

**City of Leawood
Planning Commission Minutes
January 27, 2009
Meeting - 6:00 p.m.
Dinner Session – No Discussion of Items – 5:30 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160**

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

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Jackson, seconded by Elkins. Motion approved unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

CONTINUED TO FEBRUARY 24, 2009 MEETING:

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 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 03-09 – ZIPZ CONVENIENCE STORE WITH GAS STATION AND LIQUOR STORE – Request for approval of special use permits for a convenience store with gas station and packaged liquor sales, located south of 135th Street and west of Roe Ave. **PUBLIC HEARING**

CASE 04-09 – TOWN CENTER BUSINESS PARK LOTS 4, 5 AND 6 – Request for approval of a revised preliminary site plan, located at the northeast corner of 117th Street and Roe Ave. **PUBLIC HEARING**

Applicant statement regarding reason for the continuance of Case 04-09 – TOWN CENTER BUSINESS PARK LOTS 4, 5 AND 6 – Request for approval of a revised preliminary site plan, located at the northeast corner of 117th Street and Roe Avenue.:

Mr. Peterson appeared before the Planning Commission and made the following comments:

Mr. Peterson: Madame Chair, thank you for this accommodation. I appreciate it; it is a bit out of the ordinary. I am appearing this evening as the applicant on behalf of the property owner and the proposed developer for the property that is the subject of Case 04-09 – TOWN CENTER BUSINESS PARK LOTS 4, 5 AND 6 – Request for approval of

a revised preliminary site plan, located at the northeast corner of 117th Street and Roe Avenue. As you may recall, this property was the subject of rezoning and revised preliminary plan application some time back involving a Walgreens drive-thru facility as well as an office up the road. In the wake of the Planning Commission hearing and the City Council, by agreement with the Planning Staff and Legal Department, we conditionally withdrew that application and resubmitted the pending application for a revised preliminary plan which, just as my statement, adheres to each and every issue that was discussed and evaluated during the previous application. Here's the point and the reason for my taking your time: we, for the record, object to this continuance. This is not our requested continuance. We were ready and have been preparing for the last six weeks to have our case heard at a Public Hearing before the Planning Commission tonight in accordance with the city ordinances. We filed that application on December 23rd of 2008. On December 31st, we began to initiate conversations with our neighboring homes association. On January 2nd, we mailed notice of an Interact Meeting to 440 residents to the City of Leawood and copied the city. On January 6th, we mailed certified notice letters to 424 residents to the City of Leawood and the city, noticing of our Public Hearing for tonight. Those two notices that are required by your ordinance resulted in mailing costs of over \$2,500 to the Applicant. January 6th, the City of Leawood itself published ordinance of this Public Hearing in the legal record. We had our neighborhood meeting on January 12th, brought all of our neighbors in and went through all the elements of the process.

As we began to move toward a hearing, we had not heard from Staff and had not had any requests to come in and discuss any issues. I thought there was one element that I should check on: the traffic study that was performed on the old plan and if it needed any freshening. I directed the traffic consultant that we're utilizing – Transystems – on January 8, 2009, to contact City Staff and ask if we needed to provide any additional information regarding the traffic study. As of January 13th, we had still not heard any response from Staff about the traffic study. I again asked Transystems to inquire about any additional information needed regarding the pending application. On January 14th, Mark Klein left my legal assistant a voice mail indicating that the City Manager had decided to continue our application, and thus we would not be heard and would be continued to the February 24th hearing for the Planning Commission. I immediately wrote a letter on January 16th objecting to that continuance and requested we be put back on the agenda. I've yet to receive a response to that letter. What I did finally receive is an e-mail from the city's traffic engineer on January 21st indicating that they would need a full-blown traffic study before proceeding. Thus, I appear before you tonight with that factual background wondering why, on basis of equity and reasonableness, my application would be continued. I never requested it to be. I was never notified why it was being continued, and only two days prior to the date of the hearing was I advised, in any way, that my application was insufficient to be heard. I don't like inconveniencing the citizens of the City of Leawood in terms of notice. We received irate voice mails and e-mails because if they're not there, they have to go to the post office to get them.

I now come over to the legal side, and I'm sorry to inconvenience you with this because you had nothing to do with it. There is no legal basis to continue this application. I understand it's not going to be heard since you don't even have a Staff Report. If, for whatever reason, Staff wants to make a recommendation because you didn't have a traffic report, they can recommend to you all that you deny our application on that very ground. I would ask with the utmost respect to this Commission that you direct your

professional staff that supports you to be ready to make their recommendation on February 24th. I would also ask that it be reconfirmed that we will be heard on that night in the order in which the application was received or whatever basis is normally used by the City of Leawood to determine how people are placed on the agenda, knowing that matters are not heard if there is not enough time. If there are any questions, I'd be happy to answer them. Thank you very much. I'd ask that this timeline be placed in the public record as part of this pending application.

Chair Rohlf: In response to Mr. Peterson's statement, I would just ask, Mark, is there any reason why we would not reach that matter on the 24th of February?

Mr. Klein: I don't have any knowledge at this point of why that would be.

Chair Rohlf: We will move on and take it up at the meeting on the 24th.

APPROVAL OF CONSENT AGENDA:

Motion to Approve CONSENT AGENDA: CASE 05-09 – MISSION FARMS – VICO'S TENANT FINISH – Request for approval of a final site plan, located at the northeast corner of Mission Road and I-435 was made by Williams; seconded by Roberson. Motion approved unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

NEW BUSINESS:

CASE 82-08 – CITY OF LEAWOOD CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2010 – 2014 Capital Improvements Program. **PUBLIC HEARING**

Staff Presentation:

Joe Johnson, Public Works Department Head, and Kathy Rogers, Finance Department Head, appeared before the Planning Commission and made the following comments:

Mr. Johnson: Hopefully everybody received a copy of the 2010-2014 CIP. If there are any questions with regard to the project, I'd be happy to answer those. Kathy Rogers is here from the Finance Department if there are any questions regarding financing or bonding of these projects.

Chair Rohlf: Just for some of our newer commissioners, page four of the overview sets out in that second paragraph under "Capital Improvement Program" the responsibility of the Planning Commission with respect to this document. If anyone has any comments about the projects that are listed in this Capital Improvements Program or any other questions?

Comm. Neff-Brain: I have just one question on the projects that have TDDs. Are those projects also backed with an improvement district, or are they just TDD? My concern is with revenues down.

Miss Rogers: They are backed with a special benefit component as well as a sales tax component. However, in any event, they'll have to meet a revenue test before any

transaction would occur; so the city isn't obligated until certain revenues are met by the project to even start the process.

Comm. Neff-Brain: So you don't have these TDDs created.

Miss Rogers: They're created, but they are not temporarily financed. The developer is financing it until they meet certain benchmarks. I think one highlight that should be made is the 143rd St. project has been proposed to be delayed until 2015; the reason being the economic uncertainty of the moment. That project was anticipated to be about \$23 million, of which \$3 million could possibly be federal funding; but only half of that was on the approved schedule because federal funding schedules overlapped, and the new ones are not done yet. It was recommended at the Council, pending the current economic situation, that we delay that project and proposed bringing it out to construction in '14 and bonding in '15. That is a big dollar change in this single largest project that was remaining in the current period. In addition, a few other minor changes were made. The reconstruction program for the five-year period was anticipated to be \$10.5 million; we've reduced that back to \$9 million. Storm water was expected to be \$5 million; we reduced that to \$3.5 million. Those were part of the Annual Accelerated Reconstruction Programs. We'll still be doing mill and overlay and seal coating at the same level. We're still anticipating that the cars program will be funded for the arterial programs. The goal was to have the document approved by the Council in January at their work session before we came here tonight, but they wanted to have some additional time before making that final decision. They will meet again on it in March, but it does not prevent the Planning Commission from fulfilling its role in this process in having this Public Hearing tonight.

Comm. Neff-Brain: I was trying to count up the mill levy increases. It looks like there are three years where there will be a 1%, but then there was also ½-cent storm drainage.

Miss Rogers: ½ cent was proposed for curb repair and median repair. That would be a brand new program with no funding source, so we were suggested to Council to raise the mill by .4, to change priorities or to postpone that. They wanted to think about that a little and think about how some of the end-of-year financial indicators would come in as far as the city's books and see how the new year is starting off with assessed valuations. That's part of their reason for meeting again in March. These decisions have not been made, but they are part of the number factors in making capital improvements as well as operations maintaining at accelerated levels in this case. Thank you.

Comm. Jackson: Has the county given any indication as to how much the assessed valuations will change?

Miss Rogers: We had a meeting with the assessor in early January, and they said these are preliminary figures. It is pretty much even or plus/minus 1 or 1.5% either way. In addition to that, we did have quite a bit of new construction, which is in addition to the revaluation portion. They will plan to have the numbers at the end of February, and we'll meet with the mayor and city administrator on the closer-to-final numbers. At that point in time, appeals process is open to citizens and extends through June. I think they have taken a serious look at some of the increases over the past few years, particularly in the north part of the city. They are definitely tempering that and are aware of recent prices and such. That's as much information as I know.

Comm. Jackson: Then as far as when streets get developed – Mission Road, 143rd, 151st – does that impact any of the developments that are in process or that have been approved?

Mr. Johnson: No, development that occurs along the improved thoroughfares for Mission Road and the street south of 135th Street is actually paying an impact fee so that when the city does approve it, there's not an assessment that occurs to go back to the developer or property owners. We take into account when they come in the right-of-ways being dedicated so that when we do build the road, we have the right-of-way easements for that.

Comm. Jackson: Is it multi-use at the southeast corner of 135th and Mission? Is that being held up before roads get finished in there? Does that have anything to do with why they're not building yet?

Mr. Johnson: No, the road's improved all the way to 140th St. We've got a section left that we'll construct this year that will take Roe down to 143rd St. as a two-lane street. Those are the only improvements left to do on Roe. Any developments along the 135th St. Corridor or Roe are not impacted one way or the other with or without the improvements to the roads.

Comm. Jackson: And same with Mission Road?

Mr. Johnson: Correct.

Chair Rohlf: Along those lines, on some of these commercial projects, I've noticed in years past we've had an additional funding source from the developers. Would any of these items in here possibly be funded by the developer? I know I was looking at the buried utilities at 135th Street, although I don't know what section that is.

Mr. Johnson: Actually the buried power lines would be 135th Street from Fontana east to State Line Road. That would finish burying the power lines along the Leawood Corridor. Actually, it's funded under a TDD, the cost of which would be assessed back to those properties along 135th Street. They are working together to try to make that happen.

Chair Rohlf: We could have some additional funding, then, on things like the signal?

Mr. Johnson: Well, the project there is to construct a third eastbound lane and then to bury the power lines. The road widening is under a special benefit district which the city backs and would be assessed to the property owners. The TDD is all on the landowners, and it's something they will place privately once the work is completed.

Comm. Neff-Brain: So there is enough retail planned to be along there to cover a TDD? That's sales tax based.

Miss Rogers: No, that wouldn't be a sales tax; that would only be a property tax-based special.

Comm. Neff-Brain: So it's a special assessment, not a TDD.

Miss Rogers: It's a TDD backed with special assessment legislation.

Comm. Neff-Brain: I thought these had to have retail backing and sales tax increase.

Comm. Elkins: Just to put the 143rd St. development into context, can you refresh what the schedule was in last year's Capital Improvement Plan for the 143rd St. improvement?

Mr. Johnson: There are actually two phases: Phase One is in 2010, which is to improve 143rd St. from Nall to about 1,000 feet east of Mission Road, crossing the school. Phase Two is in 2012, which is to start at Windsor just east of the school and take it all the way through Kenneth Road.

Comm. Elkins: The plan is to move both Phase One and Phase Two to 2015?

Mr. Johnson: The road project is too long to be a three or four-year project, and so we'll still phase it two years apart. It allows us a better opportunity to get more federal aid for each phase. The phase in 2010 would be construction in 2014-2015, and then 2016-2017 would be the final phase.

Comm. Elkins: As a result of that recommendation to defer the 143rd St. improvement, have other projects been re-sequenced as a result? Relative to the other projects, what impact does this have?

Mr. Johnson: It did make some modifications to the reconstruction program, where we did \$2.5 million, \$1.5 million, \$2.5 million. We were doing 2009 and 2010. We will not do 2011 or 2013. 2012 and 2014 will be funded at \$2.5 million, which reduces the overall program by \$1 million. The other change that Miss Rogers talked about was the reduction in what we're calling the Accelerated Storm Water Program. Originally it was looked at as \$1 million a year; now we're looking at \$3/4 million a year for a four or five-year time frame. Those are the only changes.

Comm. Elkins: That's strictly a deferral of basically five years, correct?

Mr. Johnson: Correct, we're still working on it and will finish the design. We'll still do right-of-way plans and actually shelf it. If federal aid becomes available for us to take advantage of it, we'll have the plans available to submit and reduce the time frame by a year by having approved plans. We're still going through KDOT for their approval process so we meet all their conditions.

Comm. Elkins: And that leads me to the kicker question I'd like to get your comments on. If we're to believe the popular press, at least one part of trying to restart the economy is through infrastructure. How flexible do we need to be to be able to jump on that bandwagon if federal funds suddenly do appear somehow?

Mr. Johnson: We have actually submitted projects through the Mid-America Regional Council for the stimulus package. One of the projects is Phase One of the 143rd St. in the event that there's more federal aid to cover our cost. The downside of that is we're still a year out from construction just because we still have to go get the right-of-way. We have indicated that we're a year out and submitted that project along with two other projects including the Justice Center in case there is federal aid available to be taken advantage of.

Comm. Elkins: And then the extension of Roe goes on as scheduled, right?

Mr. Johnson: Correct, actually we'll construct and complete that this year.

Comm. Elkins: Are there any other major road extensions or expansions other than 143rd and the extension of Roe?

Miss Rogers: If you'll turn to page 54 and 55, the ones that the Council had somewhat approved as far as the commitment goes on page 54, we're back to the two portions in which the CIP year is now 2015 with a bond year of 2016. Then the other storm water and street reconstruction are also shown in the outgoing years. Those did not change; just 143rd. If you go to page 55, the other bigger projects that are yet to be completed in the city include 151st St. That did not change as far as a date goes. It's an uncommitted project by the governing body, meaning it's beyond the planning scope and the dollars have not been factored in. Then the Mission Road and Kenneth Road, 143rd to the south city limits complete the list of big projects to tie up the improvements per the master plan.

Mr. Johnson: Right, those four projects would be the last of the city's Thoroughfare Improvement Program.

Comm. Elkins: Thank you.

Chair Rohlf: Anyone else?

Comm. Jackson: As far as Gezer Park, that's uncommitted funds at this point?

Miss Rogers: The Council met in January and committed to the contract for Gezer Park in pay-as-you-go funds. That will be completed by April of this year.

Mr. Johnson: Actually Phase Two is under construction as we speak.

Comm. Jackson: Thank you.

Chair Rohlf: Any further discussion? There's a public hearing on this case.

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

Motion to approve Case 82-08 – CITY OF LEAWOOD CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2010 - 2014 capital improvements program was made by Williams; seconded by Elkins. Motion passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

CASE 92-08 – AT&T VRAD CABINET – 10342 LEE BLVD. – Request for approval of a special use permit, located at 10342 Lee Blvd.

Staff Presentation:

Melissa Cownie, City Planner, appeared before the Planning Commission and made the following comments:

Miss Cownie: Madame Chair and members of the Planning Commission, this is Case 92-08. The Applicant is Zach Zupan with AT&T. The Applicant is requesting approval for a special use permit to install a VRAD cabinet located at 10342 Lee Blvd. Staff is recommending approval of this application with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chair Rohlf: Are there any questions for Staff? All right, thank you. We will go ahead and hear from the Applicant.

Applicant Presentation:

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

Mr. Carroll: This application for you this evening is like many of the others we've had here before the commissioners for a utility cabinet located on the north side of 104th just west of Lee Blvd. as we expand our U-Verse, high-speed internet and video platform throughout the Leawood community. We've reviewed the stipulations as Staff has recorded. We concur with those stipulations. We've worked closely with Staff on the landscaping plans. We've met with several neighbors privately and one who attended the Interact Meeting. The property owner of the easement on which this cabinet will go has signed off of and approved the landscape plan. Several residents have stated this is welcome to their neighborhood, as they're anxious to have competition for cable TV services. With your approval tonight, we'll move forward with our construction and get it available to them as quickly as we can. I'm happy to answer questions.

Chair Rohlf: All right, do we have any questions?

Comm. Elkins: Good evening. I have a couple questions more generic to the program than to this particular application. Are we in the third year of the project to provide the expanded platform for the Leawood community?

Mr. Carroll: We began construction in the summer of '06. The legislation was passed by the Kansas Legislature in the spring of 2006, and so yes, this would be the third year of construction.

Comm. Elkins: Can you give me a ballpark idea of how many VRAD cabinets your company has installed in Leawood during that time?

Mr. Carroll: I don't know, but I can get that information.

Comm. Elkins: And really where I was headed with that idea is can you give us an idea of how near completion the project is?

Mr. Carroll: Great question, and I don't have that percent this evening. I will explain a little bit of our technology and how it works. I would think that we're on the high side of completion of the rollout of the placement of these cabinets. When we launched in the spring of 2007, we were only providing the high-speed internet and video and U-verse

voice (the voiceover IP platform) to residents within 1,800 feet of that cabinet. Then we gradually extended that to 2,200, then to 2,600, 2,800 and finally to 3,000 feet. Longer-term plans are to extend that reach limitation from those existing cabinets to 5,000 feet, which will almost double the reach limitation that we find ourselves with today. So with that extension and what we call pair bonding that will allow that extension, we think we can cover pretty much all the residents in the city without the need for a whole lot of new cabinets. I just asked the right-of-way engineer if he had any other in the chute to apply for new applications, and we don't at this time.

Comm. Elkins: Mr. Carroll, you may recall that the Commission has been concerned at various times of the landscaping to screen the VRAD cabinets, and your company has been very good at working with the neighbors to come up with screening that is acceptable to them. I've noticed in a couple areas, a fairly substantial percentage of the shrubs you put in place just didn't make it for whatever reason. Does AT&T have a plan in place where they'll go through and take a look at the VRAD cabinets that have been installed and improve or replace screening that's failed?

Mr. Carroll: That's a great question. We have an individual that we contract with to go around and maintain. As you know, your ordinances require us to maintain the landscaping at each of these locations unless, for example, in the ordinance, provisions allow us to reach an agreement with the property owner or homes association. In some cases – very few – we have done that and provided compensation for those individuals or associations to maintain it. We do our best to try to stand on top of that not only with that contracted employee, but through our own technicians, myself and other managers who are in the area. It's my understanding from talking to Mr. Klein that the city has an intern to look at not just these, but also at other Applicants' landscaping. If you, as an individual, see one, please give us a call and let us know. I would be your single point of contact, or reach me through your Staff. We will replace those that don't survive as we find or learn about them.

Comm. Elkins: Just to confirm that thought, you personally ought to be the single point of contact?

Mr. Carroll: For the City of Leawood, I am the single point of contact. I would suggest you go through Staff, who know how to reach me.

Chair Rohlf: I noticed on the Staff Report that there is another existing box which you do not own. Will that fall within your landscaping plans?

Mr. Carroll: There is a cabinet that we do own that will remain as is. It will be inclusive of the landscaping. It's my understanding that there is, perhaps, a control fixture for the electric lights that is at that site and will be circled within the landscaping. Mark's got a photograph of that.

Mr. Klein: Correct, it's a street light controller.

Chair Rohlf: And it will be within this new landscaping?

Mr. Klein: It is within the landscaping, yes.

Mr. Carroll: (refers to photograph) This is our service area interface cabinet, and this is the street light controller device that you were asking about.

Chair Rohlf: And then you'll be putting two more on that site, correct? No, that's an existing SAI box.

Mr. Carroll: Yes, the VRAD will be to the east of that cabinet, and all of that will be encircled with the landscaping.

Chair Rohlf: Does anyone else have any questions for the Applicant? This case does require a Public Hearing.

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

Chair Rohlf: That takes us up to any discussion we might have or a motion.

Motion was made to approve CASE 92-08 – AT&T VRAD CABINET – 10342 LEE BLVD – Request for approval of a special use permit with Stipulations 1 through 9 made by Elkins; seconded by Roberson. Motion passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

CASE 06-09 – MADDEN MCFARLAND INTERIORS – Request for approval of a revised final site plan, located at the southwest corner of State Line Road and 135th St.

Staff Presentation:

Melissa Cownie, City Planner, appeared before the Planning Commission and provided the following comments:

Miss Cownie: Madame Chair and members of the Planning Commission, this is CASE 06-09. The Applicant is Bernie Madden with Madden McFarland Interiors. The Applicant is requesting approval for a revised final site plan to install a new roof. Staff is recommending approval of this application with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chair Rohlf: Does anyone have questions for Staff? Then we'll hear from the Applicant, please.

Applicant Presentation:

Bruce Wendlandt of Wendlandt and Stallbaumer Architects appeared before the Planning Commission and made the following comments:

Mr. Wendlandt: We've been working with Bernie over a period of time, and there have been a number of drawings submitted to you on assorted projects for him. Just as a matter of record, I know when I came in tonight and picked up the agenda early and saw the way it was written, I talked to Mark about it. I would like to clarify that Bernie does not desire to change anything design-wise on any of those plans submitted. All he's asking is for approval on this roofing material. It's his request to use the DaVinci in the

brown shingle look. This is the panel that I have facing you directly (*refers to roofing panel sample*). There has been discussion with the city in terms of where he's going with this with all the other elements (*refers to photograph*). The other choices that have been made have been received well. We understand that this particular shingle is not on the list, and that's why we're here tonight to discuss it. It's a very residentially inclined structure, so this is what he feels is the most fitting for it. I tend to agree. Bernie has always been very polished in how he presents himself and his business; he's the gateway to this side of Leawood and has been here forever. That is where he is asking for approval on this product.

Chair Rohlf: So I don't understand. This particular sample is the color up there.

Mr. Wendlandt: Yes, this is the color. It's called Tahoe, and this is the actual profile (*refers to roofing material sample*). I can certainly bring it up close so you can see it. DaVinci is a local manufacturer here. Certainly we recognize them as one of the premier manufacturers of this type of product. Bernie is definitely bringing the best, high-end product to the deal.

Comm. Roberson: And it's made out of what?

Mr. Wendlandt: I'm not a chemist, but it's remanufactured, reclaimed products. It's a solid product and not a baked-on product.

Chair Rohlf: Mr. Klein, do we have approved simulated slate materials in the LDO now? Is that the accurate term?

Mr. Klein: This is simulated slate. We have an approved roofing list for residential roofing projects that's available on the website. As far as the roofing that is available on commercial sites, they always come through the Planning Commission as part of a final site plan or revised final site plan since it's an exterior change. The Planning Commission and governing body get to see that. The Applicant prefers to have a more residential look on the roof, so they would like the profile to be a cedar shake shingle-type of profile. That's the one that they're showing you right now. Staff isn't supportive of this application, and the reason is we've never really allowed wood shake shingles to be on commercial projects in the City of Leawood. We've always had the concrete tile or natural tile or something like that. Staff is actually supportive of having the DaVinci tile or the synthetic slate, except more in a slate profile, which is what I'll show you here (*refers to roofing sample*). This sample actually is a mixture of grays and browns. The difference between the two materials is the profile as far as what they're trying to replicate. One is trying to replicate a wood shake shingle; the other is trying to replicate the slate. The Applicant is proposing if they do go with the slate, that they use only this brown. This is what Staff is recommending in the Staff Report – the slate profile in the color brown and not the shake shingle that the Applicant just showed.

Chair Rohlf: So the product that you refer to as Number One of your Staff recommendation is that?

Mr. Klein: (*refers to roofing sample*) This is what Staff is recommending approval of in this color of brown, which is what the Applicant requested here. Actually what the Applicant truly would like to have is a more residential look on his building, which is the shake shingle profile.

Comm. Neff-Brain: Right, and I'm assuming they're both made of the same product but are just a different look.

Mr. Klein: It's a different profile. The reason for the change is that Staff has always wanted the commercial buildings to have a more commercial look to them, as opposed to a residential look. We've never really allowed, for instance, cedar shake shingles to go on a commercial building. Staff has always been supportive as far as using a more commercial look, which is more of the slate profile, as opposed to the shake shingle.

Comm. Roberson: Looks like a house to me.

Comm. Williams: I think that's the point – it is a house, not a Price Chopper or some of the other buildings that we have on 135th St.

Mr. Coleman: It is a house, but it's zoned commercial.

Comm. Roberson: We understand.

Mr. Coleman: Our concern is if you allow a shake roof to go on there, then it opens the door to asphalt timberline shingles, which are kind of a substitute for shake roofs in the city since they're very similar in look and profile. That's something we definitely don't want occurring in the City of Leawood.

Comm. Neff-Brain: But they'd have to come to the Planning Commission and Council to get that, right?

Mr. Coleman: Correct, but if one is allowed, then it sort of opens the door for others.

Comm. Roberson: But I don't think timberline has any resemblance whatsoever to the shake.

Comm. Williams: The timberline composition products are not allowed on a commercial application, right?

Mr. Coleman: Right.

Comm. Williams: So we're talking about a product that would be allowed on a commercial project.

Mr. Coleman: That's why we objected to the shake – because it looks like a residential shingle.

Comm. Williams: What is the predominant siding material on the structure?

Mr. Wendlandt: It's a horizontal coursed lapped shingle.

Comm. Williams: Shingle or lapped siding? From here I can't tell at all.

Mr. Wendlandt: (*refers to photograph*) It's a painted cedar.

Comm. Williams: So at least on the front of it, you have a substantial amount of stone on the first floor. The second-floor area that's exposed is an actual shingle material, which I'm assuming is a real wood material. In that regard, on the other side of the building, are those mostly shingles or a combination of stone and shingles?

Mr. Wendlandt: Predominantly shingles.

Comm. Williams: As an architect in some of the fine homes that you have designed and built around the community, where do you typically use a slate-look roof material?

Mr. Wendlandt: That was a comment that I was hoping to be able to address. I don't want to come off the wrong way. This structure is an entry point to Leawood. A slate roof is going to be much more of an old-world look or much more of a tailored look. I think that if you look at any structure, the preference would be to have it be a comprehensive whole as opposed to a series of disjointed pieces. It's our hope that we don't lose sight of what it really is. I think history has proven that Bernie has always maintained his property and presented the best possible image at all times. That said, about this structure, if you were to come to me and ask me as a professional, "What would you be doing?" I would not be coming out of the gate with a slate look on this structure. The analogy that I would use would be like me walking it with my corduroy jacket and a black top hat. The need for the black top hat is not there.

Chair Rohlf: Does anyone else have a question?

Mr. Pateidl: Question for the city, if I could. The DaVinci product has been approved for commercial structures because of its properties – weight, fire resistance and all the balance of that?

Mr. Klein: Actually it does have an ICC [International Code Council] approval. ICC is an independent testing organization, and the city requires that pretty much all the roofing material has to meet their requirements. We don't have an approved list for commercial buildings, other than they have to meet building code requirements. They can make an application as far as for a specific roofing material as long as it meets all the building requirements. The Planning Commission and City Council see buildings on an individual basis to see that the roofing material gets approved with that building as it is. For a residential building, we do have an approved list of roofing materials. Planning Commission and City Council would never see these.

Comm. Pateidl: Would a timberline product or wood shingle be ICC approved or on that list for commercial use?

Mr. Klein: Again, we don't have anything approved for the commercial use. As far as ICC approval, laminated composite shingles (such as timberline and grand manor) have an ICC approval. It's been the city's stance that we don't allow those types of materials on a commercial building because it has more of a residential feel, which is what Mr. Coleman was trying to get at as far as going down a slippery slope. We have had applications in which somebody wants to put an asphalt shingle on a commercial building. We've had situations in which they want to put on an actual wood shake shingle. The city has not been supportive of that because we've been looking for the commercial buildings to have more of a commercial look to them, which typically is the concrete tile, slates and that kind of thing.

Chair Rohlf: Does anyone else have questions for the Applicant? Thank you. Staff reports indicate a Public Hearing was not necessary since this is a revised final site plan. If we could move on to our discussion.

Comm. Elkins: Before we get to motion, I want to make sure that I'm clear and the record's clear. To look at the Staff Report, I thought the only issue was color: brown versus Tahoe. What I think I've gleaned from the discussion we've had is there are really two issues that we have to decide. One is the color issue, and secondly there's disagreement between the Applicant and Staff with respect to the shake versus the slate profile.

Mr. Coleman: Yes, we'd originally suggested a flat tile type of profile. We're willing to go to a slate profile, but we objected to the shake profile.

Comm. Elkins: Madame Chair, my perspective and my comments are very similar to Mr. Williams, I think, in that I'm having a hard time drawing the connection between the slippery slope that Staff seems to think is there with respect to commercial versus residential homes. Clearly this is a commercial building, but it has all the appearance of a residential structure. It certainly seems to me that the shake appearance and the Tahoe color is consistent with the architectural look of that particular structure. I certainly agree with staff that we don't want to go down a road where we end up with asphalt shingles on a traditional commercial-looking building, if you will. So I would be supportive of the application using the shake profile and the Tahoe color that they described in their presentation.

Chair Rohlf: Thank you, Mr. Elkins. Does anyone else have anything they'd like to add?

Comm. Neff-Brain: I just echo those comments.

Motion to approve CASE 06-09 – MADDEN MCFARLAND INTERIORS – Request for approval of a revised final site plan for a new roof located at the southwest corner of Kenneth Road and 135th St. be approved with the following changes to the stipulation Number 1: The applicant shall install the DaVinci Tahoe shake shingle roofing was made by Elkins; seconded by Williams. Motion passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

MEETING ADJOURNED.