

**City of Leawood
Planning Commission Meeting Minutes
October 14, 2008
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160**

CALL TO ORDER/ROLL CALL: Shaw, Roberson, Jackson, Rohlf, Munson, Williams, Elkins, and Heiman. Absent: Neff-Brain.

APPROVAL OF THE AGENDA

Motion to approve the agenda with the change of continuing CASE 67-08 – ONE NINETEEN – DEAN AND DELUCA SIGN PLAN – Request for approval of a sign plan; located at the southwest corner of 119th Street and Roe Ave. to the October 28, 2008 meeting was made by Elkins; seconded by Munson. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

CONTINUED TO OCTOBER 28, 2008 MEETING:

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

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

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

CASE 58-06 LDO AMENDMENT – SECTION 16-2-5.5 (RP-2 DISTRICT) – HEIGHT; Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 77-08 LDO AMENDMENT – SECTION 16-2-5.1 (AG) – HEIGHT; Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 71-08 – VILLAGGIO – NEIGHBORHOODS AT SHARON LANE – Request for approval of a special use permit, preliminary site plan and final site plan; located south of 137th Street and east of Roe Avenue. **PUBLIC HEARING**

73-08 – CVS PHARMACY – Request for approval of rezoning, special use permit, preliminary site plan, and preliminary plat; located on the southeast corner of 151st Street and Mission Road. **PUBLIC HEARING**

CASE 81-08 - LDO AMENDMENT – SECTION 16-4-9.3 FENCES AND WALLS - Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 67-08 – ONE NINETEEN – DEAN AND DELUCA SIGN PLAN – Request for approval of a sign plan; located at the southwest corner of 119th Street and Roe Ave.

OLD BUSINESS:

CASE 62-08 – LEAWOOD SOUTH COUNTRY CLUB – SPRINT WIRELESS COMMUNICATION TOWER – Request for approval of a rezoning, special use permit, preliminary site plan, preliminary plat, final site plan and final plat; located at 3801 W. 123rd Street.

Chair Rohlf: Before we hear from Staff, I don't know if all of you who wish to speak this evening have signed in. If you are planning to speak, I would ask you to sign in so the Public Hearing runs more smoothly. With that said, if we could hear from Staff, please.

Staff Presentation:

Senior Planner Jeff Joseph made the following presentation:

Mr. Joseph: Madame Chair and members of the Commission, this is Case 62-08 – Sprint Wireless Communication Tower within the Leawood South Country Club. The Applicant is Curtis Holland, representing Sprint. The Applicant is requesting approval of rezoning from R1 (single-family residential) to REC (Planned Recreation), preliminary plan, preliminary plat, final plan, final plat and a special use permit to install a wireless communication tower within the Leawood South maintenance building facility. The address for that site is 3801 W. 123rd St. This case was continued from the August 26th Planning Commission meeting. The proposed tower is 75' tall and is designed to look like an evergreen tree. I would like to refresh your memory by showing you a map for the location (*places a site map on the overhead*). If you recall, this is 123rd St. and Mission Road. The proposed site is over here in this location. The previously approved cell tower is in this location. This is an aerial view (*refers to aerial photo of the site*). The maintenance building is located right here, and the cell tower is proposed in this location. We have received some additional letters that have been provided to you. Also, Staff added two additional stipulations (Nos. 6 and 7) which relate to landscaping. Staff is recommending approval of this case with the stipulations stated in the report. If you have any questions, I'd be happy to answer them.

Chair Rohlf: Jeff, what was that about adding stipulations?

Mr. Joseph: Stipulations No. 6 and 7, which relate to additional landscaping.

Chair Rohlf: But they were in our Staff Report?

Mr. Joseph: Yes.

Chair Rohlf: I thought you added additional ones. All right, questions for Staff? All right, since there are no questions, we'll hear from the Applicant.

Applicant Presentation:

Curtis Holland, attorney with Polsinelli Law Firm appeared before the Planning Commission on behalf of Sprint/Nextel and made the following comments:

Mr. Holland: With your permission, I would prefer to reserve our comments until others have spoken. As you know, we had a rather long meeting last time in which we made a presentation to you. We're certainly here to answer questions if you have any at this time about our comments and presentation. If you would allow, I would like to give some closing comments to respond to some of those comments and others who may wish to speak to this item tonight.

Chair Rohlf: I do have one area I'd like to go over now, if you don't mind. It's an explanation of the proposed other sites. I believe this time we have a sheet in our packet that indicates additional cell towers.

Mr. Holland: I'll speak to that briefly, and if Sprint would like more information provided by our RF engineer, Mike Alt, on that subject, we can do that. We were asked by Staff to provide essentially a master plan showing other areas within the city where we would like to improve our coverage. The master plan mentioned showed a number of sites indicating where we would like to add a site in the future to improve coverage. We don't really have any pending projects there yet. We haven't started talking to folks about leasing property. I would like to emphasize that the dots on those maps showing a particular site doesn't mean that's exactly where it's going to go, but rather in the general area where we'd like to have a facility, but nothing is set there. If that doesn't answer your question or you'd like more detail, we have Mike Alt with Sprint who is their RF engineer.

Comm. Munson: You said these are generalized locations, correct?

Mr. Holland: What I meant to say is just because you see a point there doesn't mean that's exactly where we're going to put it and that those people who may own property in that area should expect a site would go there.

Comm. Munson: The scale is so small on this map that it's hard to tell. Could you maybe shed some light on how many of these sites are in non-residential locations and would therefore be part of a shopping center or institutional use?

Mr. Holland: I couldn't tell you exactly and would hesitate to guess. I would say that most of this area is residential in make-up. There are very few commercial areas south of the 135 St. Corridor here in Leawood up to 151st St. There may be a non-residential use in those particular areas, such as a church or governmental property such as a fire

station, for example. I'm not aware of any in these specific areas these are located. I'd like to back up, at least with respect to one or two of those along State Line that are the northern location.

Comm. Munson: Could you point that out on the illustration, please?

Mr. Holland: (*Refers to map with proposed future cell tower sites*) It shows up here.

Comm. Munson: What are those two locations?

Mr. Holland: I believe one of them may be a commercial center along State Line. Is it the HyVee?

Mr. Joseph: Correct, it's the HyVee.

Mr. Holland: And I don't remember the second one. I believe the one we just referenced as being near the HyVee would be this point (*refers to map with proposed future cell tower sites*), and this point here would be an office building up near Hallbrook.

Comm. Munson: There's a high-rise going in as part of the Hallmark office complex that's about 5-6 stories. Would you seek to put something like this on something like that?

Mr. Holland: If it's in the close proximity of where we need a facility and it's of sufficient height, we would definitely explore that.

Comm. Munson: I would think that would be more preferable than trying to locate them in residential areas, even though residential users are out there.

Mr. Holland: Yes, when we seek a new facility, we always look for those opportunities. I imagine if it's close enough and high enough, we would definitely be looking at doing something there as opposed to a new tower construction. We would only propose those as a last alternative, if you will. Did that answer your question?

Comm. Munson: It's a start.

Mr. Joseph: I just wanted to tell you about the southern locations. There is one located here (*refers to map with proposed future cell tower sites*) that's in Leabrooke Subdivision. This is at the fire station next to Ironwoods Park. This one is at Grace Gardens and is close to residential at 143rd and Nall.

Comm. Munson: That's a little different than the map that was sent with the packet, but that's fine.

Mr. Holland: This is the same map.

Comm. Munson: I'm sorry. I'm looking at the wrong page. The one that says, "Little Santa Fe" would be at the HyVee?

Mr. Joseph: That would be at the Hallbrook Office Center.

Comm. Munson: Then I'm not thinking of the right office building. What I'm thinking of is closer to College Blvd.

Chair Rohlf: Are you talking about the new one that's under construction?

Comm. Munson: That's why I said the map scale is just a little different. At HyVee, there's nothing higher than a couple of stories. So you'd be thinking about a tower at that location?

Mr. Holland: It would be some facility that we would hope to blend in with the community there. It's difficult, as you say. There are shorter buildings in the area, so it would be unlikely that a rooftop co-location would be adequate. We would do something there to try to provide coverage, assuming it would have to be of some stealth nature, particularly given your zoning requirements for setbacks and so forth next to residential properties. Even where you have commercial, you always have residential nearby.

Comm. Munson: Do you anticipate these structures to be Monopine?

Mr. Holland: I think it's premature to guess exactly what we would do there. A pine tree might be appropriate there, or it might not; some other type of structure might be more appropriate. You have to look at what you have around it – in that case, some retail buildings in the area. Maybe it would be a light pole or flagpole. There are other stealth-type applications that have been utilized to deploy our network. A Monopine is not common. I think one we just finished in Leawood South Country Club is really the first of its kind here in Kansas City. If we're fortunate enough to get this project approved, this would be number two. Do we cover all of Leawood with these types of facilities? I'm not sure. Those would be discussions in the future with your Staff, looking at the nature of the surrounding area and uses in the community: residential, commercial, church, fire station, for example. Those are all different considerations.

Comm. Munson: I haven't had the opportunity to look at the Monopine, and some of my fellow Commissioners haven't either. What kind of feedback has there been on that in terms of its appearance, etc.?

Mr. Holland: It's been overwhelmingly positive.

Comm. Munson: Overwhelmingly – 90/10, 75/25?

Mr. Holland: I would say near 100%. That might be because some in the community had low expectations. I don't know, but you'll recall we had a room filled to overflowing with folks who opposed. The TV folks were here with the media, and there was concern about how it would look. In fact, we weren't even allowed to commence, if you will, this second application until this other facility was actually constructed and people had an opportunity to look at it, including Council members, Planning Staff and any interested member of the public. It was after the construction that we received a lot of positive comments (*refers to overhead photograph of existing Monopine structure*). I don't know that we've received any negative comment. Those comments you may have received from those residents who would live closer to this one have been that it looks great there but that it might not look as good near their homes.

Comm. Munson: Is the industry doing anything whatsoever in order to resolve some of these issues with the towers, particularly in urbanized, built-up areas? What I'm driving at is I understand you have restrictions on how much power you can kick out, so that means you've got to go up, correct?

Mr. Holland: Not exactly – we set our power based on the height of the facility, the antennas that we're utilizing and the area we're trying to cover. We do try to maximize our coverage with each of our facilities. In urban areas, we utilize different applications, including rooftops and other traditional communication structures.

Comm. Munson: Isn't the emitted power for this a straight line, not following the curve of the earth and thus giving coverage restrictions?

Mr. Holland: I'm going to defer any question you might have on the technical aspects of it to my RF engineer.

Mike Alt, representing RF for Sprint, 6240 Sprint Parkway, appeared before the Planning Commission and made the following comments:

Mr. Alt: The short answer to your question is yes, it is line of sight. There is what's called knife-edged diffraction, which means that it can bend if it hits a hill. You need the height in order for the site to be able to see the users at the end state. You do have to be high up under normal circumstances. When you talk about urban applications, they tend to be denser and shorter. There are other things taking place within buildings, but obviously not in a residential situation. The way the industry is really offsetting it is by trying to drive co-location and collaboration amongst all the carriers.

Comm. Munson: Which then says that you're going to still need the high towers, even with co-location, correct?

Mr. Alt: More than likely, yes. Now the advantage for the most part is that many areas are already built out, so there's a high concentration of availability. Leawood is an exception because it's not primarily built out; it was relatively restrictive and didn't allow these opportunities. What you're seeing now is Leawood coming up to what you would see under normal circumstances.

Comm. Munson: What kind of radius can you get with a 75' tower – about a mile?

Mr. Alt: This one's actually a little less than a half mile.

Comm. Munson: So that means to get the coverage all these companies are seeking, you need a lot of towers.

Mr. Alt: Yes and no – a lot of it depends on terrain and other factors, including density of trees and number of hills to name a few. There are many considerations. A 70' tower in Leawood, KS is going to propagate differently than a 70' tower in St. Louis, MO, because of terrain differences and what have you. It's not that standard, but you definitely will need for the height; and you have to account for the terrain in either situation.

Comm. Munson: Thank you.

Chair Rohlf: Your testimony is always the most complicated for me, but I would like to ask if you've been able to measure the improvement for the tower that has been erected?

Mr. Alt: I actually haven't seen it. The only improvement I could state here would be when we looked at the theoretical versus the applied, the footprint was almost identical to what we anticipated. Part of that has a lot to do with the carrier-wave testing we did up-front. You might remember we showed that the last time, when we put something up and let it radiate. When we collect the data, there is little inconsistency between the test and the actual site. Bottom line is we met our expectations.

Chair Rohlf: All right, thank you.

Comm. Roberson: Can you explain to me why the firehouse would work?

Mr. Alt: The short answer is that it is exceedingly lower. The application was only about 15-20' high and on the cupola. When we looked at what that propagation would provide, it was much less than the half mile this one provided, so ultimately it wouldn't provide the benefit we anticipated; and it wouldn't integrate with these other sites nearly as well as this application.

Comm. Roberson: So putting one there and putting one on, say, HyVee wouldn't have the same coverage that this one would have at the maintenance building?

Mr. Alt: It's hard to say with one versus the other. The bottom line is you could say that putting the site on the fire station yielded so little benefit that it wouldn't have been feasible to implement it regardless of whether there was another application with it or not.

Comm. Roberson: So does the HyVee at 123rd and State Line overlap with this one?

Mr. Alt: I don't recall.

Comm. Heiman: There were several people who voiced their opinions about the safety of these. Could you speak to that for me, please?

Mr. Alt: Certainly. Every carrier in all applications needs to fall within the FCC guidelines for what's called MPE [Maximum Permissible Exposure]. For every site we build, we have to prove that this will fall within those guidelines. In the case of this application along with every site we build, quite frankly, we have the documentation and calculations that show we are within those guidelines.

Comm. Heiman: There is no safety issue from your standpoint or from the FCC's?

Mr. Alt: Exactly - we meet those criteria from our perspective and the FCC's perspective.

Comm. Heiman: Thank you.

Comm. Williams: I think maybe City Counsel has a comment she'd like to make.

Mrs. Shearer: I wasn't sure at which point this evening I would jump in with this, but I would read that, ordered by the FCC, we are "pre-empted from making local decisions premised directly or indirectly on the environmental effects of radio frequency emissions, assuming the provider is in compliance with the Commission's RF rules." That means as long as any cell carrier is in compliance with the RF rules established by the FCC, we are pre-empted from making decisions based on that consideration.

Chair Rohlf: Thank you.

Comm. Elkins: Mr. Holland, I'm still trying to get myself oriented to this plan map here. Amy I correct in understanding this site with the last three digits of 103 is a site that's actually in the application for tonight?

Mr. Holland: Yes, I believe that's correct.

Comm. Elkins: And No. 104 is the existing Monopine?

Mr. Holland: Yes, sir. *(Refers to map with proposed future cell tower sites)* This was intended to show future sites beyond the pending application and the other Monopine on which we received approval.

Comm. Elkins: And the difficulty for us, if you'll just bear with me, is it's color-coded, and the copies we have are not in color. I'm not complaining, just trying to get oriented. Mr. Alt, you always have these wonderful multi-colored maps that try to give us a visual depiction of the quality of service once the site being applied for is actually deployed. Have you been asked to do any sort of predictive study based on these plan sites being deployed in the approximate locations shown on the map?

Mr. Alt: I actually don't have it with me, but in order to come up with maps like these, we start with a propagation prediction. The process is A) idealistic and B) realistic. The idealistic is the perfect spot from an engineering to place these, which usually winds up right in the middle of someone's house. Then we go into what we call realistic, which is what is truly attainable as far as meeting criteria while falling within local jurisdictions and taking into consideration expectations from neighbors.

Comm. Elkins: Your best prediction is that if we deploy these sites, we'll have a service quality that's acceptable by Sprint's standards.

Mr. Alt: Definitely – the intent of this design is to provide insight to the Commission and Staff. It's almost a Leawood Master Plan with the expectation of serving Leawood with the best service we can.

Comm. Elkins: That's exactly what we were hoping to get, so thank you.

Chair Rohlf: Anything else before we move along to the Public Hearing?

Mr. Alt: I would like the opportunity to respond to comments that may be raised.

Chair Rohlf: And we may have some additional questions after the Public Hearing as well. For those of you who were here last time, we started the Public Hearing but did not

finish. We'll be picking up where we left off. I will ask again if there is anyone that would like to speak this evening who has not signed in to do so now. If not, you can raise your hand at the end of the list. For those of you who did speak last time, I will tell you those comments have been transcribed and are included in our packet this evening. If you do wish to speak again, I would encourage you to keep your repetitive comments to a minimum so we can get through the Public Hearing this evening and give everyone an opportunity to speak. I will be utilizing a 3-minute timer on the podium, and I would ask we work within its confines.

PUBLIC HEARING

Patricia Murphy of 12786 Overbrook, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mrs. Murphy: I have been a Leawood resident off and on since 1958. First of all, I'd like to express a certain amount of disappointment that the Council members have not taken the opportunity to see the facility that's already been erected. I was very equivocal at the beginning of this project a year ago, but it is beautiful. I have taken people to play golf who did not know what it was, asked them if they liked the tree, and they said, "Oh, it's a great tree." They didn't believe it was a cell tower. It's very well done, and I am now a believer.

Chair Rohlf: Thank you. I believe Janice Kirkoby is next.

Janis Kirkeby, 3545 W. 143rd Terr., Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Kirkeby: I'd like to speak in favor of the project. I think as the lawyer mentioned earlier, the whole intent is to increase the quality of Sprint customer experience and to allow stronger coverage in the area. It also has implications for 911 coverage, which is important to all of us. Once again, I'm speaking in favor of approving the project.

Chair Rohlf: Thank you. Then Tom Tobler.

Tom Tobler, 12316 Mohawk Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Tobler: We're opposed to the cell tower. We live adjacent to it. First, I want to thank the Staff for the help they've given us throughout this. When we came to the last meeting, we thought there wasn't a really good cell tower ordinance in Leawood because there weren't a lot of questions asked by the Commission. Staff directed us to the cell tower ordinance, and it's good. One of the big concerns I have is some inconsistencies that I see. When we came home from our last meeting, one of our neighbors came home and got on the Internet. There's a Sprint Nationwide Coverage Map. It actually states that cell coverage in our area is the best. I don't know about that. The engineering folks say that we need these towers, but the marketing people say the coverage is the best. My thought is that there is only one truth and only one right way to do this. Part of the consideration that the proponents have is to prove to you that they need it. So do they need it or not? They use one set of maps to get people on the hook

to buy their coverage, and they use another set for proposals to Commissions. I know you have to sort through and determine what's right.

The other thing that really concerned me about the ordinance is that it seems there's a loophole in it in Section Two, where it states, "Any proposed tower and related facility shall be sited at least 500' in all directions from existing or planned residential areas. This 500' buffer requirement applies only to towers as defined herein and not to other alternative tower structures." So we're defining a Monopine as an alternative tower structure by definition in the ordinance. My wife said this is like putting lipstick on a pig and calling it something else. This is a mono-pole cell tower with some camouflage on it. Staff explained to me that the facility could be located as close to 30' to a residential property. It will be treated as any other structure that you're putting on a piece of land, and I don't think that's right. Counsel says we cannot speak to the health hazards of these things or to the fact that it might lower the property value of adjacent properties. We know that can't be considered, but one thing you can do is create a buffer between residential properties and these installations. We have five additional things proposed here in Leawood, some of which will be adjacent to residential properties. It may not be right, but there's a stigma attached to these installations. It doesn't make any difference whether the information is right or wrong - for every argument proponents can come up with that says "These towers will not affect your property value or long-term health" I will guarantee I could find another argument by another reputable organization that says that it will. I'm not an expert, even though I know a lot more about this than when I started. It's been interesting. I look at this, and I think there are probably some comparisons to the telecommunication industry and the tobacco industry - they're both huge, both strong with strong lobbies. The primary difference in my mind is the folks that use tobacco products make that choice. We're going to ask you to make a good choice regarding this because you're making a choice for the adjoining neighbors.

Chair Rohlf: I think this is Chick D'Amico.

Chick D'Amico, 12305 Mohawk Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. D'Amico: I want to say that I think this is just too close, like Tom was just saying. The last tower was 300'; this one is 100' from the property line. Where do you draw the line here? Will the next one be put in at 50' or 20'? I'm just protecting my house because who knows what will get put in behind mine. I'm not the one behind the 100-footer, but that's 100'. All these places use past practice, so now 100' is the standard for what you'll be allowed for a Monopine. If this goes through, that's what we're starting here. I think 300' is a compromise; not 100'.

Chair Rohlf: Thank you. Then we have Angela Heffner.

Unknown Speaker: She had to leave. She just thought the sign-in sheet was to sign in to attend the meeting.

Chair Rohlf: All right, then we'll move along to Sam Schissler.

Sam Schissler, 3613 W. 122nd Place, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Schissler: Last meeting I did address my concerns for property value and the aesthetics of the Monopine and that after the leaves fall off the deciduous trees, we'd be left with an artificial Christmas tree basically. Mr. Alt, your maximum permissible exposures are going to be shooting into my 8-year-old daughter's bedroom. I have a 2-story house on a hill that will be eye-level with the top of that tower. I am very concerned about the health risk and the safety of the tower. I know you have one study that says it's fine, but you could find another study that says it's not. It's too close to a residential area. There are plenty of places that are not near homes that you could put these towers. I expect the Council to do the right thing in terms of public safety for all of us - including my 8-year-old daughter - who are too close to this. I don't want that stuff shooting into my house.

Chair Rohlf: Thank you. Randy Olson?

Randy Olson, 12605 Del Mar, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Olson: I'm here to speak in support of the project. Cell phone use is on the rise. People like it at their homes and when they're driving in their cars. The fact of the matter is you've got to have towers if you want to use cell phones. I understand some of the folks who don't like the looks of it, but I don't particularly like the looks of my green cable box in my back yard, the fire hydrant in my front yard or the AT&T structure at the entry to my subdivision. But I like watching cable TV. I still have a wire-line phone and like it. If my house were to burn down, then I'm glad we have fire hydrants. When you have these types of utilities and facilities, you have to have the infrastructure to support it. I also would say that coverage isn't that good. I was in my basement last night, and I kept getting kicked off with Sprint's air card. I'm hoping when the cell tower goes up that the coverage will be better. Thanks very much.

Chair Rohlf: Thank you. Steven Paisner?

Steven Paisner, 11208 Meadow Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Paisner: At the end of August, I attended the first session but was unable to speak because we ran out of time. I sent a letter to the Commission. Is that something I could read, or is it unnecessary?

Chair Rohlf: We received that in plenty of time for all of us to have read that if it's the one that's dated August 27, 2008.

Mr. Paisner: Yes, it is. I won't read it, but I'd like to state the purpose of the letter was to affirm my support for the service. I think it's very important that the Commission be aware of the importance of Sprint to the community. I won't go beyond that. Thank you.

Chair Rohlf: Thank you. Stephen Kartsonis?

Stephen Kartsonis, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Kartsonis: We joined Leawood South in the end of May. On our tour of the facility, if the general manager had not pointed out the tree to us, we would not have seen it. It looked like all the other trees out there. Yes, the branches are straighter, but I would highly encourage you to go out there and check it out because it's inconspicuous. I've taken a number of clients out there and ask them to show me where the cell tower is, and they have no idea. I just wanted to speak in favor of it and strongly suggest and urge you to vote for it. Thank you very much.

Chair Rohlf: Thank you. Brian Nelson?

Brian Nelson, 12603 Del Mar, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Nelson: Unfortunately, I have the streetlight in my yard. I don't mind that because it makes me and my kids feel safer. I understand that the community has to support the infrastructure to support the benefits we want to enjoy. I just moved here from Seattle, but I bought a house here because it had good cell coverage. I think homes in dead zones now are considered to have lower value because you have less through-put and data. When you shop for a house now, you shop for a house that has good connectivity. I think that would add to our home values in Leawood. Thank you.

Chair Rohlf: Trisha Sims?

Trisha Sims, 9208 Ensley Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Sims: I'm in favor of this for very logical reasons. I don't have any research with numbers or statistics that will blow you away; it's just very logical. We are new residents of Leawood as of this past spring, and we're horribly disappointed with the coverage we receive in and around our home. The logical part for my family is we are cord-cutters; we don't have a home phone. We use our mobile phones and our laptops for both personal and business reasons. Not having the coverage for us means that we don't have the safety and security of having any type of connection to the outside world, via phone or computer. That also extends into our accessibility for both personal and business use. I work via my laptop, and if I don't have that connectivity, then I'm not able to work from home, which is something I'm required to do quite often. Thank you.

Chair Rohlf: Thank you. That takes us to the end of our sign-in sheets. Is there anyone else who wishes to speak this evening? All right, we have three more.

Alan Todd, 12314 Mohawk Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Todd: I'm opposed to this cell phone tower, and I spoke at the last meeting. They've got to get the zoning first. The zoning is the maintenance facility, which has now started to take over property. I think they think this is a done deal. I've got pictures I'd like to show. This counter, I don't think, is very fair. (*Aerial photo of the neighborhood and golf course placed on the overhead*) My property is right here. They have now expanded right through here and started using that as a work zone for the maintenance facility because they're full. You rezone that, and then they can go all the way down the course with what they do. That will be zoned REC, and that's not good for

us. I'd like to show a couple pictures of what they've started to do. (*Photograph of the view from Mr. Todd's home placed on the overhead*) This is my view of my golf course lot where they have expanded and just taken over.

Chair Rohlf: Mr. Todd, who is "they"?

Mr. Todd: The golf course maintenance facility.

Chair Rohlf: When you're talking about expanding, are you talking about the golf course itself?

Mr. Todd: Yes, the country club.

Chair Rohlf: So it has nothing to do with Sprint.

Mr. Todd: No, that's a whole different story there. I've talked to a lot of people. I've had Jeff and Mark out to my house to let them look at this and what's going on out there. I've talked to Richard Coleman, and he says that Sprint definitely is not addressing screening adequately enough in their proposal. I've talked to Gene Hunter, the Fire Marshall, about ramifications of a cell phone tower and electrical box components next to a hazardous material building. I work for Union Pacific Railroad, and I'm certified in HAZMAT. I'm an engineer for the railroad, and we carry a lot of HAZMAT materials. I'm going to tell you there are a lot of HAZMAT materials that sit in that building back there, and you're going to put a cell phone tower right behind it, within about 20'. Mr. Hunter told me that they could be within 50' of fuel. They've got about 1,000 gallons of fuel sitting on that property at any one time. They've got fertilizer, chemicals and all kinds of hazardous materials in that building. They've got it listed so the fire department knows what to look for when they show up. (*Places a photograph of the maintenance shed on the overhead*). On top of that, it's a hazardous spot that you want to rezone REC. For 30 years, that has been Residential with non-conforming use. It was zoned in 1976, and that facility was built in 1977. Now to change it looks like we're just trying to accommodate the country club and get them a little extra revenue without any regard to the neighbors. It's just a bad scene all the way around. My property is classified as a golf course lot.

Chair Rohlf: Mr. Todd, we do need to wrap this up.

Mr. Todd: I'll leave you two more pictures. (*Places a photograph of fuel tanks at the maintenance facility on the overhead*) This is the fuel, and I don't have the spent oil dispenser in that. Then also they already have a tower on their property. (*Places a photograph of a cell tower on the overhead*) That, from what I understand, is a Nextel communication tower for their push-to-talk communications for all the employees. That, I believe, is about 40-50' tall. That's all I have.

Chair Rohlf: All right, thank you.

Dennis McBride, 3805 W. 123rd, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. McBride: I won't recant all my previous comments. (*Places an aerial photograph of his home on the overhead*) As I pointed out earlier, it's not 242' or whatever they had.

I've added onto my home a 30' garage that's been sitting there for more than a year, so how it got missed, I don't know. From an engineering standpoint, they're incorrect and are about 190' feet. I've been a developer and builder for 25 years in Lenexa, Shawnee, Overland Park and Leawood. I appreciate developers when they come and say, "We're going to take this pad, and we only want this much space. I believe this one area is 50' x 50', but we really don't need that. We only need 12' x 12'." If you give them the 50', it'll get used. We all try to sugar-coat it, but the reality is you want to stretch as much as you can because you don't know what's going to happen.

The other thing, as I've said before, is I can't imagine how they're going to build this tree without tearing a lot of other trees out. That's probably my largest complaint. I have no knowledge of the cell damage one way or the other, so I wouldn't begin to speak on it. Once again, this was all zoned residential, and as far as I know (not having been in front of a Council meeting for a long time), when you rezone things, it's the best and highest use for the property. Twelve years ago, they offered for me to buy all the 4 ½ acres to build condominiums there. They've still got 2 ½ acres +/- . They could move their barn, and there are a lot of things that could happen with wooded ground in Leawood. Whether it's financially in the club's interest, I don't know. At the end of the day, I do believe it's a detriment to the values, and unless the 401k plan of the city is with Sprint or something like that, they're a business. I don't think we should have to worry about how they get things figured out as far as financial reasons go. Thank you for listening.

Chair Rohlf: Thank you. Is there anyone else on this side? Then we'll move across.

David Benditt, 9029 High Drive, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Benditt: I want to speak in support of this initiative. I think as consumers, we benefit from the improved infrastructure; and as residents of metropolitan Kansas City, we benefit in many ways from the presence of Sprint through the direct employment of the community, through being an enormously large customer of other businesses and through philanthropic endeavors. I'm definitely in support.

Chair Rohlf: Thank you. Is there anyone else that wishes to speak about this case this evening?

Sherry Randall, 12104 Cherokee, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Randall: I'm very hopeful that I'm within the ½ mile of this pine tree because I'm speaking in favor of it. I have to go to my bay windows or out on my back porch to make a phone call with my Sprint phone, and I would love to cut my wire-line phone service out. For personal reasons only, I'm very much in favor of it.

Chair Rohlf: Thank you. Is there anyone else who wishes to speak this evening?

As no one else was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Williams. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

Chair Rohlf: Mr. Holland, you will now have an opportunity to respond to any of the comments raised in the Public Hearing. We also may have some questions that we'll interject as the various comments come up.

Mr. Holland: Thank you, Madame Chair and members of the Planning Commission. There was a lot said to you there just now, both for and against. I'm going to move away from my prepared comments and speak to you more briefly about what you heard tonight. A lot of what I wanted to say to you was said by folks here who are in support of our project and application. They said to you that there is a lack of good coverage here in Leawood, and that's true particularly in this part of Leawood. That is the real reason that we're here tonight – to improve our customer experience in the city of Leawood, to enhance our network coverage to this area so we can offer the services we do and so our customers can utilize those services. All of us in the room probably have a cell phone, and many of us use our phones for more than just making a phone call while in the vehicle. We use them literally everywhere. The services that we have access to now are simply incredible compared to where we were even ten years ago, with access to Internet, calendars, e-mail, photographs and video. It is an admittedly important service. Someone mentioned 911 communications. That's certainly a very important aspect, and we shouldn't overlook the role that wireless coverage plays today in our emergency service providers in terms of responding to calls.

Again, a lot of what I wanted to say was said by our supporters, including aesthetics – what will this look like? We heard someone say you can't put lipstick on a pig. I know some of you have seen this facility, and if you haven't seen it, you should go see it. You've heard from those who have seen it and from people who have been on tours, and these are completely unsolicited comments tonight. I'm very surprised because a lot of times you come to these meetings and hear the opposition, and I appreciate the support tonight. This facility that we have constructed at the 5th tee box, which you approved, is really astonishing. Someone made a comment that it's going to look like a fake Christmas tree. It's not. I would challenge that representation, and I don't think it's very fair. A person made a comment about property values. One person said, "I don't have any evidence, but I'm certain it's going to decrease my property values." I've been doing this for 15 years and have provided reports on this very topic to this body in many different jurisdictions and have read many of these reports the gentleman talked about not having seen. They all say essentially the same thing – that these don't cause any negative impact to property values. I heard earlier from the one supporter who tests wireless coverage in the area when looking at a new home. It does have an impact on the buying decision. There are both sides, but the only empirical evidence on this topic is that it doesn't cause any negative impact on property values. I have yet to have one person provide me with any report that says it has a negative impact.

There was a comment regarding the rezoning and whether that was inappropriate or not. I would say to you that the entire golf course is zoned Recreational. I don't know how or why this particular piece was not zoned Recreational along with the rest of the golf course, but it clearly should be. If you were looking at this merely as a rezoning application, forgetting about the wireless facility we're proposing here, I think Staff would say it makes sense. It's what the rest of the golf course is. It's an accessory use, an ancillary facility to the golf course that's certainly necessary for maintenance and operations. It fits with what's there already and has been in use a long time, even prior to many of the residents purchasing their homes here and choosing to live next to it. We did hear tonight from Mr. Todd that the maintenance facility looks like a maintenance

facility. It does; that's what it's used for. Is there mulch, dirt and gas tanks? Yes, that's because it's a maintenance facility for the golf course. Now, from his view, is it an issue? To him, it is. Notwithstanding the fact that he chose to move there, we acknowledge that he sees things that we could do a better job of screening. That said, we did visit with Staff, who has put in a stipulation for us to add trees to help screen not just this facility, but also the maintenance yard area from Mr. Todd's property. We had already offered up, on our own volition, to install trees along his property line to help screen what he sees there. Staff's new stipulations say to come up with a landscaping plan to add more trees to assist with the screening of that maintenance yard area and our own facility if needed, and we agree to this.

Now, are we removing some trees? Yes, but we are only removing those trees that are absolutely necessary to install our facility. We've marked 6-8 of those trees on our site plan that we would have to remove. It's none of the trees along the eastern property line against the homes today. We've agreed that we will replace those trees we do remove with sufficient numbers of trees. It's not a one-to-one; it's going to be several trees-to-one for replacement so we can provide the same sort of screening that exists today. Quite frankly, I don't think you can see the compound area from anybody's property except maybe the street side. You couldn't see it from the Yaekels' residence immediately to the east. I don't know that the Todds can see it – I haven't been back there, but they do have a balcony on the second story. Perhaps they could view it there, but our commitment is that we would screen that area, work with your Staff to come up with a landscaping plan, add trees and whatever we need to help screen those areas. I think we can address some of what's going on here.

In closing, the purpose for our facility is to enhance wireless network. Our service is to the area of Leawood. We've shown a master plan, where we've indicated that there are other areas in Leawood where you do have coverage issues in this area, as was testified tonight. We're doing the best job we can to provide the high quality of services that our customers have come to expect. We feel confident that with your approval of this facility, we're going to meet our objectives in this particular area of Leawood. Will we be back before you with some of our other facilities? Yes. What they will look like and where we will put them will be decided on later.

I understand there was correspondence forwarded that wasn't necessarily part of the record. I think Staff put these on your chair late. We did receive some other copies of e-mails that are from residents in the City of Leawood who are supportive of this. I would just mention Dave Turesini and Chris Schaeffer. I believe you've been supplied those. There is support for our facility. I know it's a tough decision for you, as you had the last time. I think you made the right decision last time, and I'm hoping tonight you'll give us your recommendation for approval. I will close with those comments and stand ready to take any questions. Thank you.

Comm. Elkins: Mr. Holland, a question was raised about the hazardous materials that are part and parcel of any maintenance facility in a golf course. Has Sprint done any sort of hazard or risk analysis as to the proximity of the support equipment for the wireless tower and its proximity to those materials?

Mr. Joseph: The Fire Marshall has looked at the site, and he indicated that since it's more than 50' away from the tanks, he's fine with it. You have a letter regarding that.

Mr. Holland: As far as HAZMAT materials, we haven't done an audit or environmental assessment of that particular facility; but just talking to our operations people, we don't feel it's necessary. We know generally what's in there. We're not concerned with what's in there. We shouldn't have any impact on it or vice versa. I think the 50' issue has more to do with clearance around it so they can have access to those tanks. Even then, those aren't issues for us, so it's really not a problem regarding our facility being that close.

Comm. Elkins: I guess my question goes to the issue of, in an unlikely event, for instance, an electrical fire. I understand there's support equipment that's going to go into a shed of some sort near the base of the tower. Is that correct?

Mr. Holland: That is correct. There's a cabinet with telecommunications equipment.

Comm. Elkins: In the (admittedly unlikely) event of a fire in those cabinets, is there an enhanced risk relative to having the hazardous materials that close at hand?

Mr. Holland: I'm told there wouldn't be any issue or concern with having those facilities located near those materials that are in the building, so we don't see that as an issue. There wouldn't be any generator on our side or fuel stored on our side other than those equipment cabinets at the base, which are really metal and wiring.

Comm. Elkins: Changing topics on you just a bit here, but I'm curious if the antenna units are associated with the existing Monopine actually deployed as we sit here today.

Mr. Holland: Yes, they are.

Comm. Elkins: I've got to tell you, I was out there Sunday and looked and looked and couldn't find them on the tree anywhere.

Mr. Holland: They are painted the same color of the tree, flush against the tree and disguised and hidden by the branches.

Comm. Elkins: I was standing under the tree and couldn't find them.

Mr. Holland: They're there, and if you had Sprint and were trying to use your phone, it should have worked fine.

Comm. Elkins: Thank you.

Chair Rohlf: Any other questions?

Comm. Munson: In the even that there was an explosion and fire, what party would be liable for that incident?

Mr. Holland: There wouldn't be an explosion or fire cause by our facilities, so it would be somebody else's facilities. I'm not sure of the full extent of their liability, if any. It's a different question, and I'm not sure how relevant it is.

Comm. Munson: If my house were sitting next door and caught fire, I'd want to know.

Mr. Holland: Yes, well, it wouldn't be from our facility. I can guarantee that.

Comm. Munson: Could you put it in writing?

Mr. Holland: Sir, I think we're getting a little off of our focus. We've never caused a fire, so I think it's a red herring, to be honest with you.

Comm. Williams: On the site plan, there's reference to a future carrier. This is being built to potentially accommodate two carriers by ordinance. In terms of the future carrier coming in to use this, how would that spot be developed?

Mr. Holland: The only thing that you would recognize or notice as being different is that within the compound area, they would have other boxes of equipment to help operate their antennas, which would be mounted to the tree like Sprint's. Co-location is what we call that.

Comm. Williams: When you're referring to "compound" is that within the masonry walls?

Mr. Holland: Yes, sir.

Comm. Williams: On the plan I'm looking at, it's a dotted rectangle that moves toward the east 3-4' away from your masonry wall.

Mr. Holland: I'm just told that what we're building is going to serve our facility, but we have enough area there to accommodate other carriers' equipment, so the wall might be moved to allow for their equipment to be there. It would all be screened inside this masonry wall.

Comm. Williams: Again, is another carrier going to have a set of equipment and a fenced compound adjacent to your compound?

Mr. Holland: They would have their own equipment, and they would be within the enclosure.

Comm. Williams: Again, the enclosure is the masonry wall that's shown on your plan as part of your project.

Mr. Holland: Yes, sir.

Comm. Williams: So that dotted line for future carriers should come off? I'm looking at Sheet A2.

Mr. Holland: These drawings were our original drawings. While that is shown within our lease area, I understand we would likely shift that dashed-line area to the southwest to line up with the compound area, and then that wall would be expanded to enclose that equipment.

Mr. Joseph: Commissioner Williams, any future antenna would have to come back through the city for a special use permit.

Comm. Williams: I understand that. I'm just trying to get a better idea as to what that was going to be, particularly at that location that puts it closer to the residents than other places on that site. Just for clarification, the height of the walls around your compound will be 8'?

Mr. Holland: Yes, sir.

Comm. Williams: Thank you.

Chair Rohlf: Does anyone else have questions? All right, thank you, Mr. Holland. That takes us up to any discussion we might have.

Mr. Joseph: Madame Chair, if I might comment on some of the concerns the residents had.

Chair Rohlf: Sure.

Mr. Joseph: One of the comments was the 500' buffer requirement between the residential and the cell tower. That's a requirement under the ordinance for all cell towers except alternative towers. Alternative towers are defined as man-made trees, clock towers, steeples, light poles, buildings and similar design elements. That's the reason the only setback requirement is 30' within the zoning district. The second one was the zoning. The maintenance building was approved in 1976, and the building was built in '77. At that time, it was approved by the city; so it is a legal, non-conforming use at this time. A Recreation zoning would be appropriate for this property since the maintenance building is there. In order to put the cell tower there, they have to rezone it, and cell towers are allowed within the Recreation zoning. As I said, the Fire Marshall has reviewed the tanks and has provided a memo regarding that. Mr. McBride had a question about the garage that's shown on the preliminary plat. They redid the plan, and the recent plan is showing a garage.

Chair Rohlf: Is that everything?

Mr. Joseph: That's it.

Chair Rohlf: Thank you.

Comm. Elkins: I have just a few comments after listening to the Public Hearing and the Applicant, as well as the City. I will tell you that on Sunday afternoon I spent some time on the Leawood South golf course, first at the site of the existing Monopine and then later in the afternoon at what I understood to be the proposed site of the application we're reviewing tonight. Addressing the existing Monopine, it truly is extraordinary. From the street as I was driving, looking across the fairway, I literally could not tell the difference between the Monopine and the real trees. It wasn't until we drove up and around and parked and walked down to the site and I saw the big concrete sidewalk that went right up to the trunk of the tree did I find out which one was the Monopine. You can see on the materials board tonight the detail of, for instance, the bark is just amazing. It actually moved me to walk up and touch it to see if it looks like metal, which it does. It is pretty amazing. In addition, I commend Sprint because I had questions in my mind as to whether the antennas had been deployed because I couldn't find them. I used to do wireless telephone work at one time in my career and know where to look for such

things. This camouflage, despite the negative connotation it had, is pretty amazing. I think it was a positive in that particular spot.

Now having said that, there were some things I noticed at the other site that gave me pause. One of the things about the site with the existing Monopine is that a number of trees in that vicinity are evergreen trees. It's not strictly deciduous trees. At the proposed site, it is mostly deciduous trees that will lose most of their leaves. It's a little hard to predict the aesthetics with the proposed Monopine. That's one of the things I'm struggling with. I do have some questions, concerns and reservations about the proposed site because of this.

I know the last time we talked about this, we discussed what the height of the Monopine should be. Again, you can get all kinds of perspective on paper, but it's not until you actually stand there and look at it that you see that the existing Monopine does not tower over the other trees. I think it's actually as much as 18' taller than the nearest trees. When you're sitting on the ground looking at an angle, it's really not much taller than the rest of the trees around it.

The other thing that I remain mildly concerned about is the proximity of these hazardous materials to an electrical facility of some sort. Our Fire Chief has said that it's all right, and I'm certainly willing to defer to that. I'm encouraged by Sprint's testimony (if I understood it correctly) that in their experience, they've not had a cell tower facility or the supporting electronics catch fire. That's a pretty good safety record, and I think we need to note that as we're making our decision here. Thank you, Madame Chair.

Comm. Jackson: These are always difficult situations. I don't think you can totally discount some of the safety concerns the citizens have; unfortunately, that's not something we're allowed to take into consideration when we make our decision. I don't think there are definitive studies on those sorts of things. Where I come down, though, is I do find there is evidence of need for this facility in the Leawood area. Leawood certainly does have some difficulties with wireless usage. In my mind, the city's continued vitality is dependent on those things. More and more people work out of their homes and need the wireless connectivity, and the businesses that Leawood has added over the last 10-15 years use a lot of wireless connectivity. I believe when you weigh out the situation, I'm going to be coming down on the side of voting for recommending approval of this tower.

Chair Rohlf: Thank you, Miss Jackson. Would anyone else like to make a comment?

Comm. Roberson: I would. I, too, agree that Sprint has a serious cell coverage situation. I'm going to also agree with my fellow Commissioner that I have a concern about the location and its concern about the proximity to the nearby homes. I have a concern about another compound being built next to an existing building. I don't care how much you screen it - it's going to be an unsightly compound. If you look at the one at 135th and Mission Road, you'll see you can't hide it. From an aesthetic standpoint, I don't think this is the most appropriate location for a cell tower, even though it is convenient. Those are my comments.

Chair Rohlf: Thank you. Would anyone else like to comment?

Comm. Williams: I share many of the comments that have been stated – both the pros and the cons. I guess the first point is the issue of rezoning from Single-Family to Recreational. If the tower weren't the issue here, it would be simply a housekeeping measure, and it would be appropriate zoning, given its current use and the use adjacent to it. We've seen other measures in which residents have actually fought to have Recreational zoning; although, situations were different, so it's hard to make an apples to apples comparison in that regard. It would be an appropriate rezoning of the property, tower withstanding. I think Staff has pointed out in our packets and Jeff commented a few minutes ago that the tower, as proposed, appears to meet all the aspects of the LDO. I think the biggest issue is the LDO really doesn't definitively state a distance to residents, even with the Monopine or church towers or whatnot. In this particular case, I do have issues with the proximity to the residents. I've been out to the golf course on two different occasions, and I thought I knew where to look. I couldn't find it, so I don't know how good it looked. Maybe that's a testament to how good it looks since I spent over an hour trying to find this thing while driving around. In light of some of the other positive comments, that does speak well for the concept of the Monopine. Again, it comes down to location. After our last meeting, I spent time around this particular location driving up and down the street by this maintenance facility, which in itself is a pit. I'm surprised we don't get more complaints from the people in the neighborhood about that, but that's another issue. For me, it is an issue of proximity to the residential neighbors. I'm not sure that the tower itself is going to decrease any property values since we don't have any definitive information on that. Certainly the dead zone issue is probably more of an issue. But looking at this as a package as it stands today, I don't think this is an appropriate location.

Chair Rohlf: Anyone else?

Comm. Heiman: First of all, I'll state that I live probably within ¼ mile of this location and would certainly benefit from improved cell coverage in my own home. I do know that several friends who live in the area do not have good coverage, so I think from that standpoint it would be nice to have improved coverage. I'm mildly concerned with the safety issue. I know we've heard some testimony here tonight about that. There's a report in our packet that, quite frankly, I couldn't understand; but I have been looking through that tonight. I think that concern has been satisfied for me. I'm satisfied with the concept and the aesthetics of the Monopine. There has been plenty of testimony that the concept is sound, and I'm not as concerned about the aesthetics. Trust me, I will drive by this daily, so it is a concern; but it has been satisfied. The maintenance facility, to me, appears to be the largest concern to people in terms of aesthetics. It appears, and I would like to emphasize to Staff, that if this is approved, every effort should be made to help screen from the surrounding residents the facility as well as they can. I am sensitive to that fact. I know people are obviously living close to this, and it's an ugly facility as it is. Any improvement there would be a benefit. It appears this may be a benefit to that facility long term. I am on the side of approval, and those are my comments.

Chair Rohlf: Thank you. Would anyone else like to make a comment?

Comm. Williams: I have a question for Staff, if I could, and possibly to the Applicant. Given that the golf club owns all the course land and this parcel we're considering rezoning, has anyone looked at the feasibility of locating this tower more onto the golf course and farther away from the residential neighbors?

Mr. Joseph: The Applicant is the one who actually did the study, so he'd be the one to answer that.

Mr. Holland: We did evaluate other locations, and the issue is as you go to the golf course, you drop down in elevation quite a bit from where we are with this proposal. It was not determined to be a good site in that regard.

Comm. Williams: And refresh my memory – on the Monopine that's currently installed, wasn't the application for 95' and restricted to 75'?

Mr. Holland: Yes, it was, and we're at 75' with this one.

Comm. Williams: So to make up the ground to have the same kind of coverage by going lower, you'd almost have to make the tower taller?

Mr. Holland: We'd prefer a taller facility, but I think that wouldn't be acceptable here. Regarding the comments about the trees, there are many trees there that are tall, and we did provide photo sims to what it would look like. We actually did put a crane out there that showed the crane at that height so you'd get a perspective of where that is relative to the adjoining properties.

Chair Rohlf: Anything else? I get the sense that we're somewhat split down the middle, so I would ask that whoever is inclined to make a motion should go ahead.

Motion to approved Case 62-08 - Leawood South Country Club Sprint Wireless Communication Tower – Request for rezoning from R1 to Recreational with special use permit, preliminary plat, preliminary site plan, final plat and final site plan located at 3801 West 123rd St. with Stipulations 1 through 14 in the Staff Report was made by Jackson; seconded by Heiman. Motion passed with a vote of 4-3. For: Shaw, Jackson, Elkins, Heiman. Opposed: Roberson, Munson, Williams.

CASE 79-08 LDO AMENDMENT – SECTION 16-2-9.2 PERFORMANCE CRITERIA - LIGHTING; Request for approval of an amendment to the Leawood Development Ordinance.

CASE 80-08 LDO AMENDMENT – SECTION 16-4-5.7 - OFFSTREET PARKING – LIGHTING; Request for approval of an amendment to the Leawood Development Ordinance.

Chair Rohlf: We will combine these cases for the purposes of Staff Report and then have separate Public Hearings on them.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 79-08 – LDO Amendment 16-2-9 – Non-residential uses and Case 80-08 – LDO Amendment for 16-4-5.7 – Off-street parking requirements within office, commercial and industrial districts. The Planning Commission actually saw these amendments at its September 9th meeting and at that time, approved both of these amendments. They went on to the

City Council; however, at that time, Staff determined it would be necessary to add a clarification to these LDO amendments regarding the uniformity as far as how it was measured. As you recall, the uniformity ratio was being proposed at 4 to 1. That was part of the last LDO amendments that you saw previously. What we're adding in this one is a comment in parentheses saying that it will be measured as an average over minimum foot candles. That's the reason these two amendments are back before you. We had them remanded back to the Planning Commission at Staff's request so you could take that change into consideration. Basically both of these amendments were to accomplish three things. One was to ensure the hot spots weren't visible in parking lots, so by doing this, it allows cut-offs and also requires that lighting be directed in such a way as to eliminate that, especially from residential properties. In addition, it was also to clarify how light is measured with the foot candles. We've always had the .5 foot candles at the property line; however, this clarifies exactly how this would be measured on-site. We do have instruments that go out and measure these. The third purpose was to make sure the uniformity of lighting going across the site was uniform, as opposed to having many dark areas and some that were too bright. Staff is recommending both of these amendments and would be happy to answer any questions.

Chair Rohlf: All right, questions for Staff?

Comm. Elkins: Mark, can you explain for a layperson what the method of average over minimum using the initial foot candles really means?

Mr. Coleman: Mr. Elkins, I'd be glad to explain that. Basically they would take the point source of each of the lights and do the average foot candles measured at that 36" level over the entire site. Then that would be divided by the minimum foot candles generated by those point sources to give you the 4-to-1 ratio. There's another way of measuring that, and that's maximum over minimum, where they take the highest and lowest foot candle rating from those light sources and divide it. That usually would come out equivalent to about 15-20, but this one takes the average. It's a calculation of the average foot candles of the site at that level divided by the minimum foot candle on the site.

Comm. Elkins: Let me see if I get this straight – I take each light source and pull out my photo meter 30' away from it and then take the average reading from 30' away from each of the points of light?

Mr. Coleman: Each light source generates a certain number of lumens and foot candles, so they have an isometric map that would show you the foot candles at that particular level. When it's close to the light source, it might be 15 foot candles. As it gets out to the edge of it, it might be 1 foot candle. So they would take the average of those sources over the entire site and divide it by the least foot candle measured at that level to give it the ratio. The reason for doing that is that your eyes can see much better at night when you have a more even light distribution than if you have very high and very low light distribution. It's much safer in parking lots. If you have a parking lot that only has a few light fixtures in it, then you have very bright areas and very dark areas. Your eyes can't adjust very rapidly going in and out of those darker and lighter areas, which makes it less safe.

Comm. Elkins: Thank you.

Chair Rohlf: All right, anything else? These cases do require a Public Hearing with respect to Case 79-08. Is there anyone here who wishes to speak about this case?

Public Hearing:

As no one was present to speak, a motion to close the Public Hearing was made by Elkins; seconded by Williams. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

Chair Rohlf: With respect to Case 80-08, is there anyone here who wishes to speak about this case?

As no one was present to speak, a motion to close the Public Hearing was made by Elkins; seconded by Munson. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

Chair Rohlf: That takes us up to any additional comments we would like to make, and I believe we need separate motions on these cases.

Motion to approve Case 79-08 – LDO Amendment 16-2-9 – Non-residential usage was made by Roberson; seconded by Munson. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

Motion to approve Case 80-08 – LDO Amendment 16-4-5.7 – Off-street parking requirements and office, commercial, industrial districts was made by Roberson; seconded by Williams. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

NEW BUSINESS:

CASE 66-08 – BI-STATE CENTENNIAL PARK LOT 12 – Request for approval of a preliminary site plan and final site plan; located north of 141st Terrace and west of Cambridge, within the Bi-State Business Park Lot 12.

Staff Presentation:

Senior Planner Jeff Joseph made the following presentation:

Mr. Joseph: Madame Chair and members of the Commission, this is Case 66-08 – Bi-State Centennial Park Lot 12. The Applicant is Judd Claussen with Phelps Engineering and is requesting approval for a preliminary and final site plan for the construction of a one-story building with 5,980 sq. ft. on 1.66 acres for an F.A.R. of .12 and for future expansion of the same building space up to 11,492 sq. ft. for an overall F.A.R. of .23. This property is directly north of the Kiddie Daycare that was approved five months ago. There are warehouse buildings that were approved adjacent to the east and west of this property. Staff would like to remove two stipulations: Nos. 4 and 5. Since the Applicant is providing landscaping around the building, Staff would like to remove Stipulation No. 4 regarding the real stone versus the cultured stone. The Applicant has attached the trash enclosure to the building, so Stipulation No. 5 is no longer necessary. Stipulation No. 21 will change to, "The property owner agrees to a statement acknowledging in writing that they agreed to Stipulations 1 through 21."

Chair Rohlf: I would point out that we have a copy of Jeff's memo that was handed to us this evening.

Mr. Joseph: Staff is recommending approval of this case with the stipulations stated in the report. If you have any questions, I'd be happy to answer them.

Chair Rohlf: If I remember, Jeff, this park has design guidelines. Is that right?

Mr. Joseph: Correct.

Chair Rohlf: And if I remember, there were zones established for various buildings.

Mr. Joseph: There is a transition zone and also the Kenneth Road Corridor.

Chair Rohlf: And this would fall into that transition zone?

Mr. Joseph: Yes.

Chair Rohlf: And it meets all the criteria that are set out in their guidelines with respect to buildings in that zone?

Mr. Joseph: It meets all the criteria except for the 20% stucco requirement on the west elevation. That's because they are planning to remove that west elevation and expand to that site in the future.

Chair Rohlf: I do have a question for the Applicant about the timing of that, and so I'll follow up with that.

Mr. Joseph: Everything else meets the requirements.

Chair Rohlf: All right, I'll note that there are a couple of deviations in this particular plan. I know one of them doesn't apply because this project was prior to the ordinance, but there was one other one. Is it the setback?

Mr. Joseph: It's the 5' setback on the north property line. The minimum setback required is 10' for parking, and they are requesting a 5' setback just on the turnaround section of the parking area, which is just a smaller section.

Chair Rohlf: So you're fine with that?

Mr. Joseph: Staff is comfortable with that.

Chair Rohlf: All right, does anyone else have questions for Staff?

Comm. Elkins: Jeff, on the removal of Stipulation No. 4, I presume the design guidelines for the park permit the cultured stone?

Mr. Joseph: Yes.

Comm. Elkins: I understand that through the use of landscaping, the intent is to protect that cultured stone. I guess I would ask it this way: what has Staff's experience been with the weathering of the cultured stone over time?

Mr. Joseph: Actually Staff had some issues with cultured stone before. Some of the buildings in Cornerstone have stone falling off. The Applicants are saying it's probably caused by installation problems, so Staff has been recommending real stone versus cultured stone. In this case, the previous case before you proposed cultured stone, and the Planning Commission agreed to a landscape buffer around the building to protect the cultured stone. That's the reason Staff is supporting this application.

Comm. Elkins: Thank you.

Chair Rohlf: Any other questions for Staff?

Comm. Jackson: Jeff, can you point out where the turnaround is and where the 5' is necessary?

Mr. Joseph: (*Places the site plan on the overhead*). Here's the property line – the dashed line. The parking setback is right here at 10'. The Applicant is proposing this turnaround, which is 5' and is encroaching into the setback.

Comm. Jackson: So it's only that area?

Mr. Joseph: Yes.

Comm. Jackson: So how many feet is that?

Mr. Joseph: Probably 40'.

Comm. Jackson: That's all I had. Thank you.

Comm. Elkins: Before you take your plan away there, (*inaudible comments due to microphone being turned off*) could you tell me what is to the north? Is there anything planned?

Mr. Joseph: There's nothing to the north.

Comm. Elkins: But eventually there will be something there, hopefully.

Mr. Joseph: Lot 13. This is the site, and to the north is just a vacant piece of property at this time.

Comm. Elkins: Thank you.

Chair Rohlf: Is there anything else for Jeff? All right, we'll hear from the Applicant.

Applicant Presentation:

Judd Claussen with Phelps Engineering, civil engineer for the project appeared before the Planning Commission and made the following comments:

Mr. Claussen: With me tonight are Tim Hass and Doug Worth, principles of Power Specialties, which is the business that is proposing to build on this property and also Randy Meyer, who is the architect for this project. Any of us will be here to answer your questions tonight. As you saw on the aerial here, basically there's the site. (*Refers to aerial plan of the site*) It sits on the northwest corner of 151st and the newly constructed Cambridge cul-de-sac right here. The heavy line around it is the 500' buffer. It actually just encompasses pretty much that entire business park property right there, giving you an idea where this site sits in relation to some of the adjacent properties. I'll give a little history. We've been through several site plan revisions and building elevation revisions. We've been working hard with Staff over the past few months to address concerns they brought up and some of our own concerns about how the site operated and functioned. As part of that process, we had a Public Information Meeting. We had one person show up who had three questions about how the business operated, and that was it. Really, there is no controversy here as far as we can see. Briefly, I'll throw up the landscape plan to give you some orientation of some of the site features. (*Places landscape plan on the overhead*). The entry to the building is at the southeast corner here. There will be one drive coming in off 141st Terrace. That was actually one of the controversial items that we had kind of worked through with Staff. Initially we had it over here, and it now aligns with the driveway to the south. Here's the newly construction Cambridge circle cul-de-sac. There will be a driveway off that as well. The main parking is around the south and east sides of the site. For deliveries, typically they would have a UPS truck come to the site a couple times a week. It would come in off the back side of the building here along the service drive. There will be an at-grade delivery door on the north side, at the northwest corner of the building. The trash enclosure is located at that same location.

(*Places First Plat diagram on the overhead*) The project is about 5,000 sq. ft. or so. The owners do intend to be able to expand sometime in the future. That was part of choosing this site, and it's shown in this heavy dashed line right here. That was the west side of the elevation of that building as the variance on the stucco part. That would be addressed with the future building expansion. To give you an idea of that setback, we looked at it and discussed it with Staff. I just want to make sure we have given the UPS and trash drivers as much room as we possibly can to make sure they have room to back into this. What you see here is basically an auto-turn template of a 30' box truck coming into the site, making that turn and coming out of the site. That's why we're asking for that, and we feel it's useful and of very minimal impact to surrounding properties, which have not developed yet, by the way.

(*Places First Plat diagram on the overhead*). The only other thing I'd like to add at this point is on your stipulations that you have before you tonight. Regarding Nos. 4 and 5, the Applicant has worked with Staff and has supported them. On No. 8, we had a concern there. It talks about a 3' high berm that's required. (*Places site plan on the overhead*) What you see here is the Site Grading Plan, and each of these lines is the 1' contour for the site. The site rises about 12' from the back corner of the site to the street, so we do have quite a bit of grade actually across what would normally be considered a pad site. As you come in off 141st Terrace, which is on the low end of the property, you come up the drive to the main part of the building situated in the mid-level of the site and then from there, things start going back up again. This parking right in here is the area of concern, I think. The stipulation reads that we are to provide a 36" tall berm with no more than 3-to-1 slopes. What the owner had preferred is to lay out a berm with a slightly gentler slope of 4-to-1 or 5-to-1 and bring it up to the edge of the

parking right there. This parking lot sits up about 4' or so from the street. This request to remove this stipulation would be consistent, I think, in talking with Staff as far as what had been requested on some of the other properties there as far as we understand. We also agree to work with Staff to make some minor tweaks in the landscaping. Staff pointed out a couple of trees that still need to be added, and we agreed to work with Staff on tweaking the plan before our final building permit. With that, we'd ask that Stipulation No. 8 be removed or at least modified so that we could comply because we couldn't physically grade a 3-to-1 slope with a 36" tall berm to make that work. With that, any of us will be ready to answer any questions you may have. Thank you.

Chair Rohlf: So you are comfortable, then, with the remaining Staff recommendations No. 6, and 7; and I guess we need to get a clarification on No. 8 before we make a decision to whether we will keep that in.

Mr. Claussen: Yes, and regarding No. 6, I think we were missing two trees or something like that. We are definitely willing to make that comply before building permit submittal. Then on No. 7, I think there were a couple of lights in the back along the north end of the drive that were a little too high on the photo counts, referring to that previous ordinance you just passed there. We definitely have no problems complying with that.

Chair Rohlf: All right, tell me a little bit about this future expansion. I would hate to leave that west wall for a significant time, but tell me what's going to fuel that and when.

Mr. Claussen: I might defer to the owners.

Chair Rohlf: That would be fine.

Tim Hass, President of Power Specialties, 17707 Antioch Road, Bucyrus, KS, appeared before the Planning Commission and made the following comments:

Mr. Hass: As Judd was getting ready to mention regarding the west elevation and the expansion, we have not made immediate plans to expand the existing building from 5,900'. We initially had a contract written with the Sailors Company on a lot that was actually on the state line on the Missouri side. As we developed the building site and designed a building in conjunction with Strickland Company, we soon discovered that the site wasn't wide enough for what we wanted to achieve; so we moved across the street and onto the Kansas Side. One of the things in the back of our mind was, "We're paying \$150,000 more to be in the same development," so we wanted to have the ability in the future to expand our business. We've been in business for 40 years, and currently we have six people who report to this 6,000 sq. ft. building. The company really has maintained very consistently in terms of our number of employees, and we're not in a high-growth industry. We're growing at about 10-15% per year.

Chair Rohlf: So it is dependent upon whether you would need additional space? At 10-15% a year, how many years would it be before you might need that?

Mr. Hass: I would hope in that time frame of 5-7 years.

Chair Rohlf: Then I would ask Staff what we would want to do on that west side. Would that be an appropriate length of time to keep that western side?

Mr. Joseph: Again, it's up to the Planning Commission. Five years from now, they'd have to come back before you with a final site plan that will show all the elevations and everything for the new expansion.

Chair Rohlf: But in the meantime, it would be at that 95% stucco?

Mr. Joseph: Correct.

Mr. Hass: If I might add, initially as Judd had referred to, we had discussions with David regarding our entrance not lining up with the Sailors' building directly across 141st Terrace. Due to the fact that the Kiddie Daycare was approved prior to our building, the entrance to the Kiddie Daycare, our proposed entrance and the Sailors' entrance were at three different points along 141st Terrace. We initially had our overhead door and our deliveries occurring on the west side of our building, and we've since moved that to the north side of the building and moved our entrance on 141st Terrace farther east to accommodate the safety concerns of Mr. Ley. The whole west exposure of our building, as you can tell from our landscape plan, is well screened with the tall trees. In fact, we have more tall trees than are required - I think we list 14, and I believe only 12 are required. As Judd had mentioned, we are going to locate another one of the tall trees right where he is showing. (*Mr. Claussen refers to the landscape plan on the overhead*). Jeff Joseph and I have discussed putting another tree here and right here. As you can see, the west side of the property is very well screened, and the stone does wrap the side of the building and is landscaped.

Chair Rolf: That's all I had. Does anyone else have questions for the Applicant?

Comm. Elkins: Again, without getting into specifics of dollars, percentage-wise, how much expense does using real stone add over the cultured stone that Staff's agreed to put into this spot? Is it double? Is it half again as much?

Mr. Hass: By no means am I an expert. Todd or Randy may know, but I know it's \$16.50 per sq. ft. for installation of cultured stone.

Unknown speaker: It's four times.

Mr. Hass: Four times for real stone, and the primary reason is you have to have an extended footing. You have to set stone on top of a concrete footing; whereas, cultured stone basically goes on top of a masonry lathe-type structure.

Comm. Elkins: Thank you.

Chair Rohlf: Before we move on, Jeff, do we have any concerns with modifying No. 8 in any way on the berm issue?

Mr. Joseph: Again, that's a requirement from the LDO under the landscape section. Basically it doesn't allow the headlights of the cars to shine outside the parking lot as the primary purpose for that stipulation. Again, there's no residential on the south side of the street. We have allowed deviations within this Bi-State development since there were a lot of easements in the properties, which we previously allowed.

Chair Rohlf: So it could be appropriate for them to work with Staff on getting the appropriate height there?

Mr. Joseph: Correct.

Chair Rohlf: All right, does anyone else have a question for the Applicant? I guess not. Thank you. We're up to our final thoughts on this project and discussion or a motion.

Comm. Roberson: Public Hearing?

Chair Rohlf: I'm sorry - this does require a Public Hearing. Is there anyone in the audience who wishes to speak about this case?

Public Hearing:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

Chair Rohlf: Now that takes us up to any comments that you would like to make.

Motion to approve Case 66-08 – Bi-State Centennial Park Lot 12 – Request for approval of preliminary site plan and final site plan, located north of 141st St. and west of Cambridge within the Bi-State Business Park Lot 12, deleting Stipulations Nos. 4 and 5 and modifying No. 8 to allow the Applicant to work with Staff was made by Heiman; seconded by Williams. Motion passed unanimously with a vote of 7-0. For: Shaw, Roberson, Jackson, Munson, Williams, Elkins, and Heiman.

MEETING ADJOURNED