking of commercial vehicles overnight is acceptable within this zoning. Joseph stated, yes, within the parking lot. Binckley stated that would be allowed in any type of commercial use.

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

CASE 45-05 LEABROOKE - TEMPORARY SALES OFFICE Request for approval of a special use permit. Located at the southeast corner of 145th Street and Norwood.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a special use permit to use an existing house that will be remodeled for a temporary sales office for the LeaBrooke subdivision. The applicant has stated that this sales office will only be used until model homes can be built within the subdivision. Currently the house faces to the southeast. They plan on providing a temporary parking lot that would provide four parking spaces, just off of 145th Street. They are requesting to be allowed one sign that would say "LeaBrooke". The applicant has stated that once they construct

model houses in this subdivision they will move the temporary office into one of them and take out the temporary parking lot. There is a stipulation requiring them to remove the temporary parking lot and replace it with open space. The applicant has agreed to do that. Staff is recommending approval of this case with the stipulations stated in the staff report.

Conrad asked if this would be a model home. Klein stated he would like the applicant to answer that question. Conrad asked if, once it becomes a sales office, would there need to be restroom facilities or access to the rest of the house. Binckley stated the customers do not have to be allowed access to the rest of the facility.

Applicant presentation: Presentation by David McIntyre. He is requesting to use a two-car garage to put two desks in. The façade of the house will be flipped and they will be adding a master bathroom, a dining room and a study/den/bath on the front of the house where there used to be a wooden deck. A rear deck will be on the south of the house. It is a \$260,000 remodeling job. There are lots that are staked and no place to meet the builders, customers, or potential customers of LeaBrooke. He is requesting this house rather than requesting approval of a trailer. This house will be on the market after the model homes are built. This house meets everything that was approved for the overall plan.

Henderson asked how far this house would be from the horses that will remain on the property. McIntyre stated it would be at least 500 ft. This is the dark brown contemporary house, not the McMorris house, where the horses are.

Rohlf stated that she thought this house was supposed to be removed. McIntyre stated there were four houses on the property. One house has been removed. This house will be remodeled. The McMorris house will come down when their 2 ½-year stay is over. They are in a no-disturb area. Rohlf asked if these homes were on the plans that were approved. Klein stated the approved plan did not specifically address this house to remain. Rohlf asked where it sits on the property. McIntyre stated it sits on lot 24. The entire subdivision was designed around this. There is a 35-ft. setback on Norwood and 145th Street. There is room for the third car garage on the east. It meets the setbacks. Binckley stated this is not uncommon. The reason that it came before the Commission is for the parking lot and the type of use.

Munson stated this is better than a trailer.

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

A motion to approve was made by Williams and seconded by Azeltine. Motion approved unanimously.

Meeting adjourned.

J. Paul Duffendack, Chair