

**City of Leawood
Planning Commission Minutes**

**March 11, 2008
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

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

APPROVAL OF THE AGENDA: Chair Rolf noted a revised agenda with a continuance of Case 81-07, Bi-State Centennial Park Kiddie Academy, to the March 25, 2008 Planning Commission meeting. **A motion to approve the revised agenda was made by Elkins and seconded by Munson. Motion approved unanimously.**

APPROVAL OF MINUTES: Approval of minutes from the January 8, 2008 meeting. **A motion to approve the January 8, 2008 minutes, with technical corrections as noted by Elkins, was made by Jackson, seconded by Munson. Motion approved unanimously.**

Approval of minutes from the January 29, 2008 meeting. The need for technical corrections was noted by Elkins. Williams pointed out that a motion referenced on page 18 of the minutes does not include a vote calculation. Mr. Klein noted that the case in question was indeed approved. The information will be inserted into the minutes. **A motion to approve the January 29, 2008 minutes with revisions was made by Williams and seconded by Elkins. Motion approved unanimously.**

Approval of minutes from the February 12, 2008 meeting. **A motion to approve the February 12, 2008 minutes, with technical corrections as noted by Elkins, was made by Elkins and seconded by Roberson. Motion approved unanimously.**

Approval of minutes from the February 19, 2008 meeting. **A motion to approve the February 19, 2008 minutes, with technical corrections as noted by Elkins, was made by Elkins and seconded by Roberson. Motion approved unanimously.**

Approval of minutes from the February 26, 2008 meeting. Conrad requested that the minutes identify himself as the unidentified speaker on page 45. **A motion to approve the February 26, 2008 minutes with the requested revision was made by Jackson, seconded by Roberson. Motion approved unanimously.**

CONTINUED TO THE MARCH 25, 2008 MEETING:

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

CASE 12-08 – PARK PLACE – RA SUSHI – Request for approval of final site plan for a tenant finish; located at the northeast corner of 117th Street and Nall Avenue.

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 25-08 – JORGE BLANCO SCULPTURES IN CITY PARK – Request for approval of a revised final plan for a public art located approximately at Lee Boulevard and I-435 within the Leawood City Park.

Staff Presentation:

Ann Kenney, Chair of the Arts in Public Places Initiative [APPI].

Ms. Kenney: There are pictures of three pieces of art in the packet, which are considered one unit. There is also a map of the park noting the proposed location for each piece. The soccer players will go next to the main soccer field [location A]. The runners will go up on the hill near the older shelter, which will probably be revised. The runners will sit atop 12-ft. tall poles and are 8-ft. tall themselves. The soccer players will be on a pedestal, which will also make them 12-ft. high. The medium is aluminum that will be covered with powdered paint, which is used on cars and should not require repair for at least 20 years.

Comm. Munson: I assume these are one-dimensional?

Ms. Kenney: Yes, they are flat. He can do them three-dimensional, but we didn't ask him to do so.

Comm. Munson: My question would be one of safety. Are there edges on these that could be dangerous?

Ms. Kenney: No. They are smoothed. He assures us that they are very safe and smooth. They also will be up where the children can't really get to them.

Comm. Williams: Are the two runners in a planting bed? My question is related to maintenance and mowing.

Ms. Kenney: They will be at the top of the hill on site B and not actually in a planting bed.

Comm. Williams: I think there would be a question for maintenance of whether they would have to be mowed around. The soccer players are up on a pedestal.

Ms. Kenney: Although you see them down on the ground, the runners will be on 12-ft. poles up in the air.

Comm. Williams: They are not on the ground as seen in the picture, but are actually up 8-ft.?

Ms. Kenney: Right.

Comm. Heiman: Again back to safety, I have a few things that I am concerned about. Will the poles be in a position where they can be run into? Will the height of the runners' feet be equal to the height of an adult's head?

Ms. Kenney: I don't believe so. The one by the soccer field will be up 4-ft. on a concrete pedestal that will be covered with some type of greenery. The art piece on the poles will be more than 4-ft. in the air, so I don't see anyone running into them. Additionally, if you look at the map, the location is on the top of a hill where children will not be running. It will be set on top of a stone wall near an older shelter (*referring to pictures of the site placed on the overhead*).

Comm. Heiman: So, it will be located between the stone wall and the fence?

Ms. Kenney: Right. According to Brian (Superintendent of Parks Brian Anderson), the fence will probably come down upon improvements to the shelters.

Comm. Elkins: Ms. Kenney, I just want to make sure that I've got this straight. The runners' feet will be at an 8-ft. level on top of a pole?

Ms. Kenney: The pole will run up the legs of the runners. There will probably be a total of 12-ft., so there will be 4-ft. of pole below the runner.

Comm. Elkins: Do you know how the runners will be attached to the poles?

Ms. Kenney: They are bolted together. He does this all the time.

Comm. Elkins: With respect to the soccer players, do you know how this piece will be attached to the pedestal?

Ms. Kenney: They are bolted onto a metal plate as I understand it.

Com. Elkins: A metal plate on the pedestal itself?

Ms. Kenney: Yes.

Comm. Elkins: My concern there is related to the fact that the kids that I deal with are at the opposite end of the spectrum than my colleagues here. I am a little concerned about vandalism, but I guess you can't absolutely ensure against vandalism.

Ms. Kenney: He assures us that these are indestructible and not something that anyone could possibly hurt themselves on, which is something that most artists don't assure us of.

Chair Rohlf: I have a question Ms. Kenney. Are they lighted at night?

Ms. Kenney: We haven't talked about that yet, but I think they probably will be.

Chair Rohlf: The pedestal for the soccer players is 4-ft. tall?

Ms. Kenney: Yes. We had also talked about mounding the earth below it and then having the 4-ft. pedestal, which I think would set it apart a little bit better and probably is a good idea.

Chair Rohlf: I can see someone trying to climb up that pedestal and onto the sculpture. Are there any other questions for Ms. Kenney?

Comm. Elkins: My question would be for Staff. Does Staff have a recommendation or can they address concerns that some of us may have about vandalism and safety?

Mr. Lambers: The City-at-large assumes responsibility for maintenance of all art pieces once they are purchased. Yes, vandalism is a fact of life, but these pieces are certainly more indestructible than other art the City owns that could be damaged. Of the other pieces within the City, these are of lesser concern given the material and the coating that will be used.

Comm. Elkins: So you are comfortable with it?

Mr. Lambers: Yes. If someone were to spray something on the art, we would just recover it with the same materials currently being proposed.

Chair Rohlf: If we make a motion to approve, what are we actually approving?

Mr. Lambers: You would be approving the sites proposed for the art pieces in the park.

Chair Rohlf: We actually don't have any stipulations. Does anyone have any other questions?

Comm. Jackson: I would like to make a comment. I really like how the art fits into the locations and makes sense within its context. I think that sometimes we find a lovely piece of art and just plop it down somewhere out of context and it never quite looks right where it is placed, which is actually effectually known as "plop art" within the industry. So, I really do like how you have chosen something that makes sense in a park area.

A motion to recommend approval of the proposed site locations for the art pieces in City Park to the Governing Body, Case 25-08, was made by Elkins; seconded by Munson.

Comm. Elkins: Notwithstanding my articulated concerns regarding vandalism and safety, I would like to echo my fellow Commissioner's thoughts in that these are really attractive pieces of art and the sites are great.

The motion was approved following a unanimous vote.

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**

Staff Presentation:

Mr. Klein: This is Case 123-07. The applicant is requesting approval of a Special Use Permit [SUP] for the relocation of an SAI box that was formerly located at the southeast corner of 117th Street and Nall Avenue. The SAI cabinet has been relocated directly to the east at the northeast corner of 117th Street and Rosewood, which is the western-most driveway into the main portion of the Town Center development, off of 117th Street. The relocation has actually already occurred and was done as a result of some road improvements to 117th Street in the vicinity of Nall Avenue with regard to the Park Place development. Again, the cabinet has been there for a while. This case has been continued a number of times with the reason being to allow AT&T to work with Town Center Plaza's management. Town Center Plaza contacted us and indicated that sometime in the future, they expect to freshen up their look along 117th Street with some different landscaping. Therefore, they wanted to see some landscaping to screen this box that would more or less blend with the same kind of plant materials that they are proposing. Staff is recommending approval of this application and would be happy to answer any questions.

Comm. Conrad: On one of the drawings, within the sidewalk, there is a rectangle with some writing in it. What is that?

Mr. Klein: It's a hand-hold. Basically, it is flushed with the ground and the sidewalk. It provides access down into the hole where the equipment is located. The applicant can probably provide a better answer regarding what they do.

Comm. Elkins: I have a couple of questions. If I read this correctly, the SAI box is 61-inches high?

Mr. Klein: Correct.

Comm. Elkins: I know that one of the stipulations recommended by Staff is that the landscaping be no higher than 3-ft. I think that is an issue of line-of-site for the corner. Is that right?

Mr. Klein: Actually, it's just around that one corner, the northwest corner of the cabinet. Basically what would be affected is maybe one or two of the junipers located right along there. They could probably be moved over to another portion to screen the cabinet with the addition of other landscaping that is no more than 3-ft. in height. This is more of a safety precaution to allow line-of-sight as you have cars entering and exiting the driveway into Town Center Plaza.

Comm. Elkins: The part that I am struggling with and just want to make sure that I understand is that effectively, the SAI box is going to stand over 2-ft. taller than the limitation on the landscaping that we are proposing for safety purposes.

Mr. Klein: Just around that one corner. The reason for Staff's recommendation is to preserve the line-of-sight as much as possible. If we were to have additional landscaping 6-ft. in height on this corner of the SAI box, it would further reduce the sight distance.

Comm. Elkins: I read that Black-Eyed Susans are proposed. How tall are they expected to get?

Mr. Klein: They are located primarily along the front and the reason for this is that there is not a whole lot of room between the sidewalk and the SAI box. I believe that they get between 18-24 inches, but I would let the applicant answer that.

Applicant's Presentation:

Chris Carroll with AT&T, 8900 Indian Creek Parkway, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Carroll: As Staff reported, this Subscriber Access Interface [SAI] cabinet was at the southeast corner of 117th and Nall but had to be moved because of a street widening project. It has already been moved. What is served out of that particular cabinet is three-quarters or so of the complex at Town Center Plaza. The cabinet draws the dial tone. Staff also reported that this case has been continued several times as we have been working closely with Chuck Oglesby, the General Manager of Town Center Plaza. I believe you may have a letter in your packet supporting the recommendations before you this evening regarding the landscape plan. The flush area in question is a hand-hold to provide easy access where the copper cables come up to the ground. It is concrete slab that is flush to the ground. There is a tool that allows ready access to the cable at this site.

Comm. Conrad: Is there a slip-resistant surface on top of this?

Mr. Carroll: Yes, that is correct. And, I might add that almost 100% of the time when we have come before you in the past on our VRAD cabinets, we have had a hand-hold there as well. So, almost all of the locations that you have already approved have the hand-hold.

Comm. Conrad: My concern with it being in the sidewalk is that it is a compatible surface for pedestrian traffic.

Mr. Carroll: It is very much so. I understand your concern. We have read and reviewed the stipulations and certainly concur with Staff's recommendations. I would be happy to stand for any additional questions that you might have.

Chair Rohlf: Will this site gain an additional VRAD cabinet?

Mr. Carroll: We do not have plans for a VRAD cabinet at this site. This was simply a relocation because of the street widening project.

Chair Rohlf: Are there any other questions for the applicant?

Comm. Elkins: Good evening Mr. Carroll. I really appreciate the way that the landscaping is shielding the SAI box from Town Center. I know there is a balancing act that has to be done here from a safety standpoint, but my concern is whether the box will be screened from visibility to cars traveling along 117th Street. Was this looked at and discussed with Staff? Is there anything more that can be done to screen the box from those who are driving by on 117th Street?

Mr. Carroll: I wasn't directly involved in those discussions, but I know that our staff has worked closely with City Staff on this design as well as with the property management company, Chuck Oglesby and his staff. The design has been accepted by all parties involved. We would be happy to discuss any modifications that this Commission might choose to make. I note that there are six plantings that are at least 6-ft. tall and, as Staff reported, the plantings will be smaller in size on that one corner because of sight visibility and safety reasons. We would be happy to discuss this with you. There are 115 plantings that I counted for this location, so it will be quite elaborate.

Comm. Elkins: My concern is not so much the number of the plantings as you will be lucky if two-thirds of them survive. It's the height that I am concerned about.

Mr. Carroll: I understand, and this is something that we can certainly discuss with Staff if you would like. The cabinet is there and customers are working out of it now. The landscaping is the only thing left to do following approval of the Planning Commission and City Council. We can certainly discuss adding some taller planting and maybe fewer plantings.

Comm. Elkins: I have no objection to the siting at all, Madam Chair.

Chair Rohlf: Which side is it? Is it the north?

Comm. Elkins: It's the north. As I have expressed in other contexts when we have talked about the SAI and VRAD cabinets, one of my concerns is that I just don't think it is particularly aesthetically pleasing to have a line of green boxes. In this instance, we only have the one green box, admittedly, and we have done a great job in screening the patrons in the parking lot of Town Center from the box; but, I daresay, there will be as many people driving by on 117th Street and I would like to deprive them of the opportunity to see the big metal green box as well.

Comm. Roberson: Actually, I'm not even sure that it screens the parking lot. How tall does Maiden Grass get?

Mr. Klein: Maiden Grass will actually grow 4-6 feet. It grows pretty substantial.

Comm. Roberson: It almost screens it then?

Mr. Klein: Yes.

Mr. Carroll: We are somewhat restricted in the space that we have between the cabinet and the sidewalk.

Mr. Klein: I just want to add that when we originally saw this application several months ago, we indicated concerns about screening in front of it along the north side. Part of the problem at that time was that there was only about 1-ft. in between the sidewalk and the cabinet, and we didn't really think anything would survive at that point. The Public Works Department had to do some repair work on the sidewalk, so they curved it away from the box at one point but it still had to tie into the location of the hand-hold. So, we achieved a little bit more room but still not a whole lot, probably no more than 3-ft. In addition, the doors of the cabinet also open out towards that direction. When we talked to AT&T regarding getting something taller, it was determined that it might be difficult for the plant material to survive and for the technician to be able to open the doors.

Comm. Elkins: I appreciate that. This may be thinking way outside of the box and if so, I apologize. I think Ms. Kenney from the Arts in Public Places Initiative has already left, but I just wondered if something artistically could be done with the doors of the box to make it something other than just a green box with aluminum handles. Have you seen that in other places Mr. Carroll? Has AT&T entertained that kind of an idea? Not so much graffiti painting but some sort of artwork on the boxes. Do they lend themselves to that at all?

Mr. Carroll: I don't think we would particularly want to go there. I'm not sure with this particular manufacturer, but I know we have been told by the manufacturer of the VRAD cabinets that if we were to paint the cabinets, it would void the warranty. We don't want to do that. I don't know the specifics of the SAI cabinets.

Comm. Elkins: As far as colors go, green is the best. I appreciate that.

Mr. Carroll: This cabinet is more beige than green. If you've seen it, it's just across the street. We are happy to have further discussion with Staff and if we did, we would also need to include Town Center Plaza. We have spent a significant amount of time with Mr. Ogelsby and his staff on this to come to this conclusion.

Comm. Elkins: His concerns have certainly been addressed. The south side is in great shape. Madam Chair, I am not sure there is anything we can do about it but I would like to note that it is unfortunate. Again, it is not sufficient for me to oppose the recommendation to approve the siting of the box.

Mr. Carroll: As Mr. Klein reported, we have a limited amount of space between that cabinet and the sidewalk, so there's not much more that we can do there.

Chair Rohlf: I know that you will do your due diligence in replacing anything that dies.

Mr. Carroll: We will.

Chair Rohlf: Does anyone else have any further questions?

Comm. Munson: I have a question that might be outside this case. How are other communities outside of Leawood reacting to your VRAD cabinets in terms of what we ask for, what you are coming up with, etc.? What's going on?

Mr. Carroll: Well, this particular community is the only community where I have to come before the Planning Commission and City Council for permits.

Comm. Munson: You're willingly doing this, right?

Mr. Carroll: We have to in order to get the permits and provide the service. The ordinances in other communities aren't as restrictive, so our cost of doing business is much greater in Leawood than it is in other communities. We have looked at the costs per subscriber and costs per cabinet. We haven't encountered these situations in other communities. Obviously, there have been landscaping issues that have come up. We had a particular case in north Prairie Village where we worked closely with some neighbors in a particular neighborhood. It took a period of 4-5 months to resolve the issues by working jointly with the community, the homes association, and the city staff. We have not had any other real issues. As a matter of fact, there are some communities in Johnson County that don't require landscaping or shielding at all of the VRADs. We are happy to oblige and are glad to be operating and offering the new service technologies to your citizens. The Leawood ordinance requires this process as well as the next step with the City Council. I am happy to do it.

Chair Rohlf: This case does require a Public Hearing. Is there anyone in the audience who wishes to speak to this case? If so, raise your hand.

As there were no individuals present to speak, a motion to close the Public Hearing was made by Jackson, seconded by Munson. The motion was approved unanimously.

A motion to approve Case 123-07, AT&T SAI Cabinet, request for approval of a Special Use Permit at 11701 Nall Avenue, subject to all seven stipulations recommended by Staff, was made by Williams; seconded by Munson.

Comm. Jackson: Before we vote, is the twenty-five year term in Stipulation No. 4 what we have been going with, or did we reduce that more?

Comm. Elkins: Twenty-five is what we agreed to.

The motion was unanimously approved.

CASE 09-08 - BI-STATE CENTENNIAL PARK DESIGN GUIDELINES – Request for approval of a final plan; located at 143rd Street and Kenneth Road.

Mr. Lambers: Staff is requesting that we recess into a Work Session. The idea is to create a better environment to dialogue with the applicant. Staff has been meeting at length with the applicant on these guidelines. We have just gotten to a point where we felt it should be brought to the Planning Commission's attention in order to provide direction and make sure that the Staff was not off-base. The issue is fairly straightforward. One, we have a business park in the City of Leawood. Business parks typically have less stringent requirements when it comes to design guidelines. At the same time, this is Leawood and we don't have less stringent design guidelines. We need to balance these two issues, which is what Staff has been working on with the applicant. Another thing is the fact that this will be Leawood's only business park. We want to do it right because we won't get to do it again. It is important as there are some issues here that the Staff feels really strongly about. If the Planning Commission disagrees, that's fine; we can then just proceed as it is holding up some projects that are time sensitive. It is our hope tonight that we can either come to an agreement to where the guidelines could then be modified and brought back to you with the next application at our next meeting, which would be either the Pars Engineering building or the Kiddie Academy. Staff requests that the Planning Commission recess into a Work Session and then reconvene the regular meeting in order to adjourn.

The Planning Commission recessed into the Main Conference Room for a Work Session.

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 – CONTINUED TO THE MARCH 25, 2008 PLANNING COMMISSION MEETING.**

The Planning Commission reconvened the regular meeting.

Lisa Rohlf adjourned meeting.