

City of Leawood Planning Commission Agenda

February 12, 2008
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Present: Shaw, Roberson, Jackson, Conrad, Rohlf, Munson, Williams, Elkins, and Heiman.

APPROVAL OF THE AGENDA: A motion to approve the agenda with the modification that Case 05-08 be continued to February 26, 2008, and Cases 09-08, 81-07 and 128-07 be continued to the March 11, 2008 meeting was made by Williams and seconded by Roberson. Motion approved unanimously.

CONTINUED TO THE FEBRUARY 26, 2008 MEETING:

CASE 81-07 - BI-STATE CENTENNIAL PARK – KIDDIE ACADEMY – Request for approval of a special use permit and a preliminary plan, located south of 141st Terrace and east of Overbrook, within the Bi-State Business Park Lot 20. **PUBLIC HEARING**

CASE 123-07 – AT&T SAI CABINET – Request for approval of a special use permit for an AT& T SAI cabinet, located south of 117th Street and east of Nall Avenue. **PUBLIC HEARING**

CASE 128-07 – BI STATE BUSINESS PARK LOT 17- PARS ENGINEERING BUILDING – Request for approval of preliminary plat and preliminary plan, located north of 143rd Street and east of Kenneth Road. **PUBLIC HEARING**

CONTINUED TO THE MAY 13, 2008 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 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-3-9 DEVIATIONS Request for approval of an amendment to the Leawood Development Ordinance. **Public Hearing**

CASE 53-06 LDO AMENDMENT – SECTION 16-2-5.7 (RP-4 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 55-06 LDO AMENDMENT – SECTION 16-2-5.2 (RP-A5 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 56-06 LDO AMENDMENT – SECTION 16-2-5.3 (R-1 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 57-06 LDO AMENDMENT – SECTION 16-2-5.4 (RP-1 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 73-06 LDO AMENDMENT – SECTION 16-4-5.10.1 (RP-2 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 58-06 LDO AMENDMENT – SECTION 16-2-5.5 HOME OCC. Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 66-07 LDO AMENDMENT – SECTION 16-4-5.7 PARKING LOT CONST. STANDARD. Request for approval of an ordinance to the Leawood Development Ordinance. **PUBLIC HEARING**

NEW BUSINESS:

CASE 06-08 – ONE NINETEEN - DEAN & DELUCA BUILDING D – Request for approval of preliminary plan, final plan and special use permit, located on the southeast corner of 119th Street and Roe Avenue. **PUBLIC HEARING**

Staff Presentation:

Mr. Klein: This is Case 06-08, One Nineteen Building D. The applicant is requesting approval of a special use permit, a preliminary site plan and a final site plan for the construction of a 15,577 square foot one-story retail building with a drive-thru located at the southwest corner of 119th Street and Tomahawk Creek Parkway. The site within the One Nineteen development is currently approved for an 8,400 square foot one-story retail building at this particular location within the development. As you mentioned, there are a number of materials up at the dais right now. What those relate to are primarily stipulation 21, which is a stipulation that per the Leawood Development Ordinance in order to screen cars that are parked adjacent to public rights-of-way and adjacent properties that there be a minimum of a three-foot berm accented with landscaping. The applicant has indicated that due to the grades there and also the presence of some easements there going three-to-one isn't really possible with this site. However, they have agreed to go ahead and create berms that are a minimum of 12 to 18 inches in height and that will be landscaped with an upgraded landscaping that will include three rows of plant material, which will be three feet in height and will therefore screen the headlights of the cars. Staff is supportive of that change, and that's what the memo is regarding at the dais.

In addition to that, the applicant has provided a rendering as far as what the landscaping proposed will look like. Currently that drawing wasn't done in time to include the berms they will include, but they have also agreed to have the berms at a minimum of 12 to 18 inches in height in addition to the landscaping that they're showing there.

This site is located at the northeast corner of the One Nineteen development, and it is for the Dean & DeLuca store which is located there. They're also asking for approval of a special use permit for a drive-thru that will be located on the south side of the building. In addition, the front of the building, which is on the west elevation, will contain an area that has some outdoor eating areas that can also be enclosed with a system of overhead rolling doors so the rolling doors will roll up and will expose the inside where the eating area is. There will be wall in between the eating area and the rest of the store. That façade will be brick to match the rest of the building. Staff is recommending approval of this application, and we'll be happy to answer any questions.

Chairman Rohlf: Mark, this almost doubles the square footage of this retail building. I can't remember if we had any - if you get it here, you have to do away with it over there – any sharing of square footage in these buildings.

Mr. Klein: They went back to a preliminary plan, and since this is back with the preliminary plan, if you noticed with the stipulations it's for the new square footage that they're proposing with this increase. With regard to what the previous plan that you had approved was this is less than five percent more than what that one was approved with.

Chairman Rohlf: It is more?

Mr. Klein: It is more, right. It's all with regard to this site. This is where the increase is. The parking ratio, however, is still within what's allowed by the ordinance.

Chairman Rohlf: What have we lost?

Mr. Klein: As far as the parking and everything?

Chairman Rohlf: Yes, open space or public amenities?

Mr. Klein: They lost a little bit of parking. Again, they were in that range before that. They are a little bit higher in that range now that they've reduced some of the parking. The open space has pretty much stayed the same. This is what was previously shown for the site, what they're currently proposing. One of the other changes that was done is that they took this building and they pushed it more into the corner. What that did do is it also was closer in relationship to the city's requirement as far as having less parking adjacent to the public rights-of-way. This was a discussion that was talked about previously as far as having the building pushed to the corner. It's in the corner, which is nice and you don't have the parking surrounding the building, but then it gets a little bit further away from the main center. Or do you have it pulled back? In this case the building has actually increased in size, so it doesn't lose quite so much as far as the distance from the main center. There's also a drive-thru located on the south side of the building that's within that area.

Chairman Rohlf: Do we have any kind of public feature on that corner? I don't think there's anything but landscaping.

Mr. Klein: No, they were within the FAR ratio that was allowed for the site, so they didn't need FAR bonusing.

Comm. Jackson: Mark, does that make it difficult then to walk from the Dean & DeLuca's to the main shopping? Is there a pathway there?

Mr. Klein: I don't believe so. They are providing a pedestrian connection, basically what they had shown before.

Comm. Jackson: Where is that at? Is there a good picture of that somewhere?

Mr. Klein: I'm sorry. Right along here. Here's the current plan. It's located right here, and it connects over generally in the exact same place that it was shown before.

Comm. Jackson: Which way does the drive-thru go? It must turn left right away.

Mr. Klein: Right. I believe you cycle in and you come around and go this way. The applicant has indicated that they've done a number of traffic analyses as far as the circulation of the drive, and they felt this was the best solution to it.

Comm. Jackson: Is that expected to be used quite a bit? It seems like if you had many cars going through, you'd be stacked and then you're trying to come out. It would get pretty difficult.

Mr. Klein: We talked with them a little bit. A lot really depends on where they will have a menu board. They aren't proposing any specific signage with this application. They'll come back for that at a later time. Part of that will be a menu board that they'll be proposing. If you're provided the menu board back here, obviously the cars are going to start stopping there due to the menu board and you get the stacking a lot quicker. However, I believe they're going to have the menu board up here which will allow the cars a little bit more stacking room in there.

Comm. Jackson: So how many cars can you stack in there?

Mr. Klein: I'll let the applicant answer that.

Comm. Conrad: On a lot of these internal circulation of parking lots and that immediate left after you come off of the street, I know we have several locations, where?

Mr. Klein: As far as coming in this way?

Comm. Conrad: Right. They try to prohibit that left. Come in off the main Tomahawk Creek Parkway, and then you're going to make a right and then an immediate left to go through the drive-thru. I'm concerned about blocking that drive-thru loop with people who are trying to exit. They are trying to make a left. Maybe the applicant can address it.

Mr. Klein: Since they went through an analysis with the parking, I'll let them address it.

Comm. Munson: Do you have any traffic counts of Tomahawk Creek yet?

Mr. Ley: We do traffic counts every other year.

Comm. Munson: Anything on Tomahawk Creek?

Mr. Ley: We do have counts. They were done, I believe, last year. I don't know what they are offhand.

Comm. Munson: Good to know.

Mr. Ley: Their original traffic study they did for this development was actually a more dense development than what their site plan was. The improvements that they made, public-wise, are fine. There are no additional public improvements required.

Chairman Rohlf: Anybody else have questions for staff? All right, then we'll hear from the applicant.

Applicant's presentation:

Bart Lohen, Red Development, 4717 Central, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Lohen: I'm here with my design team representing us from BHC Rhodes, our civil engineering; DLR Group, our architect; and Ochsner Hare & Hare, our landscape architect as well as Josh Hodat who is with Dean & DeLuca. He is the store manager at the existing Dean & DeLuca in Town Center. Our presentation is going to be very brief tonight. I don't want to take much of your time, but we're definitely going to be here to answer any questions that you might have, some that's already stemmed and some others that you may have. So without stealing any thunder away, what I'd like to do is let Bob Carlson with DLR give a brief presentation on the building design and how it relates to the shopping center that's under construction right now. Steve Winslow is going to spend a few minutes talking about the landscape architecture layout and just general hardscape features of the project. Then BHC Rhodes is here to answer any questions you have as well as they'll address the functioning of the drive-thru and the traffic conditions.

Bob Carlson, DLR Group, 7290 W. 133rd Street, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Carlson: The building itself is really intended to fit into the overall One Nineteen development. We're using the same palette of materials. It's mostly a masonry building with some metal canopies and a small amount of stucco on one of the façades. The main entry is on the southwest corner with a good pedestrian connection in the main center. The drive-thru is on the south side, and we've pushed the building as much before I push the building out to the corner really to address the street with good landscape buffer on both the north side and the east side.

We do have renderings showing the west side, the entry tower, the main entry of the building being, the series of openings along that façade are the rollup doors that open into the patio café seating area and then a separate entry on the corner specifically for the café. You can see the scale of the café seating area on the outside along the west side of the building. The service area is on the southeast corner of the building. Here is the main entry of the building where the two people are standing, the canopy of the main entry coming into the building. The glazing along to the left there is the café area. Rotating around, seeing the south elevation which is the drive-thru, there's a small canopy over the drive-thru window. Rotating further around to the Tomahawk Creek Parkway elevation with the screen wall screening the service area. Rotating to the 119th side of the building showing the café entry and again showing those operable doors.

Comm. Munson: Which side is 119th?

Mr. Carlson: This side is 119th right here. This is the west side of the building.

Chairman Rohlf: While you're there on that, what stays? Does the overhang stay and then it's just the windows that go up?

Mr. Carlson: Yes, just these surfaces right here, just the glass moves up. It's a hard-roofed canopy.

Chairman Rohlf: Have you utilized that before? Is that common?

Mr. Carlson: They actually have, and Josh can speak to that. They have used that in several of their other stores. I think in some of those locations it's to open up to the street and it's more of a market front.

Comm. Williams: Would you take a minute and describe the different materials that are on these elevations?

Mr. Carlson: Sure. The dark gray up above is brick, and that's the darker brick. The lighter color at this entry and this entry is the lighter brick. The metal canopy.

Chairman Rohlf: Where is the canopy now?

Mr. Carlson: The entry canopy right there.

Comm. Williams: Which material is it? The anodized metals, champagne finish?

Mr. Carlson: Yes.

Comm. Williams: Okay.

Mr. Carlson: Then the one stucco color is the stucco that appears over on the east side of the façade, and that's really just over the top of the masonry base.

Comm. Munson: It's stucco or EIFS?

Mr. Carlson: Stucco. Again, the signage right now is just placeholders for where signage may go. That will be separate application.

Comm. Williams: Going back to materials for just a moment, the curtain wall system is in the champagne finish that's on the board?

Mr. Carlson: Right.

Comm. Williams: And the sample that you have on here, the metal has a texture to it? That just happens to be the color?

Comm. Williams: Okay, thank you.

Mr. Carlson: I do have a fairly high parapet. We have an almost seven foot high parapet to screen our mechanical units, and those units have also been placed inside the perimeter of the building to push it as far back as we can. In fact the height of the building is about 30 feet and even up the hill from Crate & Barrel, the standing eye elevation in comparison of that parapet height you'll still screen those mechanical units. So we were careful not to get those too low. We really have screening even beyond the immediate surrounds of the building.

Chairman Rohlf: That's your drive-thru there on the right obviously with the car? Where were the parking places along there? Three designated parking places?

Mr. Carlson: Repeat the question, please.

Chairman Rohlf: I think I remember from the staff report that there are parking spaces over there by the drive-thru. I just wondered how that was going to work. Are those parking places for something else?

Mr. Carlson: I believe they're for this building itself.

Chairman Rohlf: So they're not to park there and go up to the pick-up window or anything like that?

Mr. Carlson: I think those are envisioned for employee parking, because it's not convenient to the front door and it is in that traffic pattern. I think Dean & DeLuca also has some delivery vehicles that come and go that those would be designated for. Really the main parking area for shoppers is the big parking lot to the west of the main entry.

Comm. Munson: On that plan there would you point out where the deliveries are? I think I know, but point them out, please. Also, where is your trash pickup?

Mr. Carlson: It's in that same area.

Comm. Munson: Okay, so it's part of the building?

Mr. Carlson: Yes, it's covered. There's a screened wall on the Tomahawk Creek Parkway side, and there are gates to enclose it also.

Comm. Munson: What material is that made of? Same as the rest of the building?

Mr. Carlson: The side wall is a brick veneer, and the gates are steel and painted. The color of the gates is the bluish color that would be on the material board over there.

Mr. Carlson: I believe it's mostly coffee service.

Josh Hodat Dean & DeLuca, 4700 W. 119th Street, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Hodat: Our main concern in adding the drive-thru is it's the biggest customer request that we get in the coffee business. It's a very quick turn, quick service business, and we want to do a very limited, value-added situation to make it more convenient for the people who are coming in and who don't want to pull up and have to pull two kids out of the car and have to be concerned about those things. We do have very fast coffee service compared to a lot of the others. That's always been one of my pet peeves, is waiting for a long time to get a latte or something like that. We want to have it so that there's a car at the window, there's a car stacked, and then the third car is placing their order, so there's still room for seven cars stacking. So it's going to be a very quick turn. I'm kind of planning

and hoping for between placing the order and picking up the drink, a minute and a half to two minutes tops so that we can turn them very fast. It's going to be mainly a morning use item, and most of the traffic for the center in that area is going to be after 10:00 a.m. when everybody else is opening up, because it's all restaurants and other retail. It isn't going to be customer circulation in the back. It's going to be employee and catering delivery vehicles and receiving dock, so there isn't going to be customer circulation back there other than for the drive-thru.

Comm. Munson: So you don't plan to serve food?

Mr. Hodat: We're going to do a very limited menu. As you can see at all of our competitors, they will have the breakfast pastries, the cookies, brownies, things like that. We really want to limit it. Part of the experience at Dean & DeLuca is also coming in and getting all those things, so we do want to just make it convenient for those few that want to do that, but we're talking about an option maybe of a salad or a sandwich, things that are premade, grab and go that you would hand to them. There's going to be no additional production, no waiting. We don't want to be the guys across the street. We really want to add the service aspect, and we want to continue to maintain the experience of the people that want to come in. As you see the drive-thrus, that's why all of our competitors, all the coffee concepts are going to that. It's convenience. People need to get where they're going. They're leading busy lives. We want to be able to obviously provide that service to the customer. This isn't, oh we're trying to make an extra million dollars off of this thing. It's just people ask for it, so we want to provide that and the coffee. So yeah, at four in the afternoon they'll be able to get a sandwich, but they're not going to be able to get a custom. They'll get Monday's option. They'll get Tuesday's option, and that's it. So very limited, very quick service.

Comm. Munson: Free latte on Mondays?

Mr. Hodat: I suppose if you're like those guys.

Mr. Hodat: Our standard of service inside the building I am planning on translating outside the building in the drive-thru, and that's driven mostly from my pet peeve that I hate to wait for a coffee drink. I'm spending \$4 for a latte and then I have to stand there and wait and wait and wait. So we've really built on very fast service inside the store. We're very efficient. We have the right amount of staff so that we can get those drinks produced and to the customer quickly. We want to do that. The drive-thru is going to be extremely important to us, because we don't want to upset the people who are coming to us for that convenience. So no, I don't want to have traffic jams. I don't want to have the slower service. We're going to be turning them very quickly. That's our commitment.

Chairman Rohlf: I'll just ask you. I'm curious, how large is your current building, square footage wise?

Mr. Hodat: Ninety-nine eighty-six, I think. It's just shy of 10,000 square feet.

Chairman Rohlf: What are you changing about your business?

Mr. Hodat: The biggest thing is we're adding more parking to the facility, because presently we're stacking up on every curb at all of our peak times, our holiday times, every day at lunch. We have 75 parking spots right now, but if I go out and count there's another anywhere from 15 to 20 cars that are stacked up outside of parking spaces. So that's what's really forced us to move and grow, because we're landlocked and we don't have the opportunity to expand our parking where we're presently at. We also want to add more services. We want to add more to our meat and seafood. We want to have a bigger coffee bar. We have to have additional pastry space, larger queuing areas for our cash registers. The business in Leawood has definitely evolved from ten years ago when we opened. We didn't have any seats and the customers demanded that we provide seats so they could eat inside the stores. So we want to have additional restrooms, more space for that. Just bigger, larger areas and they won't be as cramped everywhere.

Chairman Rohlf: Thank you.

Comm. Heiman: I'd like to go back to the drive-thru. Could you just identify how the proposal is to drive thru? Is it left? Okay. It appears to me that if you've got people trying to turn in left and you've got people trying to exit, if you're coming off of Tomahawk Creek Parkway I can see there being a traffic issue there. I mean, I'm not opposed to drive-thrus, but I'm just wondering if you've considered going the other direction. It appears to me that might be a less congested way to do it.

Chairman Rohlf: David, what's the signal? What are we doing on that exit there? Is that a two-way, right-way only back onto Tomahawk Creek Parkway?

Mr. Ley: On Tomahawk Creek Parkway it's full access.

Chairman Rohlff: Both left and right? Okay.

Comm. Munson: What's the grade on that access road from Tomahawk Creek going up to the shopping center percentage-wise?

Mr. Ley: Roughly six percent. It's a guess. Six to eight percent, somewhere in there.

Comm. Munson: With ice it's hairy.

Chairman Rohlff: I'm not sure where we are in your presentation, if we've interrupted.

Mr. Hodat: To answer the one question about the rotation of the drive-thru, it really has to be on the driver's side so the driver alone can come up, drive to the window and give the money and get the coffee. It doesn't work the other rotation.

Chairman Rohlff: Is there a canopy over that?

Mr. Hodat: Yes, there is a canopy. It really just protects the driver's side window. It doesn't stick out to cover the whole car.

Comm. Shaw: I have a question. Are you providing any outdoor seating?

Mr. Hodat: All the seating would be under cover. In nice weather you'd raise the doors up and so you'd be outside but under cover.

Comm. Williams: But with the westward orientation that you're proposing, that exposure in afternoon or early evening, you're going to get the west sun on that side.

Mr. Hodat: Right.

Comm. Williams: With the landscaping that you have proposed there, is it of a type that will eventually get large enough to provide some shade? Or are you going to do umbrellas out there for your customers or just anticipate they'll want to sit in the sunshine?

Mr. Hodat: The trees will provide shade. I'll let the folks from Ochsner address the tree type and shade.

Comm. Williams: I have one more follow-up in that regard. I know that the gentleman from Dean & DeLuca commented the drive-thru is for the convenience of customers because they ask for it. Being a frequent customer, I see this all the time myself, and that's why I raise the question. It does appear, and maybe the timing is just right for me, that a customer base that could benefit from some convenience are cyclists who stop, have a coffee, have a snack, whatever, weekdays and weekends. I see them myself weekends because I'm in there frequently. Any thoughts of the place to put the bikes? Bike racks? Right now there's nothing at the store. It just ends up being set up against the side of the building or in the shrubs or something.

Chairman Rohlff: Are you talking about the current store or just any store?

Comm. Williams: Well, it's the current store that doesn't have anything that gets frequent visitors.

Chairman Rohlff: I didn't know if you were talking about Dean & DeLuca or another competitor.

Comm. Williams: I don't see them in competitors either.

Steve Winslow, Ochsner Hare & Hare, 2600 Grand, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Winslow: In terms of the bike racks, I don't think that would be a problem at all. I think we could easily accommodate that somewhere in that general area right there in the front of the store. That would not be a problem at all.

Comm. Williams: Are you thinking of putting that out on the north side when you say front of the store, or more to the south side?

Mr. Winslow: I would say probably along the west side there somewhere. Again this is something that you brought forward and both the developer and the folks from Dean & DeLuca don't have any objection to that, so that is something we could add very easily.

Comm. Williams: I just bring it up because I see quite a few people that are out cycling that stop there for refreshment, myself included. Thank you.

Mr. Winslow: Since I've moved up to the podium here, the landscape plan here basically is very similar, the same plan that was previously approved by you folks. The perimeter landscaping in terms of street trees and buffering of the parking has remained the same from the previous plan. Obviously with the building being moved there towards that corner, the plants that were previously screening the parking lot have now become foundation plants for the building. Again, we will be using some shrubs and ground cover and perennials to help clean up and make everything look really good from that corner. Based on some conversations on the stipulation 21, there was some concern about the parking visibility from 119th along that north edge there. Mr. Klein and I started into some conversations last week to where as part of the stipulation a wall was used. We wanted to try to avoid a wall in there, so the plan that we have put forth and have proposed is to actually increase the number of shrubs and make it almost a double layer there. The 11x17 drawing that you folks have in front of you is maybe a little bit better for you to read. We want to actually use the same plant material that we used all along the 119th corridor, so it will be the same junipers and the same grasses. We're changing the variety of grass; we're actually getting one that will be a little bit taller. What I'm trying to do is double up on those junipers, stagger them in a triangular pattern so that we're really increasing the density, and then we're also proposing to put in shrubs there right next to the curb or just off of the curb so that we're really beefing up and increasing that screening there for the headlights and for the cars that are parked along that one strip that faces directly onto 119th. The 11x17 that you have shows that plan. I've also provided some cut sheets of the plant material that we're proposing to use there. Again, it is the same basic plant materials that are being used along the other strips of 119th, the only change being that we're adding a deciduous shrub in there, a burning bush, and we're changing to a little bit taller grass than the one that was used by the Crate & Barrel site.

Comm. Williams: That grass will be?

Mr. Winslow: This grass will get up to a three to four foot height. It's the same grass that's being used. It's currently planted in a lot of the islands at the store, so we're using the same plant material that is onsite already. We're just bringing them over. What I'm really trying to do there is increase and strengthen that buffer. Again, one of the stipulations that we had here was that we'll bring in berms. They are not shown on this plan, but yet we will bring in some berms. We don't want a slope greater than three to one on those side slopes. You get above that and you just can't maintain it. Towards the very east end of that strip of parking we may have to exceed that three-to-one slope a little bit to get that 12 inch minimum height for a berm. In those areas we will put a ground cover in there so that we don't have turf grass that we have to mow, because you get above a three-to-one slope and you just can't mow turf grass safely.

Comm. Roberson: On the west side you have your rollup doors. I also know that the west side of any building in this latitude gets very, very hot. How are you going to solve that issue?

Mr. Winslow: We've got a couple of shade trees there, and the architects could probably address this a little bit more, but the outdoor seating is under a canopy.

Comm. Roberson: Yes, but the sun sets and it gets very warm in the afternoons.

Mr. Winslow: The trees that we're proposing there are full size shade trees, so they will grow up and create some very, very nice shade there for that west exposure.

Comm. Williams: In that regard, I don't mean to interrupt, but going in how big are those trees going to be, and what kind of shade trees are they going to be?

Mr. Winslow: The variety is probably the same thing we're using in the shopping center, so it's probably a honey locust or a maple or an ash. I need to verify that, and I can do that for you, but the minimum size requirements is four inches, and so all these trees will be four inch caliper trees when they get planted.

Comm. Williams: How tall will those trees be?

Mr. Winslow: They're going to range anywhere from 15 to 20 feet tall.

Comm. Williams: On average how wide are they going to be?

Mr. Winslow: They'll probably be, dependent on the variety, six to eight feet wide.

Comm. Williams: How many years will it be before they provide beneficial shade to that?

Mr. Winslow: A four inch tree gives you immediate impact.

Chairman Rohlf: Where is the wall that is going to be like the rest of the retaining wall? It's running somewhere.

Mr. Winslow: There is a wall down along Tomahawk Creek there. Because of the grades there will be a small retaining wall down there that is anywhere between one foot to six feet tall to help hold that parking lot in place.

Chairman Rohlf: So it's really not that long.

Mr. Winslow: It will be the same material that is on the other wall that's down south of Building A.

Chairman Rohlf: Any other landscape type questions?

Comm. Williams: I have one if he might be able to answer it. It's not landscaping itself but still probably something you've worked on. On the Tomahawk Creek Parkway side and also the 119th Street side of the building, do you know what the height is of the floor to the streets and the approximate grade of the slope that's on those two sides?

Mr. Winslow: Actually, I'm going to pass that to the civil.

Comm. Williams: We're going to get everybody involved tonight, aren't we?

Mark McReynolds, BHC Rhodes, 6363 College Boulevard, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. McReynolds: The grades right now from the edge of the parking down is approximately six foot from the back of the curb down to the road at the very east end of the parking area. It's pretty close to being a grade by the drive entrance. The building portion, I believe we're about ten feet. I think the finished floor is about ten feet above the intersection at Tomahawk.

Comm. Williams: And the slope of that grade would be approximately what?

Mr. McReynolds: Right now it's anywhere from three to four-to-one. It's a fairly steep slope right now. It was something we wanted to try to avoid walls at any time that we could.

Comm. Williams: I guess this goes back to landscaping, but maybe you can answer this. Is that area going to be grass then with the landscaping you have shown?

Mr. Winslow: Yes, sir, that will be turf grass. Again, anywhere where we've got a three-to-one slope or four-to-one slope we can easily maintain that in a turf grass. If we have to go above a three-to-one slope, that's where we'll bring in a ground cover. It will all be turf and all be irrigated.

Comm. Williams: I'm not quite sure I'm hearing you. If I'm hearing that his area on the north and east sides will vary from a three-to-one to a four-to-one and you're telling me that the four-to-one is going to get some mulch instead of turf grass, where does that occur?

Mr. Winslow: Four-to-one is actually less than a three-to-one.

Comm. Williams: I'm sorry. Okay. So up to three-to-one.

Mr. Winslow: Three-to-one is about the maximum.

Comm. Williams: So we're not going to have any mulch of consequence. It will be in the beds.

Chairman Rohlf: Do you have anything else as part of your presentation? If you need to continue.

Mr. Winslow: That concludes our presentation. We're obviously here to answer any questions you have.

Comm. Conrad: I do have one question. This might be going back a little too far, but when we look at the overall site plan, we made some pretty strong efforts to interconnect some of these different building locations, and I know this one proposed building D is kind of always been off on the corner and there was a consideration of what it would be. When I look at the site plan we have some real pedestrian paths from the Building A. We connected Crate & Barrel with Sullivan's. I guess my question is, was there any consideration to take this building and move it to the west where we would get a stronger connection to some of these pedestrian plazas on an overall site plan? It might help eliminate what I'm afraid is going to be some pretty significant traffic congestion so close to Tomahawk Creek Parkway. I have to ask, I think right across from that entrance the case that was continued was a dry cleaners, which I think shows a drive-up drop-off also. I'm really concerned about that intersection. Maybe just for the applicant, was there a consideration of possibility of an overall site? Mr. Munson's question of a six percent slope, I know we talked about that.

Mr. Lohen: We studied several plans for this land. There's no question we went through about a dozen different reiterations of how we could lay this building out. We looked at the original layout of the 8,000 square foot building in that same vicinity, and the wall of Dean & DeLuca's building is in pretty much the same location as that original design. So we tried to not stay in that parameter, but we kept that in mind. If we keep that wall in that general vicinity, we know the pedestrian paths can work because we've been through that process. Moving the building to the west, obviously we'd lose a lot of parking as well, and that was a concern that Dean & DeLuca had. If we start to move the building, for every nine or ten feet you go to the west you're going to lose several stalls there. That's one of the concerns that they had in their original location and one of the main reasons why they want to move across the street.

Comm. Conrad: That just couldn't flip 180 degrees?

Mr. Lohen: The building orientation?

Comm. Conrad: The building and the parking?

Mr. Lohen: I guess I'm not following. Oh, putting the building all the way over on the west side? Part of the reason we're leaving the building where it is isn't just parking for the Dean & DeLuca building but the parking and the whole project's cross access. So if we put all the parking on the east side of the building, now you've delineated that parking only for the Dean & DeLuca building. You're not going to get its full use for the rest of the shopping center. So just like the original layout, putting that pad building all the way over on the east side, we had full circulation on the original layout, but because this building's bigger we lose that full circulation. Because of the drive-thru and just the fact the building is bigger, we want to engage it in the corner of the project. It actually makes for a better plan. I hope that addresses your question, Ken.

Comm. Conrad: It does, and like I say just when I weigh it out and look at the connectivity, if the parking lot moved to the east.

Mr. Lohen: Flip it, basically.

Comm. Conrad: If the parking lot flipped, certainly at the corner, if you will, of the intersection it's probably 600 or 700 feet to Sullivan's from that spot.

Mr. Lohen: There will be some parking for Sullivan's there. There's 20,000 square feet of tenants on the east side of the main shopping center. They have to have some parking somewhere, and it's going to be shared parking for them as well. So to move that parking on the east side of the building would be very inconvenient for those tenants.

Comm. Conrad: Okay.

Comm. Munson: Another concern I would have with the orientation to the west, particularly when you're going to open that up for spring, summer and fall, is the amount of wind coming across from the south, southwest in that direction, the hot wind, the dirt, the litter, etc. So if you reorient your building around as the commissioner is suggesting that perhaps you could avoid that is my thinking. I also am really concerned about the drive-thru and its orientation and closeness to Tomahawk Creek Parkway. I see conflict there. There's plenty of real-life examples around this area of what happens with drive-thrus that are not well thought out and are placed too close to major arteries. You get stacking and interference with traffic moving through. I see that as a real problem for you and for the city. I mean once the building goes in and the improvements are made, then the problem is somebody else's, but I think we need to be concerned about that now.

Chairman Rohlf: David, do you have a comment on that?

Mr. Ley: Typically a site plan layout, once you get internal, is left up to the Planning Department and the developer's traffic engineers. Public Works is just mostly concerned with the public improvements.

Chairman Rohlif: I could see if the building was flipped, we might have more of a concern with that drive-thru up at the other main entrance.

Comm. Munson: Except you'd have a longer length to get the traffic through.

Chairman Rohlif: But then I think you're going to be competing with the people that are going into those retail buildings.

Comm. Munson: Where do you want to take your poison?

Chairman Rohlif: Right. To me I think it appears that they would be able to get in and get out with less interference to ongoing traffic than if you moved it into the center.

Comm. Munson: You mean with Tomahawk Creek Parkway?

Chairman Rohlif: Yes.

Comm. Munson: How so?

Chairman Rohlif: Because you can turn both ways.

Comm. Munson: But you've got traffic moving along. That's why I asked about traffic counts. You've got traffic moving along there that wants to go through, and that's only a two-lane road. It's not four lanes. There's no stacking lane.

Mr. Ley: That's a four-lane road. Tomahawk Creek Parkway is a four-lane divided.

Comm. Munson: It's a four-lane? There's no stacking lane along there either. It's just four lanes, right?

Mr. Ley: It's a right turn lane. The developer for One Nineteen built a right turn lane for southbound.

Comm. Jackson: Is it two lanes going to the northeast?

Mr. Ley: Two lanes going north, two lanes going south through lanes, and then there's a right turn lane for southbound into this drive entrance.

Comm. Jackson: So there's five lanes.

Mr. Ley: It's actually five lanes wide.

Chairman Rohlif: That's why I think we're going to get more in and out of there. Does anyone else have any questions for any member of the team? Any other comments?

Comm. Jackson: I do have one more. You had mentioned there would be some sandwich service, so you are expecting to use this for more than just coffee? It's going to be sandwiches. How are you going to limit that menu?

Mr. Hodat: We want to mirror our competition on a lot of levels in the amount of food service so that we can compete at that level. So yes, there would be some options, but in the full service experience inside whereas you can go in and select every single item that goes on, we're going to have option one, two and three. They will be premade, so all we have to do is grab that item and hand it to them. It will actually take longer to produce the coffee drink than it would to get the food, because whether it's a muffin or Danish in the morning or that sandwich or that premade salad, we're just going to grab out of the cooler and hand to them right there at the window. The drink service is actually going to be the longest portion of that service time versus the food, because that's already packaged and it will be handed right to them.

Comm. Jackson: So you're going to do a pretty good flip of business at lunch also?

Mr. Hodat: Yes, but I think it's going to be a very small percentage of our customers who are going to want to use that just for the convenience and the quickness. Most everybody still is going to want to come in and experience that. I think it's going to take a small

amount of pressure off the inside, and it's really just the extreme convenience need of some of those people. That's really what we're serving with that.

Comm. Jackson: Do you have any estimates as to how many coffee customers you'll serve in an hour in the morning? How many are going to go through there? I think you're going to be as busy as everybody else.

Mr. Hodat: We hope so, but we want to turn them quickly, too. That's the biggest piece of why we're moving this, to grow the business and to accept the business that we're turning away presently because we're limited in space. As you spoke about the cyclists, they want to come in and experience the full situation, but there's the few. You always see them parked right on the edge. They want to run in and get their drink quickly, so I think it's a small percentage, but it's going to turn pretty fast.

Comm. Jackson: Oh, I think it will be pretty large would be my guess. You have good products, and if you make it that convenient, they'll be lining up like they line up everywhere else.

Chairman Rohlff: I noticed on the agenda that we did have a public hearing on this, and I'm not sure. We do need to still have that.

Mr. Klein: Yes, there's a special use permit and it's also preliminary.

Chairman Rohlff: All right, that's what I thought.

Mr. Klein: And a final as well.

Chairman Rohlff: Is there anyone here in the audience that wishes to speak to this case?

Seeing no one, a motion to close the public hearing was made by Jackson and seconded by Munson. Motion approved unanimously.

Chairman Rohlff: That takes us up to our discussion. Any further comments about this?

Comm. Munson: I like the idea. I think what they're doing is dandy fine, but I still have a lot of misgivings about the circulation and the traffic, and that will tend to cause me to vote no even though I like the idea and the plan of moving the restaurant over. I'm not opposed to that. I've just got some misgivings about that circulation enough to say no.

Comm. Conrad: I'll be pretty quick, too. I share the same concerns with Commissioner Munson, that it is very close to Tomahawk Creek Parkway. I would have to have some more study to believe that isn't going to be problematic. When people are leaving they're going to be sitting right there blocking the entrance into the drive-thru, which is going to stack people out onto Tomahawk Creek. It's a six percent grade, which is pretty steep to be sitting at. I'm certainly supportive of the overall development, but I'm not sure that's the place to have an entrance for a drive-thru.

Comm. Jackson: You're just trying to do too much there. You've got the caterers going through. You've got the deliveries. Delivery shouldn't be an issue, but you've got caterers. You're going to have the public that tries to park in there also.

Mr. Lambers: David and I have been looking at this, and I have on the screen what we think is maybe a better solution to this. It would move the entrance into the drive-thru further away from the intersection at Tomahawk Creek Parkway. It would provide you with more stacking and people attempting to leave, which then frees up people to go into the circulation. You don't have the cross traffic of people trying to get in here as much because they will be going into the drive-thru there. They have more time to evaluate it, but I think this is something that would probably be a better figuration for that. I think it would probably end up looking better. We'd have to confirm that the left turn movement can be made there, but David believes that it would be.

Chairman Rohlff: Would it be your suggestion that we ask the applicant to go back and take another look at that?

Mr. Lambers: I would say that's what we would do, if you can live with it going forward with the applicant evaluating this and presenting it to the City Council as to whether that works. We believe it probably would improve the situation there unless there's another issue associated with this. Again with the drive-thru the options are extremely limited because you can't go the other way, and if you were to go around the north or the east side of the building, then that's violating our policy to not have the drive-thru visible from the street. So by default, this is really the way that it needs to work in order to be compliant with our general practices.

Comm. Jackson: With the height there, it wouldn't be visible from the street if you brought it on back behind, would it? With the height difference with the street?

Mr. Lambers: Yeah. To the cars stacked up there.

Comm. Shaw: Scott, the special use permit is good for how long?

Mr. Lambers: It runs with the land for the applicant. It's good for Dean & DeLuca.

Comm. Shaw: Forever?

Mr. Lambers: Yeah. Essentially a zoning decision.

Chairman Rohlif: So for those of you who expressed concerns about our drive-thru, just looking at what Scott has proposed up there, do you have any thoughts on that?

Mr. Heiman: Could you put that back up? Thank you.

Chairman Rohlif: Mr. Munson, you were concerned about the traffic, the people backing up to turn left back out?

Comm. Munson: I was more concerned with the traffic coming in from southbound on Tomahawk Creek Parkway or northbound and then turning in there to go to the drive-thru and those spots being backed up, which is what happens with drive-thrus, and then being backed up to Tomahawk Creek Parkway and causing traffic problems out there, conflicts. That's my concern. In other words if the entry and exit to the drive-thru were farther up the road into the west, it would take some of that away because then the stacking theoretically would take place on-site of the property where you don't have any room to stack now coming from Tomahawk Creek Parkway either way.

Chairman Rohlif: Let me ask the person representing Dean & DeLuca. Do you have other Dean & DeLuca's with drive-thrus?

Mr. Hodat: Not presently.

Chairman Rohlif: So you really don't have an idea of how busy that's going to be?

Mr. Hodat: I wish I could give you a better answer.

Chairman Rohlif: It looks like you've provided adequate stacking with the other drive-thrus we have, but I guess we can't really predict. The problem is once it's in, it's in, and you don't really have any other options to take it elsewhere once your building is in.

Comm. Munson: To me, after the building is in and they've got their improvements, then it becomes a city problem, and that's what we need to look at now.

Chairman Rohlif: Right, I know, because we wouldn't really have any options at that point. The parking lot would be in.

Comm. Munson: Planning is a systematic concern of the future, so that's what we need to do and be concerned about.

Chairman Rohlif: Mr. Lambers, do we get consistent complaints from other areas that have drive-thrus? Are there enormous problems with stacking and traffic issues? I know McDonald's is one.

Mr. Lambers: I'd point across the street at McDonald's. You have people trying to turn right, people trying to turn left between 11:30 and 1:30, and it is a problem. There's just no way around it. I don't disagree, though, and perhaps we could limit the drive-thru to beverages and pre-prepared food which would certainly avoid the problem with McDonald's that you have the special orders and things like that. They've indicated that's their intent. I've been in there and taken something out of a sandwich case or a salad out of a refrigerated case, as long as it's restricted to those. If they want to change that later on, then they have to come back in and amend their special use permit and we'll have a track record then for that. The attorney corrected me. The special use permit would last for 20 years unless otherwise specified. Again, also, if there is a real serious problem, then the City can go back in and evaluate that. Given the turn lane that this applicant is providing and looking at the configuration we're suggesting, which I think would provide for additional, I don't really think there's going to be anywhere near the problem you're going to see at McDonald's that we have right now. That's probably the worst situation we've got in the city.

Comm. Munson: My observations and where I'm coming from is the better part of 14 years watching the drive-in down at 109th and Roe, Wendy's I think it is. Completely screw up traffic.

Mr. Lambers: There's no turn lane there. That is a totally screwed up Overland Park development.

Comm. Munson: Then going down and spending a couple of hours watching the traffic at Chick-Fil-A on State Line and saw what that does. Just seeing what happens. The time to not have this happen is now in the design phase. Trying to say, well, you're only going to sell biscuits and tea, that's an enforcement issue that probably the City would not really like to do. I go to McDonald's fairly frequently. Sorry about that guys. They've got signs all over their windows, which violates our sign ordinance, but nobody really gets all bothered about it. I'm still concerned about the traffic, the backup, the problems with conflicts. That's my issue.

Comm. Heiman: I don't know how you would do this, but if there were any way to route the traffic from the 119th side into it so they cannot actually go in to the drive-thru from Tomahawk Creek. They'd have to come in up 119th and then exit out. They could exit either way. I don't know how you would do that. I, too, have a concern with the bottlenecks there. I like the overall project, but I'm just wondering if there's a different way to configure the traffic to where that would not be the issue. I apologize. Obviously you wouldn't want to reach across to going the other direction, so I didn't think that through. Does everybody follow on that, having it come from the other direction?

Chairman Rohlf: Yes.

Comm. Heiman: Then the stacking could actually either be in the parking lot or on the outer road there.

Comm. Munson: I think we're forgetting that the turn lane allows for stacking, too, if I'm not mistaken. Is that not correct?

Mr. Lambers: That is correct. It will provide some relief for at least two vehicles to be there.

Comm. Heiman: On this turn lane?

Mr. Lambers: Yes. So you'd have five there.

Comm. Munson: That's another seven.

Mr. Lambers: Then there would be two on-site before they entered the driveway, and then they've got seven.

Chairman Rohlf: Scott, could you just kind of walk me through what you had proposed, what you had drafted on that one slide on that drawing, how far we're moving up? If you could put that one back on.

Mr. Lambers: Here's a rough point of reference right here.

Chairman Rohlf: I'm sorry, you would move it up there?

Mr. Lambers: Yes, basically it would move up that far.

Chairman Rohlf: So you're taking off that corner.

Comm. Williams: Scott, when you talked about using the turn lane for stacking and some space then on the driveway for stacking, doesn't that in effect then block any other traffic from getting into the complex from that location, because it's only a two-lane? Isn't it a two-lane?

Mr. Lambers: Agreed, but the main concern is the traffic. Not repeating the Roe experience at Wendy's is that the traffic still has two lanes to go southbound on. So you're not forcing people to leave a lane to get by. That's really what that right-turn lane is intended to achieve.

Comm. Williams: Yes, but I guess what I'm referring to is if someone is coming down Tomahawk Creek Parkway going to the south and they want to turn into the development, if they've got stacking in the turn lane taking place, then in effect they've got to go on down and around coming from the west side or come back through the 119th street side to get into the shopping center.

Mr. Lambers: More than likely they would stay there and block the right lane if it backed up to the intersection. They would probably stay there rather than do a circle around, because there's no other access on Tomahawk Creek Parkway. They'd have to go halfway around to catch it at the Crate & Barrel entrance.

Comm. Williams: Time wise unless you caught the light.

Mr. Lambers: Again you're talking a lot of vehicles. Right now we require that there be a stacking of five. They have seven within their lane, and then you've got another two onsite before they get to the drive-thru and another five with the right turn lane that he's selling. So you've got almost three times what we would require in terms of having stacking capacity.

Comm. Williams: So if McDonald's was to come into this site today, we would apply those same kind of stacking requirements to them?

Mr. Lambers: Yes, and you may recall, we went through a process where they wanted to expand and we said you have to put in the right turn lane on Roe, which doesn't exist for them either. They were going to put in two drive-thru stations, claiming it wasn't to generate more business; it was just to deal with their existing. Our concern was that if it's easier to get through, they'll have more business, and so we said they had to put in the decel lane, which they rejected and therefore didn't go forward. So I guess if McDonald's came in, we would have the same condition there for that.

Comm. Williams: We would find this amount of stacking to be sufficient for McDonald's?

Mr. Lambers: Yes.

Comm. Williams: Even through practical experience we find that that's not sufficient for some drive-thrus like McDonald's.

Mr. Lambers: Again, you don't build everything for peak demand. You try to accommodate what you can. That's one reason why we've got a sea of parking lots that the developers all complain about, is because we're good for Christmas. There's plenty of spaces there. There is some [*inaudible*] levels of service, to use the traffic engineer's vernacular, that occur during peak times, particularly for these drive-thrus. Again, for our McDonald's it's 11:30 to 1:30 for sure. The rest of the day you don't have that problem. Wendy's is the worst. Again, we made the same mistake with McDonald's. We should've probably put in the decel lane for McDonald's when it went in. That was our mistake, too.

Comm. Conrad: The deceleration lane works well if you're southbound, but what happens if you're northbound and the stacking comes out of the complex onto Tomahawk Creek Parkway? What do the northbound people do?

Mr. Lambers: The northbound people have the access to the shopping center at Crate & Barrel off of Roe, so there are two entry points for northbound traffic. They probably would not get off Tomahawk Creek Parkway unless they're specifically going to Dean & DeLuca to use the drive-thru. If they want to access the shopping center, they're going to stay on Roe.

Chairman Rohlf: But how will they get in there then?

Comm. Conrad: How do you get into Dean & DeLuca's?

Chairman Rohlf: If it's stacked up?

Mr. Lambers: You will have left-turning traffic stacked up, but you still have on the right lane going north a lane that's for people to drive through. That's not uncommon to have left turn lanes turning into developments. It's the right turn lane that people get surprised at. They expect a through lane. People understand that there's left turning movements which does stop traffic.

Comm. Munson: How wide is the driveway going up there? Is that a two-lane or a four-lane driveway?

Comm. Williams: It's two.

Comm. Munson: The one that is the access driveway.

Mr. Klein: It's two-lane.

Comm. Munson: Two lanes?

Mr. Klein: One each direction. Is that what your question was?

Comm. Munson: Is it two lanes?

Mr. Lambers: Yes, two.

Comm. Munson: Two lanes.

Comm. Conrad: I'm going to take a stab at being maybe too analytical. We'd thought that maybe from the order board to the window might take two minutes, so in two minutes' time you would move basically two cars which would be 40 feet. If I'm willing to stay in line ten minutes to get a drink, I need 200 feet of stacking. That would be five cycles. I think if your customer will stay in line for ten minutes to go through the drive-thru, then we need 200 feet of stacking. I don't know the answer, but I think the consequences are pretty significant. I'd like to see the issue a little more analytically approached.

Chairman Rohlf: The problem is I don't think that's possible in terms of numbers.

Comm. Conrad: No, but if somebody will stay in line for five minutes, then that's two and a half cycles. So you need 120 feet of stacking. I think 120 feet of stacking brings it certainly back into the drive into the development.

Chairman Rohlf: I guess I would have to ask the applicant. What happens if you don't have a drive-thru? That's definitely part of your plan? If this is your first experience with this?

Mr. Hodat: We'd really like to have a drive-thru but...

Chairman Rohlf: If you tell us that, that's where we're going to go. We're going to tell you to drop the drive-thru.

Mr. Hodat: We'd like to have it for the service, but it's not the next million-dollar idea. I'm not going to tell you that this is a make or break thing, and I'm not going to tell you that we want to go somewhere else if we can't have the drive-thru. It's not worth it. We want to make it work for our customers, so if we need to go back and say, we need to make it work better because you want it to work better from an operations standpoint, I don't want to inconvenience the traffic. I don't want to inconvenience my customers.

Chairman Rohlf: The customers, I'm not sure they're going to. That's my concern that if we go ahead and put this in...

Mr. Hodat: So we're looking at some things that you've shown us that maybe we didn't look at. We're following the guidelines, but then again, Dean & DeLuca set a service standard that's much higher than what everybody else does. So if the standard is seven, then we need to look at a greater amount to provide that excessive service standard. Then that's where it is, but I'm not going to say that this is a make-it or break-it deal.

Mr. Lambers: Josh, maybe if we were to analyze it, would there be a time frame that you could justify having a special use permit exist that would justify your expense for putting in a drive-thru? Therefore, we would have a much shorter period of time, a year or two, and then have it expire and you'd have to come back before us and we'd have a track record then.

Chairman Rohlf: Would you prefer to maybe look at some other options for this drive-thru? I don't know if you really thought about that because you felt you were in compliance.

Mr. Hodat: Before we shorten to that, I understand where you're coming from, Scott. It's a good idea. I actually kind of like your other idea where if we can keep things on track - assuming we can get an approval here - to move forward to City Council and address a traffic concern and address some issues and make that City Council approval contingent on addressing those issues. That's how I'd like to do it before we shorten the amount of time for a special use permit. If we had to end up doing that, we could live with that. At the end of the day the developer's going to incur the expense of either a parking lot or a drive-thru, so the cost that we'll spend will be more.

Mr. Lambers: I guess what I'm thinking is that if it goes to the Council with a negative recommendation, then the Council will not really get a sense of the Planning Commission. The Planning Commission could recommend a two-year special use permit for the drive-thru. That gives you one full year of activity so that we can go through all four seasons and see how it works. Then if you go to Council and they agree with that, that's fine. If they have a different opinion, then they're the one that makes the decision, but at least they have a

good sense of the Planning Commission that there are concerns. Then for two years I would feel comfortable. We could live with whatever traffic situations that are out there. We're still living with Wendy's and McDonald's.

Mr. Hodat: Before we answer that, let me ask my engineer a question. Scott, we can do that. A two-year limit on the special use permit is fine. More than likely Dean & DeLuca will come back in and request then the same thing, a special use permit for maybe a longer period of time.

Mr. Lambers: I would like for you guys to look at what David came up with just to see if that might work better.

Mr. Hodat: Yeah, I'd be happy to do that.

Comm. Shaw: I have one comment. This is a specialty sandwich shop. It's not a Starbucks. It's not a McDonald's. I do not believe that they're going to have the traffic for this type of a building. If it was one of those other buildings, it could be different, but for a building like this I believe they have adequate stacking to be able to handle the cars. You know it kind of gets right on back to the mentality of the public and the people. If there is an area that gets bottlenecked up, they just need to go on.

Chairman Rohlf: Let me get a sense. I know Mr. Munson and Mr. Conrad have expressed their opinions. For the rest of you, how do you feel about going ahead and approving this plan, moving it to council with some of the stipulations that we could put on there?

Comm. Jackson: Are you talking about the time limitations?

Chairman Rohlf: Yes, I believe they've agreed to.

Comm. Roberson: I would agree with the time limitation. Without a time limitation, I would be concerned.

Comm. Williams: I agree also. I think it does give them a chance to test just how much business they're going to do and how much of a problem that it's going to be. I agree with my colleagues that I do see the potential conflicts here, which if they're bad enough it's going to be reflective on Dean & DeLuca as well. It's going to cut down enough people who potentially want to use that but may also cut down the business of people who want to stop because they'll just get so annoyed they'll go somewhere else.

Comm. Jackson: Before we do that, I'd like to ask, are all the other buildings going to be in existence and in full use during that time period? You have a drive-thru dry cleaners right to the south there that's getting a lot of business in the morning, too. Is that going to be open during this year?

Mr. Lambers: A majority of the stores will open in June. Another substantial amount of stores will open in August. The staff is not recommending approval of the dry cleaner with the drive-thru, so whether that goes forward or not I can't say. They will have a substantial amount of the shopping center in operation by August of this year.

Comm. Jackson: So we're suggesting a two-year time limit so that we'd have it all open for a full year in there?

Mr. Lambers: The idea would be to have it so that it captures all four seasons in terms of business, because I would think their business is quite seasonal, particularly Christmas time. The idea is to get that experience.

Comm. Munson: What mechanism would there be that if it doesn't work out and it is a problem? What would the city do at the end of two years?

Mr. Lambers: Then they would come forward and ask for a renewal, and the renewal request would be denied.

Comm. Munson: Dean & DeLuca then, would there be any provision for them to do something so that the drive-thru is no longer there?

Mr. Lambers: It would have to be taken out or at least decommissioned. They would probably come back with a plan to use that in some other fashion.

Comm. Munson: Will that be part of the approval or how will that work?

Mr. Lambers: No, all you would be approving and recommending is that there be a time limit on the SUP so if no other action is taken and the Council agrees, whatever that timeframe is, then the SUP would automatically expire and the drive-thru would not be usable from two years from the date of its approval.

Comm. Munson: But would the approval state the reason that the two-year period is there in order to evaluate the traffic situation, conflict, etc? How would that be said or written?

Mr. Lambers: Well, it's part of the record. By having the limitation you're making it clear that there are potential issues here, this record and the record before the City Council, because I'll be explaining as to why we're doing this. The record will make it quite clear, and I'm hoping in two years most of us will still be here.

Comm. Williams: The City Council will get copies of the minutes of this proceeding so they'll know.

Comm. Munson: Will they read them?

Mr. Lambers: All I can say is they're delivered with their packet.

Chairman Rohlf: It appears that the majority of the commissioners are in favor of moving forward in that direction. Is there anything else that we want to add to the record to make it clear? I believe Mr. Conrad and Mr. Munson have stated our traffic concerns.

Comm. Munson: I'm willing to compromise to the extent of a two-year moratorium. I still have misgivings.

Mr. Lambers: It's not a moratorium. It would be a two-year special use permit. Basically they have to start all over the process again two years after the date.

Comm. Munson: But my colleague, if he votes that way, I'll vote with him.

Comm. Conrad: I guess I would say it's maybe a disappointment in my profession not being able to more analytically look at this. I still feel this intersection is too close. It's on a six percent slope, and I think if you did a traffic analysis, I think that the level of service could be terrible. We've got developments around town where you have just that exact situation, and there are signs that say no left turn after immediately turning into the parking lot. You've got to be on your guard all the time. I'm very supportive of the drive-thru. I think it needs to be done right. I think if it doesn't support the customers, then you're not giving them the level of service. Like I said, maybe it's my disappointment in my profession of not being able to be a little more analytical. I'm not in favor of field testing the situation.

Mr. Lambers: Also the berm needs to be included in the motion as well.

Chairman Rohlf: Right, the revision to 21.

Comm. Williams: Scott, if we give the project a two-year special use permit and we have the stipulations in here to monitor the drive-thru lanes, etc., for that two year period of time or four cycles or whatever you were describing, what is the process and who determines then whether or not this is working? Does the city staff?

Mr. Lambers: City staff.

Comm. Williams: So they're going to be monitoring this off and on for 12 months to see how well it's working?

Mr. Lambers: Yes.

Comm. Williams: The city will then be the sole judge as to whether or not it's working from a traffic perspective?

Mr. Lambers: Well, they'll make a professional recommendation based upon the traffic patterns. The final recommendation is from you to the City Council, so City Council makes the ultimate decision. They have the benefit of the traffic engineering analysis. What we would do is just determine peak time activity during what we consider to be the busiest times and have staff out there counting vehicles and staggering times. How long it takes for someone to get through and things like vehicles being blocked, particularly left turn movements trying to get in from northbound traffic, things like that.

Comm. Williams: Is the city's primary concern in that regard – I go back to comments that David made a few moments ago that the traffic circulation within the property is the property owner's and developer's responsibility. Are city staffers going to look only at the traffic that's stacking out in the public right-of-way? Or are they going to actually be looking at the stacking and traffic congestion that's taking place within the property itself?

Mr. Lambers: No, it would just be for the right-of-way itself. We would also, though, try to get a sense to provide an analysis as to from the time someone enters the drive-thru, if indeed what Josh is saying is that it's going to be a minute through, and then if you've got five cars, that's five minutes, and be able to measure. No different than what KDOT does when you see on the Scouts. You've got five minutes to go from I-435 to I-35 or something like that. We would measure that, but the biggest concern I guess I see here is the fact that there would be a stacking problem that reaches back out to the decel lane that reaches back out to the travel lane to the intersection. That really is going to be the determining factor. If that becomes a problem, then we'd have to do something different there.

Comm. Williams: It's irrelevant to the city whether they can service customers in a minute or five minutes or ten minutes.

Mr. Lambers: To have that information, to know how many vehicles are going through and how long it takes them, it would just be good to have that data for you to consider that.

Chairman Rohlf: Mr. Hodat, since this is a first operation for you in something like this, would you be obviously reviewing it in some way? Figuring out whether it's profitable.

Mr. Hodat: Considering this is the first one we'd be doing and we are in a growth mode right now, we have a couple of other leases signed in other cities. We have a pretty successful café division that is just a coffee shop on that level. There's going to be a huge amount of pressure on me to operate this thing very efficiently and profitably, so definitely we want to make it work.

Chairman Rohlf: So you'll be doing your own analysis, and so it's possible that if it proves that this drive-thru is a stacking issue, traffic issue, you may on your own decide this is not worth it.

Mr. Hodat: I'm the one who's going to have to make that determination at that point, because I don't want to sacrifice our service level.

Chairman Rohlf: So you'll be paying attention, too, I'm sure.

Mr. Hodat: Yes.

Comm. Shaw: I would also point out that it also gives my colleagues an opportunity to try this out and do our own empirical testing just to see what happens.

Chairman Rohlf: If we can make it better than the other drive-thrus that we have. See if we can make it better. If we need some improvements, we can make them.

Comm. Jackson: One other thing. Did we want to move the entrance to the drive-thru?

Mr. Lambers: I'd like just to have the applicant evaluate that, and we'll take that to the Council. They'll look at their requested option and our proposed option. We just did that tonight, so David would have to look at it as well.

Comm. Williams: Do we need to add a stipulation for that in the motion?

Mr. Lambers: If you wanted to request the applicant review the staff's alternative configuration.

Chairman Rohlf: So we would need then to add a stipulation about the length of the special use permit, revise number 21, and add a stipulation asking for the applicant to work with staff on suggested other ways to do the drive-thru. If we are done discussing.

Motion to approve Case 06-08, with the revision of Stipulations 21 and 31 and the addition of Stipulations 32 and 33, was made by Williams and seconded by Elkins.

Chairman Rohlf: Scott, the special use permit starts to run from the time that the Council approves it, is that correct?

Mr. Lambers: Correct.

Motion approved 7-2 with Conrad and Munson dissenting.

Meeting adjourned.