

**City of Leawood
Planning Commission Minutes
March 24, 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, Jackson, Neff-Brain, Rohlf, Munson, Elkins, and Heiman. Absent: Roberson, Williams

APPROVAL OF THE AGENDA:

Motion to approve the agenda as amended was made by Jackson; seconded by Heiman. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

APPROVAL OF MINUTES:

Motion to approve August 26, 2008 minutes with a wording change from “Agenda” to “Minutes” was made by Pateidl; seconded by Elkins. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

Motion to approve September 9, 2008 minutes with a wording change from “Meeting” to “Minutes” was made by Munson; seconded by Neff-Brain. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

Motion to approve September 23, 2008 minutes was made by Jackson; seconded by Neff-Brain. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

CONTINUED TO APRIL 14, 2009 MEETING:

CASE 14-09 - PARK PLACE BUILDING G AND PARKING GARAGE B – Request for approval of a revised preliminary and final site plan, located north of 117th Street and east of Nall Avenue. **PUBLIC HEARING**

CONTINUED TO APRIL 28, 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**

CONSENT AGENDA:

CASE 12-09 – MISSION FARMS BUILDING B – EXCLUSIVE MD TENANT FINISH – Request for approval of a final site plan, located at the northeast corner of Mission Road and I-435.

Motion to approve Consent Agenda: CASE 12-09 – MISSION FARMS BUILDING B – EXCLUSIVE MD TENANT FINISH – Request for approval of a final site plan, located at the northeast corner of Mission Road and I-435 was made by Munson; seconded by Elkins. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

NEW BUSINESS:

CASE 13-09 – THE ESTATES OF OLD LEAWOOD – Request for approval of a revised final site plan, located at 8901 Sagamore.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 13-09 – The Estates of Old Leawood. The Applicant is requesting approval of a revised final site plan to amend the type and placement of the street lights and to change the design and location of the monument signs for the development. No other changes are being proposed with this application. The current preliminary and final site plans for The Estates of Old Leawood were approved by the Planning Commission on February 14, 2006 and by the City Council on November 5, 2007. I included a site plan to give you some reference as far as the layout. Originally it was approved to have a light fixture similar to what the City uses on the 135th St. corridor, which is a decorative light fixture with a flared head that droops down. The Applicant is proposing the same light fixture in black and has decided to use a different decorative light fixture that would be shorter and on a single monopole with a full cut-off. In other words, the light source itself would actually be mounted up inside the metal cap at the top and reflect down, instead of being located in the glass part of the bulb of the head of the light fixture, thus helping to avoid hot spots. The Applicant is also proposing to change the monument signs they are approved to have. The ones that they previously had were built into a retaining wall in Tract A on the west side of the development where the pool and a parking lot were supposed to be located. One was located at the north end of Tract A, and another at the south end. The Applicant is proposing to move the one at the north end across 89th St. closer to the lots within the developments, particularly Lot 1. That particular monument sign is changing from a stone retaining wall with the sign in it to a freestanding monument sign consisting of two pillars with “The Estates of Leawood” written in a concave pattern. The tallest portion of the monument sign would be one of the pillars at 8’ in height, and the other pillar would be about 6’ in height. The Applicant is also proposing to have a second monument located where the original monument sign is currently approved at the south end of Tract A. That one would just be a single 8’ column containing a plaque that says, “The Estates of Old Leawood.” Staff is recommending approval of the application with the stipulations stated in the Staff Report, and I’ll be happy to answer any questions.

Comm. Elkins: Mr. Klein, just to make sure I’ve gotten all my documents in order here, do I correctly understand that the Applicant has modified the proposal so the street lights are no longer in the islands of the cul-de-sacs?

Mr. Klein: Originally when we talked with the Applicant, they were playing with the idea of replacing the street trees in the middle of the cul-de-sacs with a double-headed light fixture. Staff wasn't supportive of that, and the Applicant reconsidered and decided that they also would prefer to have the trees in those islands as well. Their application as it stands still has the trees located there. I do have a stipulation that the trees will go in those center islands.

Comm. Elkins: And where will the street lights be located? I'm having trouble finding them on the map.

Mr. Klein: (*Refers to overhead plan*) You can see the circle areas illustrating where the Applicant is proposing to have the light fixtures. The height of the light fixtures is quite a bit different than what they had before, at 16', as opposed to what was previously proposed at about 35'.

Comm. Munson: The dots show where the light fixtures are?

Mr. Klein: Correct.

Comm. Munson: How far apart are they, generally speaking?

Mr. Klein: About 125' apart.

Chair Rohlf: Mark, are you familiar with the lights they would like to use now? Do we have any of them in Leawood?

Mr. Klein: They are fairly similar to the ones we have out in the courtyard of City Hall.

Comm. Munson: Are they comparable to what's in the neighborhood now? What's in the adjacent neighborhood?

Mr. Ley: Right now along 89th St., they're just 30' tall spun aluminum poles.

Comm. Munson: These are how tall?

Mr. Ley: I believe about 15'.

Comm. Munson: More residential in character.

Chair Rohlf: Mr. Elkins, were you finished?

Comm. Elkins: Thank you, Madame Chair, yes.

Mr. Coleman: Madame Chair, they're the same lights essentially that are used in Loose Park with poles in the fixtures. The actual light has a reflector that's different, but the poles in the fixture are the same.

Chair Rohlf: Does anyone else have questions?

Comm. Neff-Brain: Their proposal is to have just a little bit of their monument signs taller than the ordinance. Are you fine with that?

Mr. Klein: The ordinance allows 6' in height, but that's primarily in the Commercial. The Residential subdivision signs often are much taller than that. It's as approved by the Planning Commission and City Council.

Chair Rohlf: You recommended 6'?

Mr. Klein: Yes, Staff was initially concerned about the height of the monument sign. However, when we looked at it a little more closely, the monument sign is actually 8' by the pillars and dips down. The majority of it is actually below 5'. Staff is comfortable with what they're proposing.

Chair Rohlf: Does anyone else have questions for Staff?

Applicant Presentation:

Bill Whitaker, 6832 El Monte, Prairie Village, KS, appeared before the Planning Commission representing EOL Development, the developer of the project, and made the following comments:

Mr. Whitaker: We've been working with Staff on compromising on the street light location, and I think everybody's on-board with the actual fixtures we're going to use. We are requesting to have 10% of the sign 8' with the majority under the 6' level. I did go out and take numerous pictures of developments similar to ours, and I think our signs probably will be smaller than all of them, considerably so in some cases. That's our request to get what we have planned here as far as the sign. If you have questions material-wise, we have an architect here. Any specifics on the street lights, I have a representative here to address. We're open for any concerns.

Chair Rohlf: Questions for the Applicant?

Comm. Jackson: Mr. Whitaker, it looks like Staff recommendations and stipulations correspond with what you want on the project, correct? There's nothing limiting the height of the monument. Have you looked at the stipulations?

Mr. Whitaker: I know their comments were to keep it under 6'. We came in at 10', and now we're at 8'. Yes, we've looked at all the stipulations and agree.

Comm. Jackson: Thank you.

Chair Rohlf: Does anyone else have questions?

Comm. Munson: I haven't had the opportunity to look in that direction the last six months or so. What's the status of the development? Have you started building anything yet?

Mr. Whitaker: We have not. We've probably spent the last year and a half completing the infrastructure, and we have probably got about 45 days left to complete it. We're burying all the utility lines. We've had a lot of rain, and the utility companies are lagging a bit as far as we're concerned. I think everything's on-board right now, and in about 60

days, we could start a spec. home. We hope to come out of the box May 1st with a spec., but again, we've got to get the permits.

Comm. Munson: Do you have a sales booth?

Mr. Whitaker: We do not have a sales trailer; we have a construction trailer. We will get that sales trailer probably within 60 days, corresponding with timing of the spec. home.

Comm. Munson: Do they have to have a permit for the trailer?

Mr. Klein: It requires a special use permit.

Mr. Whitaker: We will come in and get that as soon as we're ready to go.

Comm. Neff-Brain: Are any of the lots sold?

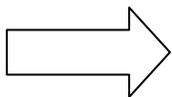
Mr. Whitaker: We do not have any of the lots reserved at this time.

Comm. Neff-Brain: They're all priced and ready to go.

Mr. Whitaker: They're priced and ready to go, but we can't sell until we get everything buttoned down utility-wise. We did get our plat recorded today. We have not pre-sold any homes, though.

Chair Rohlf: Does anybody have any other questions? Thank you. This takes us to our discussion. If we have no comments, then I would ask for a motion.

Motion to recommend approval of Case 13-09 – Estates of Old Leawood – Request for approval of a revised final site plan, located at 8901 Sagamore with the seven stipulations recommended by Staff was made by Elkins; seconded by Munson. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.



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

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 04-09. The Applicant is requesting approval of a preliminary site plan for a drug store and three retail buildings. The project will consist of 29,850 sq. ft. of construction on 4.64 acres for an F.A.R. of .15. As the Planning Commission may recall, there was another application located at this intersection that also included a drug store at the corner of 117th St. and Roe and another building for Discover O to the east. This is a new application proposing a drug store at the corner of 117th St. and Roe; however, this does not have a drive-thru. As a result of that, there is no requirement for a rezoning or a special use permit, which was the subject of the previous application for this property. The Discover O building has gone away, and there are three one-story retail buildings located at this site. The application does meet the requirements of the Leawood

Development Ordinance. I included a table on Page Two that indicates with an asterisk from what portions of the Leawood Development Ordinance this application deviates, including interior structure setback of 10' with 0' being proposed. This is not an uncommon situation throughout a lot of the commercial developments we've had as far as property lines running through a common building when you have two different tenants. The deviations also include interior surface parking setback. The requirement is 10', and they have a setback of 0'. The drives connect throughout the entire development, and this is also not uncommon in the commercial developments. They do have a property line that runs through one of the buildings; however, at the time of final site plan, the Applicant would be required to have a final plat to rectify that situation. That's actually listed as a stipulation. Staff is recommending approval of this application with the stipulations stated in the Staff Report, and I'll be happy to answer any questions.

Comm. Neff-Brain: Mark, I have a question about the signage. You say a maximum of two signs is permitted on the building. I know that's more than one building, and you've got four tenants. Explain that to me.

Mr. Klein: It's actually something we've run into a number of times when we have a multi-tenant building. We've always allowed the multi-tenant buildings to have a minimum of one sign per tenant along the frontage of the building. Occasionally you might have two signs per tenant, depending on the location; but it's something approved by the Planning Commission and City Council.

Comm. Neff-Brain: How would we handle that tonight?

Mr. Klein: The signage, lighting and landscaping is all approved at the final site plan, so it's just being listed as a concern that would have to be addressed at the time of final.

Comm. Neff-Brain: All right.

Chair Rohlf: The Staff Report is pretty clear on what issues we'll be taking up at final. There are some Staff comments that we would want to consider, and I think if there's anything we would want to pass along to the Applicant, this would be the appropriate time to do that as well. Any other questions for Staff?

Comm. Munson: How far from the intersection at 117th St. and Town Center Drive is the right-in, right-out access on the east side of Roe?

Mr. Ley: It's approximately 260'.

Comm. Munson: And what's the speed limit on Roe now?

Mr. Ley: 45 MPH.

Comm. Munson: Is this a shadow lane that will get the car out of the way of following traffic, or is that just a modification of the curb line there?

Mr. Ley: They are proposing a 150' right turn lane, so vehicles entering the site would get out of the thru-lane movement.

Comm. Munson: I was struck by the idea that the right turn lane could be an invitation to a drive-thru at a later date. Is this a strategy, or am I worrying about something I shouldn't be?

Mr. Klein: If they did come back with the drive through, they'd have to come back to the Planning Commission and City Council for a special use permit.

Comm. Munson: I know all that, but the die is cast with that turn-in, turn-out.

Mr. Klein: I would think that the Planning Commission and City Council would probably have the ability to hold fast and say, "No drive-thru" if that's what they wanted.

Comm. Munson: Thank you.

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

Applicant Presentation:

John Petersen with Polsinelli, Shalton, Flanigan and Suelthaus appeared on behalf of the Applicants, Carl Caps and Jim Harpool.

Mr. Petersen: The owner and proposed developer of this property are also present, along with Chris Chancellor with LUTJEN and Associates, who has served as our civil engineer for the project. Since we've seen you last, we've made some significant revisions in terms of the issues that caused most of the attention from the Planning Commission and City Council, namely the fact that we have eliminated a drive-thru pick-up window request as part of the pharmacy operation. This brings us to a revised preliminary plan from the currently approved plan which reflects retail utilization very similar to those being proposed this evening. We have less square footage and a little lower F.A.R. Since working with our planners, Staff has a strong recommendation for approval based on the fact that we meet each and every design guideline and ordinance of the City of Leawood. We have had an opportunity to review Stipulations 1-29 proposed by Staff, and we acknowledge and accept each stipulation. They have highlighted four dealing with the fact that we will have additional work to do in terms of the elevations at final plan in Stipulation 6; we acknowledge that. In Stipulation 10, in terms of pedestrian crossways within the project, Staff requests we have demarcation elements there in the way of a different type of paver systems as you see in some of the new shopping centers. We acknowledge that. Stipulation 22 goes to the issue of signs, and we understand regardless of what we're showing on any preliminary plans, we'll be required to come back with a complete signage package that will need to adhere to the requirements to the City of Leawood. We acknowledge that. Finally, in terms of the common property line, Stipulation 26 indicates that at time of final plan, we will also bring before the Commission and City Council a final plat, which would remove that property line and thus the issue. With that, we are pleased to bring this revised preliminary plan before you. My final comment regarding the issue of the deceleration lane for the right-in, right-out at Roe Avenue is that I will acknowledge for the record that we would, in no way, rely on the fact that we're given a deceleration lane as any kind of precursor or precedent being set for any future application for a special use permit for a drive-up window. I'd be happy to answer any questions.

Chair Rohlf: I do have one, Mr. Petersen. Have you had a chance to read the City Engineer's comments and all the various items listed in the Staff Report? Mr. Ley, I don't know if these are similar to what we had before or if they've changed a little bit, given the configuration of the plan.

Mr. Ley: They are similar to before, and I also would like to make a correction. I stated the right-in, right-out was 260', and it's actually 360'. They did move that right-in, right-out a bit farther north than the previous plan.

Comm. Munson: 360'?

Mr. Ley: Right there is 360' north of Town Center.

Chair Rohlf: So your comments are similar to what they were last time. I just want to make sure we're on-board. There were some discussions about the easement.

Mr. Petersen: We're aware of the requirements in the Public Works memo.

Chair Rohlf: Then I would open up for questions of the Applicant.

Comm. Neff-Brain: You saw Staff comments, and the first item which goes to Stipulation 6 talks about the siding on the buildings. Did you have any comments about that?

Mr. Petersen: In terms of the siding or the architectural treatments on all four sides of the building? We understand the design criteria of the City that four-sided architecture have elements on all four sides. The comment, I think, was so that we understood what kind of issues would be addressed at final plan and the fact that we have – I'm using their words here – somewhat more blank walls along the southern exposure. At final plan, we will quite likely then have a better idea of the actual tenants in those buildings, and there will be some interface with the tenants about how they would like to have those buildings finished out. We understand we're going to have to bring more detail forward at final plan.

Comm. Jackson: Mr. Petersen, if I remember correctly, last time you talked with the owners behind you quite a bit. Have you presented this new landscaping and new plan?

Mr. Petersen: Yes, ma'am, we have. In fact, we had them here both times when we were continued. There are some added elements in terms of screening at the request of Staff on that northeast perimeter. Initially we just had landscaping, and now we have a 42" screen wall along the parking area there, plus landscaping on our side. I think we've even enhanced the buffering elements. I don't want to speak on their behalf because they're here, but I think we've integrated all the elements that we've discussed with them from day one. As you recall, they were supportive of our prior applications that included the drive-up window.

Chair Rohlf: Where is the rest of the town of this Business Park? There are other lots. Which way does it come? Does it come back toward Camelot?

Mr. Petersen: It comes north across the creek. There's one undeveloped lot directly on the eastern border of the overall Business Park north of this site.

Chair Rohlf: I don't think I've ever seen this Business Park with Lots 1, 2 and 3.

Mr. Petersen: *(Places Business Park plan on the overhead)* The rest of the Business Park is in this area here. This is the area that remains undeveloped. As you'll recall, even though we're not proposing any type of revised preliminary plan for this remaining lot, as part of our discussion with the neighbors, we have agreed to put a landscaping buffer in today so it would have a chance to mature before we bring an actual development plan in on that site.

Chair Rohlf: Where are Lots 1-3?

Mr. Petersen: It's confusing. Staff refers to them as Lots 1, 2 and 3. I think the actual platting is 5, 6 and 7.

Chair Rohlf: So this is the entire Business Park?

Mr. Klein: *(Places Business Park plan on the overhead)* You're probably familiar with the Business Park. It's right across the street. Here is the Reece Nichols building, here is the Dermatology/Skin Cancer Center. We have the Dr. Peppes Office Building, and then we also have another medical office building located there. Sunrise is located right here. As John indicated, this is vacant property here. They're actually proposing these three lots that are located along 117th St. The difference between these is this is primarily zoned SDO, which is Planned Office. These are actually zoned SD-NCR, which is Planned Neighborhood Retail. About half of the Sunrise lot is split between the two zoning districts.

Comm. Jackson: Mark, with the elevation along 117th St., if we just put in a stipulation that they'll take care of that, do we have much review authority when they come back with the final?

Mr. Klein: The elevations, landscaping and lighting are viewed at the time of final. The only thing it's doing at this point is raising the issues to make sure the Applicant is aware that it is something about which Staff is concerned.

Comm. Jackson: So if the Planning Commission doesn't feel they've done enough along that area, we can reject it at that time?

Mr. Klein: Correct, the elevations presentation is when you're going to see what the actual design of the building is going to be, including materials.

Chair Rohlf: Mr. Petersen, does Walgreens, as a company, have any kind of signature look or brand or anything that it's going to have to give up to be in the City of Leawood?

Mr. Petersen: Well, in terms of the preliminary elevations that are reflected in the packet, we've been consulting with them. You're not approving any elevations tonight.

Chair Rohlf: No, but sometimes when we have these larger entities – CVS, Walgreens, even restaurants – they have a look that they maintain throughout the country. Then all of a sudden, they're met with some problems here in Leawood. I believe we've only had one other Walgreens that we've approved in recent time.

Mr. Petersen: There will undoubtedly be an issue with Walgreens or any user that has a common theme they would like to see, and we will have to reconcile those with what you want to see. That will be part of the final plan process. The pharmacies, typically, are a little more flexible than some in that regard. Hopefully we'll have it all worked out before we come here.

Chair Rohlf: If I remember, this is going to be a 24-hour pharmacy?

Mr. Petersen: At the time, yes. Whether the drive-up window affects the 24-hour operation, I'm not sure at this point.

Chair Rohlf: Other questions for the Applicant? Thank you. This case does require a Public Hearing.

Public Hearing:

Rochelle Mitz, President of the Tomahawk Creek Homeowners' Association, 11616A Tomahawk Creek Parkway appeared before the Planning Commission and made the following comments:

Ms. Mitz: You were asking Mr. Petersen if he had talked to us at all. He did come in and explain the whole new presentation to us. Our feeling is as long as he and the contractors keep their word on what they were planning on doing to maintain our property and to help us with that creek, we have no problem with it. Some of our concerns with the others were the lighting situation, which was explained to us, and the landscaping. We need to make sure our property is maintained, and anything that comes in front of it is taken care of.

Chair Rohlf: And you've discussed this?

Ms. Mitz: With Mr. Petersen and his group, yes, at the last meeting we had when we saw the new set-up. Thank you.

Chair Rohlf: Thank you. Is there anyone else who would like to speak?

As no one else was present to speak, a motion to close the Public Hearing was made by Elkins; seconded by Heiman. Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

Chair Rohlf: That takes us up to our final discussion or comments. If there are none, then I would ask for a motion.

Mr. Klein: Since this is a revised preliminary plan, the current preliminary plan does have a stipulation that I would like to recommend be added, which reads, "The overall development is limited to 183,308 sq. ft. of building space." I just spoke with the Applicant, who is agreeable with that.

Chair Rohlf: Just add that in as No. 29?

Mr. Klein: Yes.

Mr. Petersen: Just to clarify, that doesn't include the square footage of the SUP, correct? That's the office building, plus the retail?

Mr. Klein: That was the overall for the Town Center Business Park. It came up when Sunrise Assisted Living was so much larger than the existing site, and they wanted to make sure the overall development stayed within its F.A.R.

Mr. Petersen: I just want to make sure we're maintaining the same square footage.

Mr. Klein: Yes, as far as what you have with this, exactly.

Mr. Petersen: With that, we'd be agreeable.

Comm. Elkins: Madame Chair, I know we closed the Public Hearing, but I note that we had an unsigned letter on the dais that indicated it needed to be added to the record. What's the Chair's pleasure there?

Chair Rohlf: Right, I am always reluctant to accept letters that are not signed and identified by address. I think if there's anything in this particular communication that raises a problem for you, then we can talk about it. I guess we would submit it as part of the record, but I'm not sure I find much value in it if we don't know who prepared it.

Mr. Klein: I believe it was a resident of the condominiums located to the east who called and submitted an e-mail.

Chair Rohlf: So this was attached to an e-mail that identified who it was?

Mr. Klein: Yes, I just receive the e-mail yesterday.

Chair Rohlf: Then I think it's acceptable. The e-mail and attachment will be included in tonight's record.

Comm. Elkins: Thank you.

Motion to recommend approval of Case 04-09 – Town Center Business Park Lots 4, 5 and 6 with Staff recommendations No. 1 through 28 and newly added recommendation No. 29 was made by Neff-Brain; seconded by Heiman.

Comm. Munson: The good news is that it looks like they've met the requirements of the Staff, and I congratulate them on that. On the other hand, I still have misgivings about the right-in, right-out and the effect it will have on traffic. I'd just like to have that comment in the record.

Chair Rohlf: Thank you, anything else?

Motion passed with a unanimous vote of 6-0. For: Pateidl, Jackson, Neff-Brain, Munson, Elkins and Heiman.

MEETING ADJOURNED