

City of Leawood
Planning Commission Minutes
January 26, 2010
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, Neff-Brain, Rohlf, Rezac, Williams, and Elkins.
Absent: Jackson and Heiman.

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Roberson; seconded by Elkins. Motion approved unanimously with a vote of 6-0. For: Pateidl, Roberson, Neff-Brain, Rezac, Williams and Elkins.

APPROVAL OF MINUTES: Approval of the minutes from the November 24, 2009 and December 8, 2009 meetings.

A motion to approve the November 24, 2009 Planning Commission meeting minutes was made by Williams, seconded by Williams; seconded by Elkins. For: Pateidl, Roberson, Neff-Brain, Rezac, Williams and Elkins.

A motion to approve the December 8, 2009 Planning Commission meeting minutes was made by Williams; seconded by Neff-Brain. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Neff-Brain, Rezac, Williams and Elkins.

CONTINUED TO THE FEBRUARY 9, 2010 MEETING:

CASE 64-09 – CLEARWIRE WIRELESS BROADBAND – Request For approval of a Special Use Permit for a wireless communication facility for Clearwire Wireless Broadband, located at 13401 Nall Avenue. **PUBLIC HEARING.**

CASE 07-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-7 – TABLE OF USES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 05-10 – WATER ONE – NALL AVENUE PUMPING STATION AND RESERVOIR – Request for approval of a plat and plan – Located at the northeast corner of 147th Street and Nall Avenue. **PUBLIC HEARING**

CONTINUED TO FEBRUARY 23, 2010 MEETING:

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

CASE 20-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-1 ACCESSORY USES (RESIDENTIAL EMERGENCY GENERATORS) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING.**

CASE 72-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – R1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 73-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – RP1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 86-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-6 – SIGNS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 01-10 – PARK PLACE – FLOWERS BY EMILY – Request for approval of a Final Site Plan – Located at 11527 Ash Street.

CASE 13-10 – PARK PLACE – MICHAEL SHAE SALON & DAY SPA – Request for approval of a revised Final Site Plan – Located at 11520 Ash Street.

A motion to approve the Consent Agenda was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Neff-Brain, Rezac, Williams and Elkins.

NEW BUSINESS:

CASE 43-09 – LEAWOOD STABLES – Request for approval of a Final Sign Plan – Located at 3000 W. 135th Street

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 43-09 – Leawood Stables. It's a request for Final Sign Plan for property at 3000 W. 135th Street. The applicant is requesting approval for two new signs. One is on the south side of the property facing 135th Street; one is on the north side facing 133rd Street. The sign on the south side is proposed to be a 4'x8' rectangular sign shown in Figure 1 in your Staff Report. The sign facing 133rd Street is proposed to be a square 4'x4' sign shown in Figure 2. Each sign reads, "LeawoodStables.com" with additional information regarding services provided. The applicant has noted that the rectangular sign would be affixed to existing posts on the subject property to appear as a monument sign. The applicant has not proposed the location for the square sign facing 133rd Street and has not provided information regarding the materials used in sign construction or method of illumination, if any. In addition to these two signs, there are several existing signs on the property which have not been approved. There is a sign on the interior of the property facing 135th Street as shown in Figure 3 of the report. Other existing signs include smaller signs attached to the fences surrounding the subject property facing both 133rd and 135th Streets. These are shown in Figures 5-8 of the Staff Report. The Leawood Development Ordinance prohibits signs attached to fencing and any sign that includes a phone number or any additional information beyond the name of the tenant. All of the existing signs are in violation of that ordinance. Therefore, staff does recommend a stipulation requiring all signs currently affixed to the fence be removed. Staff is concerned with the number of signs on the property and recommends a stipulation that the number of signs be reduced or restricted to two signs as is customary

elsewhere in the city. Staff does recommend approval of the Sign Plan, subject to the stipulations in the Staff Report.

Chair Rohlf: Have you had an opportunity to talk with the applicant since you've prepared this report? Have they provided any additional information?

Mr. Rexwinkle: No, we have spoken, but only about the meeting and not about the specifics of the Staff Report.

Chair Rohlf: It looks like we have a couple of things we need to accomplish here, including both the proposed and existing signs. Questions for staff?

Comm. Neff-Brain: If signs are not to be affixed to fences, how would you recommend these proposed signs be displayed?

Mr. Rexwinkle: They would need to be monument signs. The sign would have to be affixed to the poles so that the poles would be hidden, and it would have to have a monument base. None of those details have been provided.

Comm. Neff-Brain: It looks like they're both attached to fences.

Mr. Rexwinkle: In the pictures, the one on 135th Street is leaning against the fence. I can't recall the rectangular sign.

Comm. Rezac: It looks like it's attached to the fence in the same way.

Mr. Rexwinkle: That's why staff included a catch-all stipulation requiring all signs to meet the LDO.

Comm. Neff-Brain: Do you know if these signs that are presently there were there pre-LDO?

Mr. Klein: The ordinance was approved in 2002, and I don't know when the signs were put in.

Comm. Roberson: With respect to the two new signs, did the applicant come to you, or did you go to them?

Mr. Rexwinkle: The applicant approached staff with a Sign Plan application for the two proposed signs. During this process, staff visited the site and learned of the other signs.

Comm. Rezac: Are we approving them to move forward with just two signs, and they will come back at a later time with the design of the monument piece of these signs?

Mr. Rexwinkle: Typically we would have a lot more information about the method of construction, illumination and the materials. However, the applicant has prepared the application and plan himself instead of working with a sign contractor. He may be able to speak about that. Typically we would provide the information; however, this has been continued for months. We brought it forward with a recommendation of approval with these stipulations that we believe will accomplish getting signs that meet the LDO. They do need to return for a sign permit after this.

Applicant Presentation:

(Inaudible comments)

Jeff Sharon, Leawood Stables, 3000 W. 135th Street, Leawood, KS, appeared before the Planning Commission, provided photos and made the following comments:

Mr. Sharon: You'll see those pictures there of a sign that says, "Horse Retirement Home." I'd like permission to keep that up there because people drive by my place and see these old horses that are skin and bones. I buy them that way. I save them from going to the slaughterhouse and put 200-500 pounds on them. Those two signs have cut down on people calling in to the police department every day saying I'm starving the horses. Once they read that, they know what's going on. I don't care about the "LeawoodStables.com." If you'll notice the picture of the cartoon, that was up there for three years. I thought it looked ugly, so I took it down even though nobody said anything. The picture in front of the stable is a black sign with a horse in front of it was out there for probably 25 years. The paint was coming off, and so I had a sign professionally done. I put it up, but I didn't have a permit for it. That's one of the signs I'd like to keep up. If you'll notice the red sign that says, "In memory of all the animals that have died," I'd like to leave that up. Before I do anything out there, I always ask the neighbors if they have any objections. If they have the slightest objection, I will not do it. I talked to every neighbor on 133rd Street, and they had no problem with these signs. I have a couple other signs that say, "Grass Clippings Welcome," and I have a couple of those up. Leawood residents drop off their grass, and this helps with the feed bill. I'd like permission to keep the signs, and I'll put them somewhere else if you'd prefer.

Chair Rohlf: Are you talking about the two new signs?

Mr. Sharon: Yes, I have the new ones painted, and I had to take them down because I didn't have a permit. I misunderstood about putting the signs up.

Chair Rohlf: We have a couple of different issues here. We've got problems with the proposed new signs, and we have an overabundance of existing signs. Given the fact that this is an agricultural area, do we have any kind of leeway in our ordinance about maintaining a couple of these existing signs? I can understand Mr. Sharon's wish to have some of these up.

Mr. Klein: The agricultural district does not really have sign criteria specifically for it. In order to allow Mr. Sharon to have signage for his business, we're trying to apply what other businesses are allowed, which is a limitation of two signs per property. Regarding all the other signs, those would not be typically allowed unless serving as directional signs through a planning process. This business has been there for quite a while, but I'm not exactly sure when the signage went up.

Comm. Neff-Brain: I would suspect some of these signs are grandfathered.

Chair Rohlf: I think the district is the problem.

Mr. Sharon: Some of them have been up for 10-15 years.

Ms. Shearer: Not knowing when they were installed, it's hard to comment on that. If it was prior to 2002, they would be grandfathered.

Comm. Rezac: Is the horse retirement a separate business?

Mr. Sharon: No, let me tell you something about my business. I've been there for 28 years. I take in about \$6,000 a month off people renting horses. I go in my pocket for another \$3,000 to take care of them properly. I've been going to the sale barns for 20 years, and the old-timers that are going to the slaughterhouse, I bring back over and try to put weight on them. I'm able to help half of the horses this way; the others die, but they die in a nicer setting. The signs about the retirement have also cut down calls to the police about those horses.

Comm. Roberson: In addition to the horses, you also have other animals. What is their purpose?

Mr. Sharon: There is a name for it: crazy. I have twelve cows that I've raised from babies. I've got probably 100 sheep. I'll give them to anybody who will give them a good home and not eat them. I had buffalo, but I've moved them farther south.

Chair Rohlf: I don't know exactly what we should do here. I'm tempted to allow you to keep the signs on 133rd if they were truly in place before the LDO.

Ms. Shearer: One of the issues with this is that even the prior LDO, as Mark and I have been discussing, did not address signs of a business nature or signs, period, in an AG district. That's some of the burden here.

Mr. Sharon: You don't like my name on them? I'll take it off.

Ms. Shearer: No, we're just saying there never have been rules about signs in an AG district and that this is a unique situation.

Comm. Elkins: Let's assume we're back to the prior LDO and there was no provision for signs. Where does that leave us? Is there a presumption that no signs or that all signs are fine?

Ms. Shearer: This predates my employment, so I was basing my commentary on Mr. Klein's saying there were not rules about AG even before the 2002 addition to the LDO.

Mr. Klein: According to the LDO, some sign types are allowed, including an address sign. Flags are conditionally permitted through a permit. Monument signs are allowed with a sign permit and approval by the Governing Body, which is the process we are in now. Off-site signs require an SUP, as they do in any other district. That's what we're limited to here. We have another table that states the number and size of signs that are allowed. For instance, a site can have two signs of no more than 50 sq. ft. in a lot of the commercial districts. We don't have any of these guidelines specifically related to agriculture. Staff supports two signs to be consistent with other businesses in order to allow him an identity. However, we didn't support the plethora of signs that exist.

Comm. Elkins: That's very helpful, Mark. Did the prior LDO not address signs at all in an AG district? If that's the case, where do we land if the prior LDO was silent on the issue of signs?

Mr. Klein: Before I answer that question, I'd like to look at the prior LDO.

Comm. Neff-Brain: The other issue is that the prior LDO may not have been the one in place when these signs went up. If it wasn't spoken to, these are grandfathered. Sir, did you say you would be willing to take down the two top ones and the third one that has your website?

Mr. Sharon: I'm willing to do anything you tell me.

Comm. Roberson: Quite frankly, the grass clippings signs need to stay. That's quite a service.

Comm. Neff-Brain: I think all three of the bottom signs need to stay.

Comm. Williams: I also think the sign that says, "No dumping" needs to stay.

Comm. Roberson: I don't have a problem with that or the retirement sign. If you've driven by there, you've noticed that they are not obtrusive or obnoxious.

Comm. Neff-Brain: It's a charming addition to the community.

Comm. Roberson: I would agree with that. I believe our discussion needs to center on these two new signs and how we're going to handle those.

Mr. Sharon: I think some of those signs are already gone.

Comm. Roberson: Then I think we should focus on the new signs and grandfather the other ones in.

Comm. Neff-Brain: I think they're grandfathered and that it's not an issue.

Chair Rohlf: Mr. Rexwinkle, is there any way these two new signs could come into compliance without being monument signs?

Mr. Rexwinkle: One of the only areas the LDO references sign information for the AG district is the Table of Types of Signs Permitted. The only permitted type is a monument.

Mr. Sharon: What is a monument?

Mr. Rexwinkle: It's affixed to the ground on a base.

Chair Rohlf: Can these two signs be converted to monument signs?

Mr. Klein: We believed they would have to be put on wooden posts and that the sign face would have to come all the way down to the bottom of the sign with some sort of base. In addition, according to the LDO, he can advertise his name of the business but not much of the other information. Regarding the other signs, I'm going back to the LDO which was in existence when I came around ten years ago. It has a table similar to the one here in a different format. Also, only one informational sign per site is allowed. That can be done without any kind of permit or anything as long as it is 5 sq. ft. or less. I don't believe we have any record of permits being pulled for any of these signs.

Comm. Roberson: How many acres does this property encompass?

Mr. Sharon: 131 acres.

Comm. Roberson: Our sign ordinance mainly deals with commercial properties. Again, I think we're spending a lot of brain power here over nothing.

Chair Rohlf: Did you have someone make your two new signs?

Mr. Sharon: I had a professional painter paint them.

Chair Rohlf: What is the material?

Mr. Sharon: It's not plywood. It's regular stuff for signs; I forgot what it is. It won't rot, and it's painted with outside paint. That old sign with white lettering was on plywood, and it lasted 25 years, and this is a lot better.

Chair Rohlf: Where do you want these two signs to go?

Mr. Sharon: When you pull in the driveway just to the left of the driveway or on those poles. If you'd rather they go somewhere else, I'll do that. Out back, there is a gate out there. Before I put the sign there, the neighbors all said they were glad to have it.

Chair Rohlf: So you have one sign for 135th Street.

Mr. Sharon: Yes, and it is a 4'x4' sign, and then I have one sign out front that is 4'x8'. One is on 135th Street, and one is on 133rd. Then these little information signs are only on 133rd Street.

Chair Rohlf: I just am not sure we have much history in order to deal with the two new signs. I think we're comfortable with the existing signs on 133rd. I know you've already invested money in these new signs. In order to make them monument signs, it's going to be quite expensive, and you will be limited to the information you can put on them. I'm not sure what he would gain on a monument sign. If we go by the current LDO, he would get the name of the stables and the phone number.

Mr. Klein: He would get the name of the stables only.

Comm. Rezac: I'll state where I stand. I do agree there is some nebulousness around what the prior LDO was on these smaller signs, and I'm okay with leaving those three signs up. I think the top three signs shown in this picture, including the signs with the cartoon character, the black sign and the website sign, need to be removed.

Comm. Roberson: There are multiple versions of the smaller signs.

Comm. Rezac: Maybe we need to get clarity on the number of those signs and where they're located. As far as the new monument signs, they are addressed in the LDO, so I think they need to be in compliance with the LDO.

Mr. Sharon: How about putting up the old one?

Comm. Rezac: I think we would have the same issue as these other signs. You're still reinstalling it.

Comm. Pateid: I'm afraid I have a dissenting opinion as far as the existing signs are concerned, as well as the monument signs. From what Mark has told us, the prior LDO nearly paralleled the contents of the current LDO with respect to the signage. If that is the case, regardless of when these signs went in, they were in conflict with the LDO at the time. I would hate to make a decision on the basis of establishing what's right or wrong with the monument signs and then codify the signs that are in violation of our codes. What I get really concerned with is the issue of precedent and what we're saying to the rest of the business community coming to Leawood asking for signage. I fully respect the love of the animals, the issue of the environment and the service to the community regarding the grass clippings. However, I do feel we have to retain integrity with respect to our development ordinances. We need to be fairly careful with this. If you want to divide the two issues to deal with the monument signs, that is one thing, but I believe if the signs on the fence are in violation, we don't need to affirm them.

Comm. Neff-Brain: We don't know and I don't know that we will ever know if they are in violation because we don't know when they went up. They may have gone up before it was even a city and well before there was an LDO.

Mr. Sharon: Some of them have been up for 25 years.

Comm. Pateidl: I guess we would ask our applicant to prove when they were installed. Clearly, they're in violation. If they're grandfathered, he can show us they're grandfathered. If we can't see that, I don't believe we should affirm them.

Comm. Roberson: I'm not sure I agree with that. There are not many businesses that have 130 acres in Leawood. Quite frankly, this is a commercial operation, but it isn't a commercial operation.

Mr. Klein: Maybe the best course of action would be to continue so we have a chance to verify some of this information. I don't believe the property is 100 acres. I know Park Place is 33 acres, and I don't believe this property is three times that size. I would prefer to know what the facts are. In addition, if it turns out these signs are grandfathered, you have a plethora of signs adjacent to a residential district to the north, and he's adding a sign to that. That would give us an opportunity to go back and see if we can find any sign permits and go back to the previous LDO.

Chair Rohlf: That would be fair.

Mr. Sharon: Can't you get aerial shots of the place 40 years ago?

Mr. Klein: We do have aeriels, and we could look at those. I doubt it would show a sign from that distance.

Comm. Rezac: If we're going back and looking at some other things with these smaller signs and if you do bring these monument signs into compliance, I would request that we have the proposed design the next time we look at this case.

Mr. Klein: We have been trying to work with the applicant for a series of months now, trying to move toward a resolution. We will continue to try this.

Ms. Shearer: I'd like to clear up something on the current LDO. In Section 16-4-6.13, there is a Schedule of Permanent Sign Regulations. In that table, the AG district is not mentioned. However, in Section 6.14, there are permitted signs by type. In that table, there is a section for AG which allows monument signs in an AG district. If you go back to section 6.09, subsection AA says, "Permanent signs which identify phone numbers, product or any other specific information about the tenant beyond the name of the tenant are identified as prohibited signs." That's the legal analysis that went into the current staff recommendation.

Mr. Coleman: We seem to have two options. One is to continue it and deal with the LDO. Regarding the small signs, I don't know if we'll ever be able to find out how old each is. I know they have been there for quite a while and would be grandfathered in. The ordinance does talk about the monument sign. My recommendation would be to allow a monument sign that meets the LDO and have the other signs grandfathered in.

Comm. Williams: When you talk about the LDO allowing a monument sign, in this application in the AG district, does it require the signage to be a monument sign?

Mr. Coleman: Right now, that is the only sign, other than the address, that is shown in the LDO for the AG district. Really, the only sign that's addressed is that monument sign. That's why my recommendation is for one monument sign that meets the LDO and then the small signs being grandfathered in.

Comm. Roberson: So you're looking for one monument sign, or can he have one on the back and one on the front?

Mr. Coleman: Normally, we only allow one monument sign for any business. Two signs are allowed, but normally those are on the building. In lieu of one of those two signs on your building, a monument sign is allowed. He could have a sign on the barn, but only one monument sign.

Comm. Neff-Brain: Have you ever seen a monument sign in an AG district?

Mr. Coleman: Yes, if you go to some of the other riding stables, they have monument signs in the front.

Chair Rohlf: Mr. Sharon, do you understand we've asked if you want to continue this matter?

Mr. Sharon: I'll do what you want to do.

Chair Rohlf: The purpose of the continuance would be for you to work with staff.

Mr. Sharon: No, you just tell me what to do, and I'll do it. Can I have one out front and one out back, or just one out front and none out back?

Chair Rohlf: Do you understand what a monument sign is versus what you've designed tonight?

Mr. Sharon: I have to have it on something, and the poles don't show. I'll do that.

Chair Rohlf: You would have to work with staff to come up with a monument sign that would be in compliance for the 135th Street side.

Mr. Sharon: That's fine.

Chair Rohlf: So we will continue this.

Mr. Klein: I think Richard is saying that staff is willing to support the application going forward as long as there is one monument sign. We'll grandfather in the rest of the signs along 133rd Street. We support the monument sign adjacent to 135th Street, but not the one adjacent to 133rd Street.

Mr. Sharon: So none out back?

Mr. Klein: No new ones along 133rd Street.

Mr. Sharon: That's all right.

A motion to recommend approval of CASE 43-09 – LEAWOOD STABLES – Request for approval of a Final Sign Plan – Located at 2600 W. 135th Street subject to 1) limiting to one monument sign on 135th Street and the applicant working with city staff on the monument sign design, and 2) the existing signs on 133rd Street shall be allowed to remain, and 3) the proposed monument sign along 135th Street shall meet the requirements of the Leawood Development Ordinance, and 4) the applicant shall obtain a sign permit for the monument sign, and 5) the applicant shall agree in writing to stipulations one through five – was made by Roberson; seconded by Neff-Brain.

Comm. Pateidl: Just for the record, I'm uncomfortable that we're including the grandfathering of the signs based on the assumptions of their age.

The motion passed with a vote of 4-2. For: Roberson, Neff-Brain, Williams and Rezac. Opposed: Pateidl and Elkins.

CASE 77-09 – ROOT DENTAL – Request for approval of a Final Sign Plan – Located at 5201 College Blvd.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 77-09 for Root Dental. It's a request for a Final Sign Plan approval at 5201 College Blvd. The applicant is proposing one new wall sign to replace an existing wall sign. The existing sign reads, "Root Professional Building." The proposed sign will be located on the west elevation of the building facing Ash Street. It will be visible from College Blvd. The new sign is proposed to read, "Root Dental Building, Chris Rooney, DDS, Christopher Merriweather, DDS and TBD." The sign is proposed to be 4'2" tall by 17'4" wide for a total area of 72 sq. ft. It is proposed to be constructed of black aluminum reverse channel letters. Staff is supportive of the name change from Root Professional Building to Root Dental Building to accurately reflect the nature of the business; however, we're not supportive of the additional information proposed. The LDO does prohibit signs with information about the tenant beyond the name of the tenant. Therefore, staff recommends a stipulation requiring that the Sign Plan be revised to omit this additional information and read only "Root Dental Building." Staff recommends approval of this Sign Plan subject to that stipulation and others referenced in the Staff Report.

Comm. Neff-Brain: How long has this ordinance read such that you'd have the inability to put, for instance, the dentists' names because I know there are other places in Leawood that have done that? Is this a recent change?

Mr. Klein: This is since the December, 2002 ordinance. It's limited in the Prohibited Sign section.

Comm. Rezac: When I read this, it seemed to me that the names are actually the name of the tenant. Could staff comment or define how the name of the tenant is information beyond the name of the tenant?

Mr. Klein: We have had this situation before along Tomahawk Parkway in the Kleinwood Building. Bryce and Klune, I believe, was the applicant who wanted to have his name on the monument sign as well as the building. At that point, it was approved by the Planning Commission and City Council with a limitation. The goal of the city has always been to have a name of a building. Then if tenants happened to be located in the building, that's how they would identify themselves. When we initially got this application, we had the name of the Root Dental Building plus all the names of the individual dentists. The city has always tried to avoid a long list of names, similar to a retail sign that lists the businesses in a development.

Comm. Rezac: Are commercial signs in compliance with the LDO? Can they only have the name of the building itself with no single tenants called out?

Mr. Klein: Yes, the way the ordinance reads and what we've always done is that the development has a sign, and each business is allowed two signs. We've never really allowed a multi-tenant sign in the past, and I know it has been an issue on a number of buildings that have come through since I have been here.

Comm. Neff-Brain: In Hallbrook, the Country Club Bank has a monument sign. The tenant on the second floor's name is on there, too.

Mr. Klein: I'm not familiar with that sign. Parkway Plaza has a brick wall that goes along 135th Street with "Parkway Plaza" on it. Park Place has tower monuments that read, "Park Place." We've always limited it to the name of the development itself. I have always understood that Leawood allows names for individual places, and if you happen to be a tenant within those, you refer to yourself within the development. Of

course, your building would be allowed to have signage, but as far as the monument signs listing several, I would have to check that out.

Comm. Pateidl: This has 72 sq. ft. Does that fall within the allowed square footage?

Mr. Rexwinkle: The limitation is 5% of the wall area, and because this elevation is a large façade, this does comply.

Applicant Presentation:

Chris Rooney, dentist and anchor tenant at Root Dental, 5201 College Blvd., Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Rooney: I am here with Dr. Chris Merriweather, who is another dentist. We are the only two dentists in the building. There are only two places for a business besides the Root operations. Before you, there was the idea of a wall sign that displayed the names of the two tenants. The "TBD" portion of it was just being flexible with the plan. We didn't have a very clear understanding what I was doing in trying to find some way to display our names to the general public (we've had problems before with people not finding the building). We had talked with Mr. Rexwinkle about putting a wall sign up. I am also here to try to find out some way to display our business entities for the general public to see. It became difficult to figure out how to do that and what avenues we might pursue. After reading the ordinances carefully, I discovered that the wall signs with tenant names displayed are discouraged. I also reviewed the information, and it says that the SD-O designation for our building will allow a monument sign at the discretion of the Governing Body. It doesn't specifically say that you can't put anchor tenant names on the sign. I understand that we want Leawood to be a clean, uncluttered place. I am looking at the intent of what was described in the LDO for signs. What it says bothered me, and I thought there may be some ways to handle this. I would like for you to tell me how I might go about displaying reasonable individuality in our entity. Our building is not a laundry list of many different offices. For example, just to the east of us are three office buildings that are somewhat connected. They have many tenants in there. It would be inappropriate for me, just looking at a sign of 50 different tenants in an office situation on a billboard. That's not what we're talking about here. I'm flexible with any kind of signage that lets the public know that Chris Rooney, DDS and Chris Merriweather, DDS, have their offices there and have had them there for 24 years. We would like to be a grounded member of the community. I have also noticed that on College Blvd., the business on the north side are part of Overland Park and therefore have free reign on some of these kinds of signs. On my side, we have multiple tenants that have multiple names on signs right next door to us, which are completely different than what the code allows. We have people to the south of us that have multiple tenant names on their buildings because they are designated business park. I'm a little slow in understanding why the letter of intent is not able to be flexible enough to allow my name and my neighbor's name on that building. After looking into it further, I found the business to the east - Leawood Fountain Plaza - is actually designated as a retail space. Theoretically, they could put up a whole bunch of signs through that area. It seems to me we're flanked on all sides by properties that are displaying signs of multiple entities and names. Because we're not a business park or something special with the zoning, we don't get that opportunity. College Blvd. is a dividing line for Leawood and Overland Park. It is a thoroughfare advertised in many different ways. It is a transition zone from Overland Park to Leawood. As I read the intent, it doesn't seem to line up. I'm asking if there is some flexibility in how the Governing Body might look at this particular case. It's certainly not in black and white as it's written in the LDO. There are other issues, and I have photographs if we need to display those. We have people that are advertising "For Rent/For Lease" on all sides of us as well. For my neighborhood, this lowers the value. Even though the community is a little to the southeast of us, they might do well for their property values to have tenants that have been there for so many years and who are professionals.

Comm. Pateidl: Dr. Rooney, to be clear, your business is completely separate from Dr. Merriweather's business and you're not associated except for the ownership of this building?

Mr. Rooney: That's correct.

Comm. Pateidl: In essence, you and Dr. Merriweather are tenants of the Root Dental building, which is a complete separate entity, correct?

Mr. Rooney: That's true.

Comm. Pateidl: Mr. Klein, what do we do with tenants in retail space allowing the external advertising?

Mr. Klein: If you apply this to retail, the development has a monument sign identifying the overall development. Then you might have the main building that contains maybe ten tenants. Each tenant is allowed to have its name on the building. Otherwise, tenants would be in a building with no names on it, and that would not be practical. Within office buildings, tenants are limited to two signs per building. The LDO allows the Governing Body to have discretion to allow one monument sign in lieu of a wall sign. In situations with an office building with two spaces, I believe we have had situations in which the tenants have asked for two signs, with each sign advertising each tenant. I'm not really aware of any buildings off the top of my head with the building name and then the names of the tenants in the office district. Typically, the ones with two tenants have the sign located on the space in which that tenant resides. I'm not sure if they share office space or split the building.

Comm. Pateidl: If we remove the designation of Root Dental Building, there would be nothing to preclude the two doctors from putting their names on the wall?

Mr. Klein: That's probably one of the issues. In the past, they have also tended to have the tenant name on the location where the business actually is in the building. They more or less have done that at their discretion.

Comm. Pateidl: I'm looking at the intrinsic nature of our LDO. Does it make sense or not? In this case, we're saying if you want to name the building, you can't name your businesses. If you want to name your businesses, you can't name your building.

Mr. Klein: Right, I guess that's what it comes down to. If they want a third tenant, they wouldn't be able to do that either because they would add another sign.

Mr. Rexwinkle: The exception to your point would be the developments that have approved sign criteria like Town Center Plaza. This building does not have sign criteria, as many from the '80's do not.

Mr. Rooney: That is interesting because our building is one of the first buildings built in this area, and it was bean fields throughout. There is still one across the street from Nall and College. Leawood had to control the signs to ensure the best interests of the city were at heart, and this occurred much later as a process. As the development has moved through, it's probably less of an issue where I am than it is where somebody else might be primarily because we are right on that College Blvd. corridor where various types of businesses are displayed across the street. The Statement of Intent talked about not having disharmony in the signage in the neighborhoods. As we look around us, we are an exception. If the people next door to us ends up changing over to retail, there will be fifty signs posted in the windows for whoever has a business there.

Ms. Shearer: I'd like to point out some specific language from the LDO. There is a Schedule of Permanent Sign Regulations as we discussed in the last case. This building is zoned SD-O, as Mr. Klein said. In the table, there is a section for allowable content which reads, "Signs identifying commercial office buildings: Individual tenant names are not to be used for building identification." That is where staff's comments originate.

Mr. Rooney: That is of wall or canopy-type structure. I'm saying this whole thing is difficult to understand from a layman's perspective. If we look at 16-4-6.3, "Monuments can be added as approved by the Governing Body," which is a type of body that needs to understand the growth and development of their city in a way that is healthy and follows the intent of what the sign regulations are all about.

Ms. Shearer: I'm not sure this is a monument sign. Am I misunderstanding it?

Mr. Rooney: I tried to clarify that in the beginning. We started with a monument sign and then went with a wall sign, thinking that might be the easier way to go before the Council and get something done, only to find out later that it might not be as easy as we thought. I am just asking for some options.

Comm. Neff-Brain: Mark, there is a building a little farther south on the east side of Nall, and I know there is a dermatologist's name and several dentists' names on the building. Those are obviously permitted. Is it a different zoning group?

Mr. Rooney: She's talking about University Park, and that is zoned as a business park.

Mr. Klein: Actually, we only have two business parks in the Leawood: one at 103rd at State Line and the other at the Bi-State.

Mr. Rexwinkle: That development has sign criteria that were approved with the development. What is most common when you see the sign criteria is that they are less restrictive than the LDO and grants certain exceptions.

Chair Rohlf: This building is currently called Root Professional Building?

Mr. Rooney: Yes.

Chair Rohlf: And that's all that's on the wall, and you have been there for 24 years. Why do you feel like you need to rename it?

Mr. Rooney: Our businesses, probably like many, need to have grounding, saying, "This is where we are." We have people that do not show up for their planned appointment times, many times searching for us. Direction and location is the first issue. The other issue is we have a fair amount of traffic on College Blvd., and having our name out there is not a bad way to let the public know what we do.

Chair Rohlf: Unfortunately, the way the current LDO is written for your district doesn't allow for those two additional names.

Mr. Rooney: Again, I am looking at what it says here, and it says it's up to the discretion of the Governing Body, and it's not written down that I can't do that.

Chair Rohlf: Regardless of what we would do as a Planning Commission, the City Council has the ultimate decision-making power to decide whether they would comply with the LDO or make an exception.

Mr. Rooney: Can you point out where, in the LDO, it says that?

Chair Rohlf: I believe it was in the section Ms. Shearer just read about wall signs. If you'll listen, she'll repeat that for us.

Ms. Shearer: "Allowable content on signs identifying commercial office buildings, individual tenant names are not to be used for building identification. Structural-type wall or canopy located below either parapet. Maximum number: two. Maximum area: 5% of the building façade, not to exceed a total of 200 sq. ft. Lighting: non, indirect or internally illuminated and no moving signs." Mr. Klein mentioned earlier that in the next table, which is 16-4-6.14, there is an allowance for a monument sign in lieu of one of the two wall signs, but that is only through Governing Body approval after recommendation of Planning Commission.

Chair Rohlf: If the option was a monument sign, what can be on it in this district? Could this appear as it's been proposed?

Mr. Rooney: As proposed, it's "Root Dental Building." As Dr. Merriweather and I would like to see it, instead of "Root Dental Building," it would be "Chris Merriweather and Chris Rooney, DDS."

Mr. Coleman: That's not allowed on a monument sign in the LDO.

Ms. Shearer: In the Prohibited Section, "Permanent signs which identify phone numbers, product or any other specific information about the tenant beyond the name of the tenant."

Mr. Coleman: It cannot have their name.

Mr. Rooney: The tenant can still be on there.

Mr. Coleman: Is it just your name or two names?

Chair Rohlf: Unfortunately, the way the LDO is written for your district, the way you have proposed your sign is not allowed on either a monument sign or a wall sign. You can continue to have the name of the building.

Mr. Coleman: They could incorporate both of their names and "Root," as in, "Root Rooney and Merriweather Dental Building." That would be allowed.

Chair Rohlf: What is the significance of "Root" other than dental? Is that a person's name?

Mr. Rooney: Yes, he operates a dental laboratory, but he doesn't advertise that. I think there are limitations on advertising that particular entity to the general public.

Comm. Pateidl: Mr. Klein, if they came in to propose the development of this building and included a signage plan as was done a block and a half from this building, could the signage plan contemplate doing what we see here before us?

Mr. Klein: It would be something the proposed in the sign criteria that they go before the Planning Commission and City Council. Generally, staff would look at the Leawood Development Ordinances as well because we do ask for modifications. It's not simply the applicant proposing sign criteria of whatever they want. Staff meets with them to make it meet as close as possible.

Comm. Pateidl: Are these sign criteria substantially different from their neighbor around the corner?

Mr. Klein: I don't know.

Comm. Pateidl: If the current intent of our practice is to contemplate and allow this type of thing under a signage plan and unless there is a major objection to this, it becomes a matter of common sense.

Comm. Roberson: If we allow two names, how many names can I put on the building?

Mr. Klein: According to the ordinance, what is allowed is you may have the name of the office building itself and then a number of different tenants located in there. They may refer to themselves as being located in that building. I think you go to a key point if you start allowing each of the tenant names on there. If they have five, ten or more doctors, where do we draw the line? Leawood was looking for a certain look, so with regard to office buildings, they were really trying to hold it to where our office buildings have a certain building name and our tenants are located within there. Obviously in retail, that's a little different because you can't have a multi-tenant building and then only the name of the development with no names of the tenants. Again, even the retail tenants are limited to one per business; they aren't allowed to have four or five signs. We just recently had a case with Destination Maternity, and they wanted to list three different names even though they were one store. They were marketing the other names as brands. This is a similar situation. We're trying to provide identification for the building without allowing the signage to get out of control.

Comm. Elkins: I'm looking to staff for guidance on this. In response to Dr. Rooney's question about how he can get from Point A to Point B, it seems to me that it's quite possible that we're the wrong forum here. This is what the Board of Zoning Appeals is all about. We're stuck with the ordinance in front of us. From my position up here, I completely agree with counsel's reading of the LDO. By the same token, I agree with my colleague at the other end of the bench that this is an unusual outcome in which he can have a building with either both of the doctors' names on them or the building name but not both. Having said all that, I don't think it is our place to make that call. The LDO specifically calls for variances to the LDO to be considered and determined by the Board of Zoning Appeals. I think that applies to signs as well as anything else. Staff can tell me I'm wrong about that, and I'll defer to them. I hate to tell the dentists they have to go to a different place because of the effort put into this presentation. From a personal standpoint, I think the appearance of the sign is completely appropriate, and the justification for it is completely appropriate, but I do feel constrained by the LDO. Just as I would have sent Mr. Sharon to the Board of Zoning Appeals for what I felt was appropriate signage, I would suggest that these two dentists should be at the Board of Zoning Appeals.

Ms. Shearer: I'd like to comment briefly on that. It is true that the Planning Commission and City Council are charged with what is written in the LDO, and the Board of Zoning Appeals does take appeals as an entity from anybody who sees a situation in the LDO they don't agree with. Because there is no exception outlined in the code dealing with signage, they would have to meet the five criteria, which are statutorily appointed for us by the KSA to get a variance. Those are difficult to meet. They mirror the provisions from the Kansas statutes. Second of all, I did find another section I was remiss to mention earlier: Section 16-4-6.10 – General Regulations: "Monument signs shall comply with the following additional regulations, specifically with graphics and text, signs may include the name or graphic identification of the project or development. Such graphic or text shall not exceed 18" in height."

Mr. Klein: Staff deals with this all the time. Signage is a critical issue for a lot of businesses. They want the identity. What the Planning Commission decides will set a direction to head. Some of these requests are not uncommon to have multiple tenant names. Often times, you don't see them because we point out the LDO, and it ends there. I want you to understand that we do see a lot of these requests.

Comm. Neff-Brain: I agree; I don't think there needs to be a list of tenants on a building. I do think it's unfortunate that just down the street, because it's a different district, the doctors and dentists can have their names listed on the building. It's the same visual effect. I have some problems with that.

Comm. Williams: We are dealing with two different districts, with two different building types and with more storefront presentation of the building, much like a retail operation would be. To identify a business at its location, we begin to see that. Again, we do have two different zoning districts. The information has been provided as to what the requirements are. The LDO is clear. No tenant names may be in this building classification. I appreciate the doctor's comments and concerns, but I don't know that we have much choice here.

Mr. Rooney: If the name of the building was actually, "Rooney Merriweather Root Dental Building," would that be inappropriate?

Chair Rohlf: I don't think it would matter what order it is in; it's a question of what the building is called.

Mr. Rooney: So it would be much more tolerable if it could be worded in that form or fashion?

Comm. Rezac: I think it would then fit what is in the LDO.

Chair Rohlf: As long as the lettering, size and square footage all complied as well. If that's something you would like to consider, we can continue this matter.

Mr. Rooney: I would like to resolve this matter if at all possible.

Chair Rohlf: If that's something you would like to do, you would need to come back through. We could not approve that tonight because it would have to go back through staff for appropriate size and lettering. It's something we can continue if you would like to work with staff, but we cannot make the decision tonight.

Mr. Rooney: Certainly, that would be fine. Does it matter if it's on the wall or on a monument sign?

Chair Rohlf: I believe with the monument sign, you'll get into size and characters. I think you're going to be more confined on a monument than on a wall sign.

Mr. Rooney: In either case, your recommendation is to go back.

Chair Rohlf: Yes, you would need to go back. We cannot vote on that kind of a revision. That is a major revision to what you're proposing.

Mr. Rooney: Yes, we'll work with staff on this. Mr. Rexwinkle, any other issues I need to know about to go further at this point?

Mr. Rexwinkle: We'll just discuss everything that was discussed this evening and proceed from there.

Chair Rohlf: What would be the next meeting for this matter?

Mr. Klein: The next meeting would be the March 23rd meeting.

A motion to continue CASE 77-09 – ROOT DENTAL – Request for Final Sign Plan – located at 5201 College Blvd. to the March 23rd Planning Commission meeting was made by Elkins; seconded by

Williams. Motion approved unanimously with a vote of 6-0. For: Pateidl, Roberson, Neff-Brain, Rezac, Williams and Elkins.

CASE 03-10 – MISSION FARMS - LOS CABOS – Request for approval of a Final Site Plan for a Tenant Finish – Located at 10551 Mission Road

Staff Presentation:

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 03-10 – Mission Farms – Los Cabos. The applicant is Adam Gerber with Finkle Williams Architecture and is requesting approval for a Final Site Plan for a tenant finish within the Mission Farms development. The proposed project is located on the east end of Building B. Proposed is one wall sign and outdoor dining to include two fire pits, patio furniture, six new wall sconces, outdoor heaters and strand bulb lights. Per the LDO, Section 16-4-6.9, strings of light bulbs are not allowed. Staff recommends approval of this recommendation of this application with the stipulations stated in the Staff Report and would be happy to answer any questions.

Applicant Presentation:

Adam Gerber with Finkle Williams Architecture, 7007 College Blvd., Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Gerber: The section in the ordinance that prohibits the strand lighting is something we have a question about. It is under "Prohibited Signs," and I just want to clarify that our proposed strand lights are not connected to or near any part of the signage of the business. They are independent from that. They are lights that are proposed to be above the existing patio. Strand lights are not prohibited in the lighting section of the ordinance. The strand lighting is to provide ambient lighting over the patio space and to support the character and ambience of the restaurant. The environment for this is mixed-use. Our patio is on the east side of the property and faces the pond. It is away from the rest of the tenants, from the parking and from the residences above.

Chair Rohlf: Can anyone enlighten us on the issue of the strand lights in the sign section?

Mr. Klein: Back when the ordinance was created, it was done by a consultant. I believe they saw strands of lights as more of a device to attract attention, so they listed it as signage. It is something that is allowed at holidays but not meant to be permanent. With regard to location of the business, he indicated they are away from the residential. That is true; however, there is also residential to the east across the field. I know there are some additional buildings that are supposed to be constructed in the future to complete this horseshoe design; however, I don't know when those buildings will be built. Again, we have to go by what the LDO says. It seems very clear it is limiting those uses to seasonal occasions.

Bill Brandmeyer, owner of Los Cabos, appeared before the Planning Commission and made the following comments:

Mr. Brandmeyer: Is the purpose of your not letting us have the string lights to avoid us trying to bring attention to the restaurant?

Mr. Klein: The intent is to keep things very simple and very elegant except with the holidays with string lighting to decorate.

Mr. Brandmeyer: This is decorative artistic lighting. It is 25 watts with a dimmer. It creates the ability to define an area in a mixed-use district where the people will enjoy themselves. The lighting is part of the

brand and gives the area a festive feeling. It is our hope, because it is not prohibited as part of a lighting scheme, that you can look at it as something you can allow tonight.

Mr. Klein: Part of the issue from staff is the LDO does speak to string lights. I don't know if there is a deviation through the LDO, and if there is none, the Governing Body would not have the ability to grant a deviation to it.

Mr. Brandmeyer: This is not part of a sign. It is not prohibited because it is not part of the sign.

Mr. Klein: I understand that. Often times, lighting is referring to the lighting of the site to provide lighting to see. You're using this lighting to create an ambience.

Mr. Brandmeyer: We will have to put other lighting in that might be brighter and more obnoxious than this lighting.

Mr. Klein: Sure, and what I am saying is that the way the lights are being used is to create a theme, much like a sign would.

Mr. Brandmeyer: Many restaurants there use lights outside. There are tiki torches and candles in the parking lot. As far as what is happening at Mission Farms, it is very conducive to the whole environment.

Mr. Klein: I'm sorry; I don't want to get into a debate with you. I'm just letting the Planning Commission know what the LDO states.

Comm. Williams: The string lighting that you're referring to that is prohibited is in the lighting section of the LDO?

Mr. Klein: It is actually in the signage section of the LDO.

Chair Rohlf: Do you think that is because it is one of the places it could be addressed in the LDO? It may not be the appropriate place, but that's where it came in.

Mr. Klein: That's where it came in, and it isn't like they put a complete prohibition against it. They did qualify by saying it would be allowed seasonally. I think they knew exactly what they were doing and that they were trying to establish a time period when you could have this lighting; however, they wanted to prohibit it in general. When we get temporary Special Use Permit, we do limit pennants, banners and balloons. The city has always had a bias toward the more subdued.

Chair Rohlf: Could you tell me where these lights are intended to be? Is it under the awnings?

Mr. Gerber: We're proposing a series of five new poles along the perimeter of the patio. The idea is to strand from the pole to the building and back to the pole. Really, it's to zigzag across the patio, which helps to create an ambience space for the patio.

Mr. Brandmeyer: They are the only lights, so they are the lights for the patio.

Comm. Elkins: It seems to me that the applicant has got a fair point here. We've talked a lot about our ordinance tonight. If you're going to read the ordinance literally, the prohibition on string lights is in the signage section. These gentlemen have suggested to us that the lights that are of issue are not part of their sign. I've looked at their plan. It doesn't look like it is part of the sign, either. That would seem to take us the lighting section of the LDO, where it is not prohibited. String lights are not addressed. It talks about

special lighting conditions in non-residential districts. It is pretty general, but if it is to create an ambience, it doesn't seem to me that it is prohibited.

Chair Rohlf: Do we have any ambient lighting similar to this anywhere?

Mr. Brandmeyer: Room 39 has lights strung along their railing.

Chair Rohlf: Is it just decorative?

Mr. Brandmeyer: It's been there since before the holidays, and it is still up.

Mr. Coleman: One of the issues we did have with the lights beyond what Mr. Klein mentioned is that the light bulbs are essentially bare bulbs that create a lot of glare. We are concerned for the adjacent residential properties.

Mr. Brandmeyer: They are 25 watts on a dimmer. They will create a lot less glare than the parking lot lights. It's a mixed-use property. People who live there understand they're living above retail and restaurants.

Mr. Coleman: Parking lot lighting is shielded and is directed down. These are directed in 360 degrees.

Mr. Brandmeyer: We certainly can shield them. They are all pointed down.

Mr. Gerber: Bill makes a good point about the dimmer so there is the ability to adapt the environment. If we do get complaints from the tenants above, there is the ability to decrease the light levels. Our goal is to maintain an adequate light level to conduct business and to have guests seated outside at nighttime.

Mr. Brandmeyer: The alternative would create more light. If we had to put lighting out there, we would use higher wattage bulbs that would be brighter.

Chair Rohlf: We have a number of outdoor patios. What do we typically see for the lighting there?

Mr. Klein: I know during the holidays, there is a lot of lighting. I'm pretty sure it wasn't string lighting because I would remember that as they went through the process. Some of them are located under a colonnade, so they have down lighting. Some of them may have pole lighting, but I honestly can't remember.

Comm. Williams: Bravo at Town Center has lighting similar to this versus pole lighting, but I can't be absolutely sure.

Comm. Rezac: From my perspective, if the only place that string lights are mentioned is under "Signage," I cannot see where it is prohibited for part of lighting of an outside area. I tend to concur with the owner and the designer that the lighting is part of the atmosphere and that they would have to provide some kind of lighting out there.

Comm. Williams: The light bulbs are clear and not colored?

Mr. Gerber: Our proposal right now is for multi-colored bulbs. I can dig through my files if you'd like the exact colors, but during the original submittal to the Planning Department, we highlighted five colors. We have options if that needs to be altered.

Comm. Roberson: Are you going to use incandescent or LED?

Mr. Gerber: These are incandescent bulbs controlled by a dimmer to adjust light levels.

Comm. Roberson: Can you tell me how many bulbs you're talking about?

Mr. Gerber: I don't know. I could calculate that, but remember that these are more the commercial-grade, so the bulbs are farther apart than what they would be in a traditional Christmas light. We'll probably have 12" or greater distance from bulb to bulb.

Comm. Rezac: The uniqueness of this also is that it is in a mixed-use development. Is there anything in the standards for that development that addresses outdoor lighting?

Mr. Klein: There is nothing specific to the mixed-use development; however, there are performance standards in Article II, and they speak to some of the lighting. Some of the lighting they encourage to be creative, but it does not specifically refer to string lighting. It is located in Non-Residential Uses under Lighting in Section 16-2-9.2.

Comm. Elkins: What about the lighting standards for the development itself?

Mr. Klein: I'm not aware that Mission Farms has indicated that they would allow string lighting. That is not to say that they are not supportive of it because they have obviously supported the application.

Comm. Elkins: Do they give any guidance at all?

Mr. Klein: I would have to look to them for that.

Comm. Williams: In the material that was submitted, there is an ordering sheet that refers to strands of lights. There are a couple of different varieties here. For the strands that you're proposing, is the socket for the lamps on a suspended design, or is the socket actually integrated into the power cable?

Mr. Gerber: The socket is integral to the cable. The cable is strung between the building and the pole.

Comm. Williams: There are different base sizes referred to here. With that comes spacing sizes. A medium base is 24" on-center. An intermediate or candelabra base goes down in spacing from 15" to 12". With the type of bulb you are talking about, are we looking at 24" spacing?

Mr. Gerber: Yes, the bulb is a medium-base bulb. It is the B11S14, and the spacing of the sockets is 24". The accessories down below has four bulbs stacked. The third bulb down is the medium base.

Chair Rohlf: I guess I'd like to talk about when these lights are going to be on. Do you anticipate them being on year-round even when no one is out on the patio?

Mr. Gerber: No, we'll close it for the winter. We have heaters, so we hope to get a few more months.

Chair Rohlf: Then they would be off when the restaurant closes in the evening?

Mr. Gerber: Correct, we're not trying to consistently bring attention to it.

Chair Rohlf: So in the summer hours, they're really not going to be all that noticeable out there.

Mr. Gerber: Two or three hours at the most. It's a very nice patio. We hope that people will stay, but we obviously have to close at 1:30.

Chair Rohlf: I'm not sure that there is anything in the ordinance that would prohibit this, but I'm sure that if you were to get complaints about these lights, you would be more than willing to honor those complaints.

Mr. Gerber: We have to be good neighbors. It is critical to our success.

Mr. Coleman: Under "Performance Criteria," it talks about interior and exterior building lighting. Under a), it says, "Building illumination architectural lighting shall be indirect in character. No light source visible, indirect wall lighting, overhead down lighting or interior illumination that spills into the landscape is encouraged. Architectural lighting shall articulate and animate the particular building design as well as provide the required functional lighting for safety and clarity of pedestrian movement."

Chair Rohlf: That's a part of the LDO?

Mr. Coleman: Yes, it's Section 16-2-9.2, Non-Residential Uses, 7a. All these light bulb sources are visible.

Comm. Rezac: Does that reference a certain zoning district?

Mr. Coleman: All non-residential districts.

Chair Rohlf: It's the visibility of it? What would we be allowing on these other patios?

Mr. Coleman: The filament should not be visible.

Chair Rohlf: I'm afraid I don't understand that language in the LDO.

Mr. Coleman: The reason that we have the lights in the parking lots shielded is so the light source is not visible. Otherwise, the lights in the parking lots could be big light bulbs.

Chair Rohlf: Once again, I'm afraid that, as a Planning Commission, we are bound by the language of the LDO. We cannot allow that type of lighting.

Mr. Gerber: I don't think our lighting matches what that says.

Comm. Williams: As I'm reading the section of the LDO, it is talking about building light. There is reference to pathways and entrances. We are lighting a patio for use. It is an extension of an indoor space. Yes, it is outdoors. There is no provision here that says you have to have indirect lighting for the inside of the building to light the dining room, but if you extend that dining room outside, does that now become architectural-featured lighting? I understand if we're going to light the building and do all these halos and accents and so forth, I find it clear. I see this a little bit as a gray area and open to interpretation.

Comm. Rezac: I think even further to that point, there is another section here that reads, "Lighting shall highlight, compliment, and reinforce landscape and architectural design as focal points of interest." I still think the lighting on this patio follows the intent of a couple of these items in the LDO.

Mr. Gerber: Further in that section, it does say, "Direct sight lighting shall be limited to design elements such as signage, entries and special features." This is a special feature, and it does say, "Direct sight lighting." To me, that suggests that I can see the light source.

Chair Rohlf: I think we've had enough comments. Perhaps the best thing to do is make a motion. If it is approved, it will go to the Governing Body, who would be in a position to clarify this gray area.

A motion to recommend approval of CASE 03-10 – MISSION FARMS – LOS CABOS – Request for approval of Final Site Plan for a Tenant Finish, deleting staff stipulation no. 2 in order to allow the strand lighting, leaving four staff stipulations – was made by Williams; seconded by Elkins. Motion approved with a vote of 5-1. For: Pateidl, Roberson, Williams, Elkins and Rezac. Opposed: Neff-Brain.

CASE 10-10 – LEAWOOD PLAZA – CORE FIRST BANK AND TRUST – Request for approval of a Revised Final Site Plan – Located at 12220 State Line Road.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 10-10. It's a request for a Revised Final Site Plan approval for Core First Bank and Trust. It is located at Leawood Plaza at the northwest corner of 123rd and State Line Road. Core First Bank and Trust is a new tenant occupying an existing building that is currently vacant but previously occupied by another bank tenant. The applicant is proposing several modifications to the site in order to accommodate the new tenant. These include construction of a concrete pad and brick screen on the south side of the building for a new generator and trash enclosure. They also propose to reduce the number of drive-thru lanes to allow for wider drive-thru lanes. Additionally, they propose additional landscaping, including screening of mechanical equipment at the southeast side of the building, street trees and a sidewalk connection from the public sidewalk along State Line to the building entrance. The applicant is also proposing two new signs, one of which is a monument sign. The other is a wall sign that would be located on the north elevation of the building. Both signs are proposed to state, "Core First Bank and Trust." The wall sign is proposed to be constructed of aluminum channel letters and painted white and then internally illuminated. The monument sign is proposed to be located east of the building adjacent to State Line Road. There is an existing monument sign for Leawood Plaza for the development that is located southeast of the building at the intersection. Staff is supportive of all the proposed modifications to the site with the exception of the proposed monument sign because there is already one monument sign on the property for the development and because there are currently no monument signs within the Leawood Plaza development. Staff is recommending a stipulation that the Sign Plan be revised to eliminate the proposed monument sign. This is an instance in which they can have two signs. In lieu of that additional monument sign, the applicant may propose an additional wall sign. Staff also would like to point out stipulation No. 5 in the report is a standard stipulation that is often applied for new development. It was inadvertently added to this report. It pertains to downspouts being enclosed. There are existing downspouts; there are no new ones being proposed, so we recommend you strike that stipulation with your motion. Staff recommends approval of this case, subject to that change in stipulation and the other stipulations in the report.

Applicant Presentation:

David Caster, Caster Architects, 7304 W. 130th St., Ste. 170, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Caster: We agree with all of staff stipulations and agree to drop the monument sign for now as well.

A motion to recommend approval of CASE 10-10 – LEAWOOD PLAZA – CORE FIRST BANK AND TRUST – Request for approval of a Revised Final Site Plan – Located at 12220 State Line Road subject to staff stipulations and striking stipulation no. 5 – was made by Roberson; seconded by

Williams. Motion approved unanimously with a vote of 6-0. For: Pateidl, Roberson, Neff-Brain, Rezac, Williams and Elkins.

MEETING ADJOURNED.

DRAFT