

**City of Leawood
Planning Commission Minutes**

November 14, 2006
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Henderson, Roberson, Jackson, Conrad, Rohlf, Munson (absent), Williams (absent), Elkins, Reynolds (absent)

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

CONTINUED TO THE DECEMBER 12, 2006 MEETING:

CASE 61-06 SIENA – 2ND PHASE Request for approval of a preliminary site plan. Located approximately at the southeast corner of future 137th Street and Mission. **Public hearing**

CASE 72-06 MARKET SQUARE Request for approval of a preliminary plat and preliminary plan. Located east of Mission Road and north of 135th Street. **Public hearing**

CASE 78-06 GARDENS OF VILLAGGIO Request for approval of a final site plan. Located north of 137th Street and east of Roe Ave.

CONTINUED TO THE JANUARY 23, 2007 MEETING:

CASE 08-06 LDO AMENDMENT - SECTION 16-2-9.2 NON-RESIDENTIAL USES Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

CASE 09-06 LDO AMENDMENT - SECTION 16-3-9 DEVIATIONS Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

CASE 54-06 LDO AMENDMENT – SECTION 16-2-10 ARCHITECTURAL STANDARDS Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

CASE 73-06 LDO AMENDMENT – SECTION 16-4-10.1 HOME OCCUPATIONS Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

CONSENT AGENDA:

NOTE: Consent Agenda items are approved with a single motion. Any Planning Commission member can request that an item on the agenda be removed for discussion with a separate vote.

CASE 91-06 LEABROOKE TOWN MANORS – 1ST PLAT Request for approval of a final plat to rename LeaBrooke 6th Plat to LeaBrooke Town Manors – 1st Plat. Located at approximately 145th Street and Kenneth Road.

CASE 92-06 LEABROOKE TOWN MANORS – 2ND PLAT Request for approval of a final plat to rename LeaBrooke 7th Plat to LeaBrooke Town Manors – 2nd Plat. Located at approximately 145th Street and Kenneth Road.

CASE 93-06 LEABROOKE – 5TH PLAT Request for approval of a final plat to rename LeaBrooke 8th Plat to LeaBrooke 5th Plat and to renumber the lots. Located at approximately 145th Street and Kenneth Road.

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

NEW BUSINESS:

CASE 74-06 OBERWEIS ICE CREAM AND DAIRY Request for approval of a special use permit and a preliminary plan. Located south of 135th Street and east of Nall Avenue within the Cornerstone of Leawood development.

Staff presentation: Presentation by Jeff Joseph. The applicant is Tom Skram. The applicant is requesting approval of a special use permit and preliminary site plan for the construction of one 4,500 sq. ft. building on 1.3 acres for an FAR of 0.08. This project is located on lot 3 of the Cornerstone of Leawood development, located at the southeast corner of 135th Street and Nall Avenue. This building is a proposed ice cream store and will be located south of the future Claddagh Irish Pub. Adjacent to the east side of the building is an outdoor seating area. Parking is located primarily on the north side of the building. The building and the parking arrangement are generally the same as approved for the overall Cornerstone development. The building will be constructed primarily of brick and cultured stone. A drive-thru is proposed along the west and south sides of the buildings. The applicant has worked with staff to change some of the materials on the building to match the approved materials within the Cornerstone development. Staff has some concerns regarding the architecture of the building as stated in the staff report. All of the architectural signage and landscaping issues will be reviewed in detail during the final site plan process. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked how they are doing with open space in Cornerstone. Joseph stated they are short 2%. He has spoken with Klover and Klover has stated they need to check the numbers. That will be looked at during final site plan. Rohlf then asked if the City has approved some buildings for more square footage than originally proposed. Joseph stated Claddagh Irish Pub had the same problem, but they substituted that with additional open space.

Rohlf stated she believes the first staff comment on page 5 of the staff report should read, "lot 3". Joseph agreed.

Applicant presentation: Presentation by Michael Aragona, the architect for Oberweis store in Leawood and Joe Fayhee, representing Oberweis Dairy. Aragona stated the building is situated with the main entry and parking area to the north. They felt this placement of the building maximizes the potential for parking spaces, works with the neighboring Claddagh parking drives and allows for the drive-thru lane. During delivery times, a truck may park and unload in that escape lane, so they feel it is necessary. It also allows them to turn the private patio area inward towards the development, providing some privacy. They are providing 35 parking spaces on-site with a cross-parking agreement for the remainder. The drive-thru traffic is kept away via drive-thru directional signs from the main area. There is an escape lane for those who wish to exit around the building. The drive-thru customer will be greeted by the menu board. The menu board may be moved forward to allow for greater stacking. There will be two drive-thru windows to expedite the drive-thru process. There is an additional escape lane to allow for a package customer to bypass an ice cream customer that might be waiting at the second window. They will be providing the required landscaping as well as integral planters. The building will be a 4,500 sq. ft. one-story structure. It will include masonry-bearing walls. The roof drains will be internal. The rooftop will be screened by an extended stone parapet along the north side. Additional screening internally can be done which does not put additional load to the roof. The exterior will include decorative accents of wood and stone. The main building material will be brick. All of the materials to be used have been reviewed by the developer's architect. *Aragona showed a rendering of the proposed building.* The direction was to build Oberweis as a traditional classic building which conveys some sense of its history. The front elevation is meant to represent a mid-western farm house and front porch. The gabled entry-tower roof also reinforces the farm house design. Although this would typically be a much greater pitch, he has lowered it to create more of a prairie style design without losing the farm house approach. There are different seating areas and choices for their sit-down customers. The outdoor seating area provides multiple places for seating including a fountain and wood trellis for shading. In temperate months customers may purchase product directly from the outside window area. *Aragona described the interior layout of the store.* There are seats for 42 patrons inside and up to 85 patrons outside. The trash areas are internal.

Rohlf asked if the applicant sees any problems with complying with any of the staff stipulations between now and final application. Aragona stated from an architectural standpoint, he does not have a problem with converting the stucco posts

to brick on the exterior seating area. One major concern is the signage and the ability to keep the three-cow logo in the wrought iron fence. They feel it is a very creative use and subtle use of signage and feel it will be a very interesting element that is not seen. The tractor logo is something they would like to keep because it reinforces the image of the mid-western farm as well as some of the other detail elements such as the front patio. He does not have a problem revisiting the south elevation and looking at some different options to break that wall up a little more and add some detail to it. He would like to keep the screening as something that is light-weight and not brick. It can be done just as easily with aluminum or wood. The 28% to 30% has been discussed. At this point, they need to get back with the developer to see if it is available. In regard to the landscape buffer, he is not sure if they are addressing the drive-thru lane. They could add more landscaping around it. In regard to pedestrian crosswalks, this is still a preliminary and the applicant did not understand what those were. They will make sure that is included in the final. There is a note about fake windows but he does not believe they are showing any fake windows. Joseph stated that stipulation is included on all of the projects within the development. Aragona stated their materials do match those approved for the development, so they do meet that requirement. They have done some additional screening of the menu board area. Their landscape designer met with the City to discuss that and they feel they did quite a bit to address the menu board. They will look at that further with staff. Joseph stated most of those issues are final site plan issues, so those will be looked at again during final plan. Aragona then asked about staff's comment regarding identifying the base material of the north elevation. He believes they are talking about under the columns of the front façade. It has not been identified at this point, but he is looking at concrete. They could change that to match the base of the entire building; so it could be stone.

Rohlf asked if the applicant received a copy of Klover's letter dated October 26th. Aragona stated, yes.

Conrad stated the drive-thru traffic comes out very close to the main entry into the center off of Nall. He believes that in the approved site plan for the overall development the curb cut for this pad site was a considerable distance from that intersection. He then asked if staff is comfortable with the traffic flow. Ley stated that is an exit drive for the drive-thru, so it is not a big concern. That entrance off of Nall is a right-in, right-out, so it is not really a main entrance. Only people heading northbound would be using that entrance. Conrad stated there are steel doors to the trash area on the east elevation, but on the site plan they open up to a landscaped area. He then asked if those doors need to be moved around to the south elevation. Aragona stated it would work better if it opened up. Conrad stated it has an impact of articulating the south elevation that has the two drive-thru windows and there would also be the stone walls. Conrad asked if the trash enclosure will need any type of ventilation. Aragona stated there would be natural ventilation and a drain. The only access would be from an exterior door. Conrad questioned the drive-thru tractor signage on the west elevation. People will not see it until they are already in the queue. The request for additional signage should pass a test and he is not sure that the location of the tractor is needed. Aragona stated it is a corner that someone would be taking into the Cornerstone development. It would be able to be seen over the berm. Conrad stated if there is purpose in it, then he would like to know who would see it and at what point one would see it where it is located. He then asked where the menu board is located. Joseph stated it is on the west side of the building. Aragona stated it is just to the north of the bottle return area and is ground-mounted. Conrad asked if people would return bottles on the outside of the building. Argano stated a drive-thru person could return bottles. Conrad asked if a customer would access those steel doors. Aragona stated, no.

Roberson stated he is okay leaving the three-cows sign. He does not have an opinion on the tractor sign.

Jackson asked if there are three drive lanes. Aragona stated, yes. The exterior lane is for larger trucks or emergency access. In the drive-thru there is a second drive lane so that window number one customer can go around window number two customer if they have their order completed. Jackson asked if the milk sales are a substantial part of the sales. Fayhee stated it differs from store to store. It is very hard to predict, but typically not much more than 30% of sales. Jackson asked if they will have enough stacking room for cars. Fayhee stated, yes. They feel the patio would help increase foot traffic.

Henderson asked if all of their stores are built on this pattern. Fayhee stated this will be their largest store to date. This is the first store in the market and they want to make it a statement. Henderson asked the location of the nearest Oberweis store to Leawood. Fayhee stated they have five locations in the St. Louis area. Henderson asked if they have had any circulation pattern problems in their other stores. Fayhee stated they find queuing people is easier in the stand-alone building such as this, versus in a strip center. Henderson stated it appears they could get 10 cars in the queue. It is difficult

for him to understand the movement. Aragona stated there is only one lane to access the menu board and then continue on to the first window. Typically, one would pay at the first window and then pick up at the second window. In some cases the entire transaction can be done at the first window and then that person can leave without waiting for the person in front of them to receive their order. It would pretty much depend on the time of day. Henderson stated he had concerns with people going to the wrong window.

Elkins stated he likes the three-cow and the tractor as far as art work. He is concerned about the precedent if the Commission wishes something other than what staff has proposed. He then asked if this signage violates a precedent set in Cornerstone. Joseph stated the Cornerstone design guidelines only allow three signs per building. The applicant is requesting six signs. Staff is concerned that it will set a precedent for future buildings in Cornerstone. Elkins asked if the three-cow artwork is considered a sign. Joseph stated it is a logo and logos are considered signage. Lambers stated we deviated with the water tower for Cheeseburger in Paradise. Staff is more concerned with the number of signs. If they chose to go with the logo, extending what we did with Cheeseburger in Paradise, allowing the maximum of three signs with the logo would probably be justified with Oberweis. Henderson stated he believes the Commission had a different feeling about the water tower than Council. Lambers stated, yes, because if they were not allowed to go forward with the water tower then the restaurant would not have come to fruition. That was where a precedent was set. He looks at this as being a much smaller scale and accommodating to a business that is trying to establish their identity. Henry Klover stated he looks at it more as art work. It is a fairly pricey item. It is in the fence. It is one piece of metal. It is not multi-colored. It is not up high on the building. The design criteria tried to encourage people to do three-dimensional graphics. There is an allowance to go 25% larger if they were to do that.

Rohlf asked how staff came up with six signs. Joseph stated on the north elevation they are showing a blade sign and then the wording, "Oberweis Ice Cream and Dairy Store". The east elevation has the railing with the cows. The west elevation has the wording, "Oberweis Ice Cream and Dairy Store", and the tractor and the drive-thru sign. Rohlf asked if they have the three-cow logo in wrought iron at the five stores in St. Louis. Fayhee stated, no. They do have the sign in etched glass. Most of their stores do not have that large patio element. Rohlf asked if the applicant would be willing to give up other signs in order to get the wrought iron piece. Fayhee stated, yes. Rohlf stated she likes the wrought iron, but she could go without the tractor.

Elkins asked staff to elaborate on the concern of lack of architectural features. Joseph stated it is on the south side of the building. They have a brick wall that is bland with no type of architectural features. Staff is recommending some kind of separation with materials. Also, staff is recommending they add some type of masonry material along the base of the building. Elkins asked if the concern is more with the façade and not the roof line. Joseph stated, yes. Rohlf stated it would change that elevation if the doors are moved to that side of the building. Aragona stated they would still look for some kind of massing relief in that wall even if those doors are moved. He then reminded the Commission that this is a preliminary plan.

Rohlf asked if staff has any comments on the applicant's proposed materials for the rooftop screening. Joseph stated the applicant is proposing wood or metal screen. Staff is concerned about that because the Bank of Blue Valley building that was approved at 135th and Mission proposed different screening material and at that time staff was not aware of it, but now it is staff's opinion that we would like something more significant to screen the units. Aragona stated the only place he is proposing wood or aluminum-type screen is on the roof; to enclose those three sides. Rohlf asked if there would be a maintenance problem with either of those materials. Aragona stated if he looked at any type of brick material, it would need to be a thin brick because they would need to use structural steel to support that additional stone. The wood would allow them to remove some panels to get to those units. He can consider some other materials, but his first choice would not be brick or stone.

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

Conrad stated staff has brought up a considerable number of items. The applicant has shown a willingness to work with staff. He then asked for some kind of assurance that these items will be followed through at final if all we have is a

stipulation on direction to the applicant on architectural issues. Elkins stated he feels it would be helpful when we get to final if as part of staff's presentation we could have a before and after. It is difficult to go back to the preliminary with what the concerns were with architectural issues and try to recall all of that at final. Conrad stated comments are made at preliminary and sometimes they do not all get incorporated and staff still has some comments. At final, he feels the Commission is not able to implement or enforce some of those things we are looking for. Rohlfs stated that is why she asked for the Commission to comment on some of these final plan items during the preliminary.

Lambers stated the plans are not intended to be a basis for the architectural review. If the architecture comes in at final and the Commission is not satisfied with it, then the Commission can continue the final plan until the Commission gets what they want or recommend denial to Council. If it is not sufficient, then the Commission can say that and go back. The applicant can choose to agree or disagree, but the Commission does have the authority to say "no". Henderson stated stipulation number 10 is specific and not general. Lambers stated they are making a request for a deviation to the signage requirement. He looks at signage different than architecture. Henderson asked if the logo would not be allowed if voted on tonight. Lambers stated he would hope that as part of the motion the Commission would state any changes they would like to make to the stipulations.

A motion to approve was made by Conrad with a change to stipulation number 10, to read, "the circular logo on the railings be allowed and the logo of the tractor and drive-thru are to be removed". He would like to emphasize stipulation number 6 that reinforces many of the architectural items staff has and that there is a real expectation of the Commission that those be resolved at final. **Motion seconded by Elkins.** Joseph asked if Conrad's motion means the applicant needs to remove a sign to meet the criteria or if it allows four signs. Conrad stated his intention was to allow the three signs on the building plus the logo of the three cows on the railing. **Motion approved unanimously.**

CASE 85-06 CORNERSTONE TRACT A Request for approval of a final site plan. Located south of 135th Street and east of Nall Avenue.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan for the construction of a water feature at the southeast corner of 135th Street and Nall Avenue, within the Cornerstone development. This water feature will consist of three tiers. Water will cascade down those three tiers at certain areas. There will also be jets that will shoot water up into the air to add some dimension to the water feature and to make it more visible to pedestrians and people driving by. They have two seating areas. One is located along Nall Avenue and one along 135th Street. The one located along 135th Street is shown on the other side of that sidewalk. That is actually public right-of-way. Staff is recommending that be moved to the south and closer to the fountain. It would make it more visible and more easily accessible to the people enjoying the fountain. Staff is recommending approval of this case with the stipulations stated in the staff report.

Roberson asked for a description of the seating areas. Klein described the seating areas on the site plan. Staff has spoken with the landscape architect and they believe they can move the seating on the north side to be out of the right-of-way.

Henderson asked if the topography would remain the same once the seating area is moved. Klein stated he would imagine it might be lower, but the applicant could better answer that question.

Henderson asked how the underground vault is accessed and secured. Klein stated the applicant could better answer that question.

Conrad stated he would like to see a rendering of what the water feature would look like in relation to the Claddagh Irish Pub. Britney Swartz stated they do not have good elevations of the pub at this time.

Henderson asked how the flow of water is controlled. Klein stated the applicant could better answer that question.

Applicant presentation: Presentation by Chad Potter and Britney Swartz of Patty Banks and Associates. Potter stated there is a vault that will be screened from 135th Street and it will have pumps for the water feature. They do not have a lot of existing information on the restaurant. Their goal was to present an access from Claddagh to the intersection, so the monument sign would be visible to everyone. It is not truly Claddagh's water feature, but it does benefit the people sitting on their patio. It also benefits people along the street and sidewalks. They are proposing native stone walls. It will have a prairie style aesthetic with sweeping curves and a blowing prairie grass type of look. The monument sign is pushed as far towards the road as possible due to the utility easements. The vault and power transformer will be screened with vegetation.

Henderson asked if the vault is underground. Potter stated, yes. Henderson asked if it would be landscaped so that it would not be visible. Potter stated they can quickly access it from the back of curb but it will be screened from 135th Street. Henderson asked if it will be operated 24/7. Potter stated it is not heated. The idea is that it will run until it freezes and then the waterfalls would freeze and that would be behind the sign. Swartz stated the vault has changed in size. It is now 12 by 12. Henderson asked if the vegetation is deciduous or coniferous. Swartz stated most of it is deciduous, but there are native grasses so there is winter interest. The water flow from the different tiers will be through weirs of ledge rock. Potter stated the stone will match what is being used in the development. It is natural stone and not a cultured stone.

Henderson asked if the water is rooted or on curbed lips of the stone to help it flow through the weir. Swartz stated they were hoping to have more of a natural edge to those weirs to get a greater dynamic of the water splashing back and forth. In some locations there will be additional ledge rock below the water to also get more dynamic movement of the water. It is a large feature. Henderson asked if the water will be forced. Potter stated the weir is lower than the surrounding walls, so the water is forced.

Jackson stated she seems to remember the Claddagh not looking very prairie style. Potter stated maybe Klover could better speak to that comment. Jackson stated she likes the design, but she does not know how it would look next to the Irish Pub. Rohlf stated she believes the patio was the less-pubbish side of the restaurant. Potter stated the water feature was originally shown as more flat than it is now shown. There is a lot of action going on with the different levels and jets. They are much lower near the pub.

Elkins stated his recollection of the pub is that there is some sort of wrought iron fence along the patio and could have a dramatic appearance of the water feature. Potter stated he thinks it is more of a guard rail situation, rather than a fence, because there is an 8-ft. drop from the patio to the water feature.

Rohlf asked what the designer was looking at in relation to the overall development. Swartz stated it had a completely different feel a couple of years ago when it first came through. It is now more horizontal in nature with the grasses. Rohlf asked if this water feature is at the City's discretion. Lambers stated, no. Staff has worked with the applicant. Initially they came in with a design that only had two pools of water. This is a gateway into the City and as part of the plan with Cornerstone they agreed to have a significant water feature. Staff feels that has been achieved with this proposal. The City is a partner in this. We are financing it through SBD with the applicant. The Claddagh pub probably does not quite fit in and that has already been approved and this water feature captures what we originally envisioned when this development was proposed. We will have to live with the contrast of the Irish Pub. Rohlf asked if there is anything in the 135th Street guidelines that pertains specifically to the water features. Lambers stated there is a single design that is intended to be a guide. We will be using this feature as well as the design guidelines for the water feature at 135th Street and State Line. It won't be as significant, but combined; the three would have a similar affect. Rohlf asked if the Claddagh representatives have seen this proposal. Lambers stated, no. They are aware of the intention to have the pooling much closer to the seating area so it would have much more of a positive affect. The guard rail was envisioned to provide the perception of a barrier.

Henderson asked if the water would flow through and over the water feature when there is a heavy rain, since the apex of the corner is 11 ft. lower than the ground level just below the feature. Ley stated the fountain is above 135th Street. The water will go around the fountain and go across 135th Street. The storm system along 135th Street is designed for a 100-year flood. Potter stated there will be a swale north and west of the water feature. The first fall of the water feature would

be above the invert to this structure. The water will back into the fountain. Henderson stated he wanted to make sure they are not damming up the water.

Conrad asked if the uppermost pool level is higher than the floor of the pub. Potter stated, yes, by 16 or 18 inches. Conrad stated he would like to see the building included to see how it goes, especially the octagonal feature and how it relates to the water feature. He is not sure there will be a lot of pedestrians along Nall and 135th Street, but he was hoping there would be more of a pedestrian entrance to the overall facility. It seems a little isolated. Some of the earlier plans had more integration. Bringing the seating areas in close begins to do some of that. Rohlf reminded Commissioner Conrad that this is a final plan application. She then asked staff why this was not seen as a preliminary. Lambers stated staff did not feel a preliminary was necessary for a water feature.

Conrad asked if the City would own and maintain the water feature. Lambers stated, no.

Henderson asked if there will be people in the Cornerstone development available to save people who happen to fall into the water feature. Lambers stated he would say it would be unlikely. The City doesn't have anything like that with any of the other water features. Swartz stated each pool is 12 inches deep.

Conrad stated he is disappointed that this is a final plan. He is not supportive. He does not believe he has enough information to make a judgment. Lambers stated this is an individual tract of land and is not connected to the Claddagh Irish Pub, so the Commission cannot require that they tie in together. Staff is very comfortable with what has been proposed. It will be integrated with Claddagh because of their proximity, but not because they are related. Jackson asked if the Commission has the ability to continue this case. Lambers stated, yes, but he would question why.

A motion to approve was made by Elkins and seconded by Roberson. Elkins stated it seems to him that because they each stand alone, the Commission should look at how they integrate together. The pub is approved, but the water feature is still before them.

Motion approved 4-1. Conrad opposed.

Meeting adjourned.

Lisa K. Rohlf, Chair