

City of Leawood
Planning Commission Minutes

March 23, 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, Jackson, Neff-Brain, Rohlf, Williams, Elkins, Heiman, and Rezac.
Absent: Roberson.

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

Approval of the minutes from the January 26, 2010 and February 23, 2010 Planning Commission meetings.

A motion to approve the minutes from the January 26, 2010 Planning Commission meeting was made by Neff-Brain; seconded by Heiman. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Heiman and Rezac.

A motion to approve the minutes from the February 23, 2010 Planning Commission meeting was made by Neff-Brain; seconded by Rezac. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Heiman and Rezac.

CONTINUED TO APRIL 27, 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 (GENERATORS) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 67-09 – BI-STATE CENTENNIAL PARK – PARS ENGINEERING – Request for approval of a Revised Final Site Plan, located north of 141st Terrace and east of Cambridge, within the Bi-State Business Park Lot 17.

CASE 72-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – R-1 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 – RP-1 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**

CASE 32-10 – TOWN CENTER PLAZA – OUTLOT BUILDING 12 – Request for approval of a Preliminary Site Plan for a 12,254 square foot retail building, generally located between Dean & Deluca and Barnes & Noble. **PUBLIC HEARING**

CONSENT AGENDA:

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

CASE 02-10 – PLAZA POINTE – MONARCH PLASTIC SURGERY – Request for approval of a Final Sign Plan, located at 4801 W. 135th Street.

CASE 14-10 – TOWN CENTER PLAZA – BATH & BODY WORKS – Request for approval of a Final Site Plan for a Tenant Finish and Sign Plan, located at 5012 West 119th Street.

CASE 23-10 – PARKWAY PLAZA – NU 2 YOU – Request for approval of a Final Sign Plan, located at 4870 W. 135th Street.

CASE 24-10 – LEAWOOD PLAZA – JIA RESTAURANT – Request for approval of a Final Sign Plan, located at 12248 State Line Road.

CASE 25-10 – LEAWOOD PLAZA – NAILS DIVA – Request for approval of a Final Sign Plan, located at 12250 State Line Road.

CASE 26-10 – TOWN CENTER PLAZA – VICTORIA'S SECRET – Request for approval of a Final Site Plan for a Tenant Finish and Sign Plan, located at 5000 W. 119th Street. ****Removed from Consent Agenda and moved to New Business****

CASE 27-10 – VILLAS OF LEAWOOD – 8th PLAT – Request for approval of a Final Plat, located at 1949, 1953 and 1955 W. 139th Terrace.

CASE 30-10 – MARKET SQUARE – AUBURN PHARMACY – Request for approval of a Final Sign Plan, located at 13351 Mission Road.

CASE 33-10 – PARKWAY PLAZA – SIGN CRITERIA – Request for approval of Revised Sign Criteria, located at the northwest corner of Roe Avenue and 135th Street.

CASE 28-10 – PARKWAY PLAZA OFFICES – MOHN & SMILEY DENTAL – Request for approval of a Final Sign Plan, located at 13430 Briar.

CASE 35-10 – ONE NINETEEN – SIGN CRITERIA – Request for approval of revised sign criteria, located at the southeast corner of 119th Street and Roe Avenue.

A motion to approve the Consent Agenda as amended was made by Jackson; seconded by Neff-Brain. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Heiman and Rezac.

NEW BUSINESS:

CASE 26-10 – TOWN CENTER PLAZA – VICTORIA'S SECRET – Request for approval of a Final Site Plan for a Tenant Finish and Sign Plan, located at 5000 W. 119th Street.

Staff Presentation:

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 26-10 – Town Center Plaza – Victoria's Secret. The applicant is Limited Brands and is requesting approval of a Final Site Plan, Tenant Finish and Sign Plan. Staff is recommending approval of this case with the stipulations in the Staff Report and would be happy to answer any questions.

Comm. Williams: The Staff Report refers to a number of signs for this project, mostly exterior. Yet, when viewing the drawings that were submitted with this package, I see reference to Sign Type B, which is vinyl cut letters applied to the storefront. There is no staff review or recommendation dealing with this particular signage. In several past cases, we've had similar signage proposed and then objected by staff and ultimately denied. Why was this signage not addressed, and what is our current policy addressing this type of signage?

Mrs. DeBoer: In the Table of Signs, the LDO states that window signs are allowed at under 5% of the window.

Comm. Williams: Has that always been in there?

Mr. Klein: It has always been in the LDO. I remember a number of cases dealing with signage, and I understood the Planning Commission was in favor of those. Typically, we don't regulate window signs as long as they maintain a minimum of 5% of the window area. A window sign is anything that's visible in the window from outside the building. The Code Enforcement department regulates signs that are also applied to the window and in that 5%. We did have a number of applications, including Wet Seal in Town Center Plaza, that were approved. In the West Elm case, staff was concerned about the amount of signage the applicant was proposing overall.

Comm. Williams: I'm in favor of that type of sign; I just want to be sure that we are consistent in our approach.

Comm. Neff-Brain: Where is the pink sign?

Mrs. DeBoer: That's interior. They just provided us all their signage.

Comm. Elkins: How many total exterior signs do we have here?

Mrs. DeBoer: Two wall signs, one blade sign and the window decals.

Comm. Elkins: So it's four window signs, a blade sign and two wall signs.

Chair Rohlf: Are you comfortable now, Mr. Williams?

Comm. Williams: Yes, I just wanted to check on procedure. Since you don't refer to that type of signage in your review and comments, how do you best address that signage in the stipulations so that it is included in tonight's package?

Mr. Klein: The stipulations are as shown. I don't believe they would have to change.

Comm. Williams: I guess I have a little concern with the details of the signage being reviewed and discussed by staff and staff comments saying that they meet the LDO. It would seem appropriate that any other signage that is supposed to be approved would be addressed in some fashion as well.

Mr. Klein: Would you like to add a stipulation including the window sign?

Comm. Williams: Either add a stipulation or add to Stipulation No. 1 a comment that it includes Signage Type D.

Mr. Klein: And maybe it would be appropriate to list all the signage, including the sign on the façade, the blade sign, the sign on the wall and then the four window decals.

Comm. Williams: How would you like the stipulation to read?

Mr. Klein: "The application shall be limited to two wall signs, one blade sign and four window decal signs."

Chair Rohlf: Is the applicant here? I just want to make sure you're comfortable and understand all the stipulations.

Applicant Presentation:

Bob Holben, Limited Brands, appeared before the Planning Commission and made the following comments:

Mr. Holben: Thank you, and what I just heard is we added the 2" decal signs back to the stipulation, which makes it exactly what we wanted. That's fine.

Comm. Rezac: So next time if we were to receive a case, underneath the Signage category, we would also list the vinyl signs.

Mr. Klein: Yes, that's the direction we're going.

A motion to recommend approval of CASE 26-10 – TOWN CENTER PLAZA – VICTORIA'S SECRET – Request for approval of Final Site Plan for Tenant Finish and Sign Plan with Stipulation No.2 reading, "The signs shall include two wall signs, one blade sign and four window decal signs," was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Heiman and Rezac.

CASE 64-09 – CLEARWIRE WIRELESS BROADBAND – Request for approval of a Special Use Permit for a wireless communication antennas on an existing tower, located at 13401 Nall Avenue. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 64-09 – Request for Special Use Permit approval for Clearwire Wireless Broadband for a wireless communication antenna located on the existing tower at 13401 Nall Avenue, which is just northeast of the intersection at 135th and Nall. The applicant is proposing three flush-mounted panel antennas, three microwave antennas and three DAP modules mounted to the tower, as well as associated ground equipment, including an equipment cabinet and a GPS antenna. All ground-mounted equipment is proposed to be located within the existing screen wall enclosure. A Special Use Permit for the existing wireless communication tower was approved originally in 1996 and renewed on March 13, 2007 for a period of five years, expiring on March 13th, 2012.

The tower is approximately 170' tall and is considered a legal, non-conforming structure. Since it was originally constructed, the LDO was amended to allow a maximum tower height of only 150'. Several wireless communication antennas are located on the existing tower, and all have effective Special Use Permits at this time. In the more recent wireless communication antenna approvals, the city has tied those Special Use Permits to the expiration date for the tower in case the tower needs to be modified to comply with the ordinance at that time. Staff is recommending that this SUP be allowed to expire on March 13, 2012. Staff recommends approval of the SUP request for Clearwire Wireless Broadband, subject to the stipulations in the Staff Report and is happy to answer any questions.

Comm. Jackson: In 2012, is the city of the mind to knock it back down to 150'? Is that possible to do once they're up?

Mr. Klein: We are currently discussing this. The applicant's contention is that it would be impossible to flush-mount these antennas on the existing tower. You might see this in future discussion, but I don't currently have any detail on this. Originally, this application came forward with an antenna that was proposed to be mounted on the tower on an existing platform; however, the current LDO does not allow platforms and requires flush mounting. The applicant then went back and found a way to flush-mount these antennas by locating them at 80' on the tower. You also have another application in your package tonight regarding placing some antennas on the Bank of Blue Valley. Between those two applications, they attain the coverage they are looking for. It's an outstanding issue, but currently the tower is non-conforming.

Applicant Presentation:

Matt Austin, Polsinelli Shughart Law Firm, 6201 College Blvd., Overland Park, KS, appeared before the Planning Commission on behalf of Clearwire Wireless and made the following comments:

Mr. Austin: I'm also joined by Doug Machamer, who is an RF engineer with Clearwire, and he can answer your specific questions about how the tower will work. Staff did a very good job in the Staff Report of laying out the history of this tower. It was constructed in 1996. There are numerous carriers already on it. There also is a history to our application, which Keith just touched on a little bit. Our original proposal was to co-locate on the Sprint platform at 170', which would have given Clearwire a real presence here and would have been one of their more important towers. As we met with staff on it, we were informed that the LDO had changed to prohibit antennas on platforms. At that time, we contemplated pulling our application altogether as we worked to seek an amendment to the LDO that would allow us to co-plane with Sprint, since that's where we want to go. We ultimately realized we don't have the time to pursue that. My client anticipates kicking off their network in this area this year and essentially can't kick off the network in Leawood without having antennas at this site. What you have before you tonight is our "B" Plan, which is to have three of the microwave antennas, three of the panel antennas and three of the DLP modules located approximately at 90', where we will lose some coverage that we would have had at 170'. As a result of that, we are going to have to make some changes on some of our other sites in the area, namely the next item on the agenda, which is our request to add a few more microwave antennas at our Bank of Blue Valley site. We've brought a proposal that meets all the requirements of the LDO. It's been recommended for approval by staff. We're in agreement with the stipulations, and I will stand for questions.

Comm. Neff-Brain: I think it just looks horrible, and the more we add, the worse it's going to look. When you see these mammoth poles sticking out of a retail site and we keep getting more and more on it.

Chair Rohlf: What will happen in 2012? The permits have been consolidated to 2012, and then each carrier will come through?

Mr. Klein: We're trying to ensure that the antennas that renewed had the same expiration date as the tower. This is a legal, non-conforming tower that was constructed before the current ordinance was there. Right

now, the tower would probably have to come down at the expiration of the SUP unless there is some change to the LDO that allowed it to remain with some modifications. Regarding the number of antennas, there are a few theories about how to handle them. The original theory was to have as few towers as possible. In order to have that, you'd want as many of the antennas to locate on the existing towers. The LDO tried to make the antennas less intrusive by requiring the flush-mount be adjacent to the pole as opposed to on these triangular platforms that you see on a lot of this. Those platforms were put up prior to the LDO requirement for flush mounting. The ones we're talking about tonight are lower and next to the pole itself. The idea is they will be less obtrusive aesthetically.

Chair Rohlf: Would there be an opportunity, as these Special Use Permits come up in 2012, to change the configuration on this, or is that not possible?

Mr. Klein: Currently, the LDO requires a new SUP when the current ones expire. The applicant has indicated that slim-lining at that time is not possible. That's one of the discussions at this point.

Chair Rohlf: So all of these antennas are still active.

Mr. Klein: Yes.

Chair Rohlf: In Staff Recommendation No. 7, "Placement of any additional antennas on the pole shall constitute a revised plan." Does that refer to any future Clearwire antennas or antennas in general?

Mr. Klein: Any antennas in general.

Comm. Elkins: Is the tower SUP granted to Nextel, or is that through another owner?

Mr. Klein: In Leawood, Special Use Permits are granted to the owner of the antennas. The tower has its own SUP for the owner of the tower. Each antenna that goes on the tower will have an SUP that is limited to that specific owner.

Comm. Elkins: Do you know who currently has the SUP for the tower?

Mr. Rexwinkle: It was issued to Stein Towers, LC.

Comm. Elkins: So it's completely different, as far as we know, than the carriers who have antennas there.

Mr. Klein: Right, we recently had the Monopine that was sold from Sprint to TowerCo, and so TowerCo had to get an SUP.

Comm. Elkins: Some of these antennas have SUPs that expire in June, and some have SUPs that expire in February of 2012?

Mr. Rexwinkle: There is the Sprint antenna at the top and the Nextel at the bottom of the tower, which would be just above the proposed Clearwire antenna, both of which expire on June 4, 2012.

Comm. Elkins: So we'll have a timing issue in the future because we could decide that the tower ought to come down before the antennas' SUPs expire. It could be an issue.

Comm. Jackson: Can you explain to me what it is Clearwire is providing? Is it internet or phone?

Doug Machamer, 12635 W. 121st Terrace, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Machamer: I'm the microwave engineer for this market for Clearwire. I've also got extensive RF engineering experience from Sprint. The Kansas City Star had an article this morning in the Business Section talking about the service that Sprint is going to be launching. They're actually using our network to do that. It's a 4G service called WiMax. You get user throughput speeds from 3-6 MB downstream and 1-2 MB upstream. Essentially, it's a high-speed internet access service. Anything you can get over the internet, you should be able to get over that. It includes everything from Skype lines to telephone calls to video downloads. It's a very video-centric service because it has a much larger bandwidth, and we use significantly larger carrier size for the frequency that goes over the air. We can get significantly larger throughputs of the data that's coming over the line. If you look at a mobile phone now and the types of video that you get on there with 3G service, they're a little herky-jerky and not really what you'd see on your television. On our system, you'd get basically the same kind of video quality you get on your home television system. It's not high definition, but it will be able to support full-motion video. You get a nice video conferencing capability on there. All the features that you get off the iPad that Apple is producing right now will be able to be utilized on our network. I believe Sprint is announcing CTIA either today or tomorrow called Super Sonic that has a lot of those functionalities that they would be able to use on our network.

Comm. Jackson: On these maps, are these the only two antennas you'll need for Leawood, or will there be more?

Mr. Machamer: No, we have a number of sites throughout Leawood with seven different tower locations. There are also other towers outside the city limits of Leawood that provide some coverage. A number of meetings ago, we provided a coverage map that showed all of that in there. The problem with this coming from 170' down to 90', that difference equates to a much smaller footprint and population count coverage around the immediate area. There is a little fill-in from some of the surrounding towers that absorb some of the blank space, but not all of it.

Comm. Jackson: Other than the bank that is also before us, will there be more proposed?

Mr. Machamer: There are several that have passed including some for the Monopines and Macy's.

Comm. Jackson: With the height coming down, will there be more?

Mr. Machamer: This is probably the only tower that we'd be coming down on. All the rest of the sites are tops of buildings or Monopines. I've seen a lot of Monopines, by the way, and these are the most beautiful ones in the nation. Most of them are just a stick with leaves hanging out of them, while these really look like pine trees.

Comm. Elkins: Will bringing this down 80' necessitate any additional installations beyond that comprehensive plan you provided when this first began?

Mr. Machamer: Most likely, there will be. We do have some uplift sites that we call on for a Phase Three program. One of them is another flush-mount antenna system that will be located on the other tower in Leawood, at Mission and 135th Street. There just are not many opportunities to find locations to mount on that are towers. Most of them are building tops, and most are not very tall. It doesn't give us a big opportunity for wide coverage. If you don't have taller sites, you have to have more of them. Unfortunately, there are not many places that are not residential neighborhoods to be able to locate. We are on the Menorah Medical Center, which is a little off-site of Leawood, but it does provide some coverage.

Comm. Elkins: I understand you are working against a time deadline as well with leases. I certainly would encourage both you and staff that, when it comes time to add those additional installations, you provide any changes to the comprehensive plan so that we see what the whole network build-out looks like. There is reluctance with part of the Commission, if not the whole Commission, to do it piecemeal. I understand this has been a crimp in your network plan to have to bring it down, but we'd like to see how it ends up.

Mr. Machamer: We're in the midst of trying to find candidates to fill out a few of those uplift locations. We have located one over at the Beth Shalom area, which is a little outside of Leawood, too, but is very close and would cover some of Leawood. The rest of them, we're still getting our site acquisition firms to try to find us locations to fill in some of the coverage gaps here. If we end up at a hole with nothing there, it will just be a hole. There are several of those locations around the market that we just can't fix. If we have no place to locate an antenna, we won't build a tower. If we need to fill in, one of the firms we work with is SSD, and they are actually building a couple of towers that we'll be the lead tenant on.

Comm. Elkins: The service that you're going to be providing the citizens of Leawood, are those intended exclusively for handheld devices, or is the idea to eliminate the need for hot spots, if you will, so that if I have the right adapter, I could use my notebook anywhere in your area?

Mr. Machamer: One of the nice things about what we're doing is we're right in the back of Intel. Their Centrino chip set that they're just starting to put into laptops has the WiMax chip set embedded into the same chip set that the WiFi chip set is on. Computer manufacturers like Dell and HP and others that make laptops are starting to use it. It will be like a hot spot for your laptop, and the system defaults to the WiMax capability if it's available. If it's not, it goes to the WiFi. Sprint has a little dongle provided as part of their data service that has 3G and 4G on that same device. The same sort of defaulting to WiMax happens here. You may have seen some of the commercials between AT&T and Verizon. AT&T does not have 3G service on all their towers. Both Verizon and Sprint have it on all their towers, so it gives them a little bit of an advantage coverage-wise as a 3G network. What Sprint sells and markets is both of those services put together in one data package, and they use our network as the 4G part of that overall service.

PUBLIC HEARING:

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

A motion to recommend approval of CASE 64-09 – CLEARWIRE WIRELESS BROADBAND – Request for approval of a Special Use Permit for wireless communications antennas on an existing tower located at 13401 Nall Avenue – was made by Elkins; seconded by Heiman. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Heiman and Rezac.

CASE 31-10 – BANK OF BLUE VALLEY – CLEARWIRE WIRELESS BROADBAND – Request for approval of a Special Use Permit for a wireless communications antenna for Clearwire Wireless Broadband, located at 13401 Mission Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 31-10 – Bank of Blue Valley – Clearwire Wireless Broadband. It is a request for a Special Use Permit for a wireless communications antenna, which is proposed to be on the rooftop of the Bank of Blue Valley building in the

Market Square development. They are proposing three antennas and an equipment cabinet, which is proposed to be 54 ½" tall and is located in the center north side of the roof. It will be concealed from view by an existing screen wall that is 18' in height. The three antennas will be 42" tall and are located on the north side of the roof. These will all be completely screened from view by the existing screen wall as well. Staff recommends approval of this SUP request for a period of five years with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chair Rohlf: We've seen this before. What is different?

Mrs. DeBoer: This is in addition to those four antennas that are already on that roof previously approved.

Mr. Heiman: There are four existing antennas, and we're adding three?

Mrs. DeBoer: That's correct.

Comm. Jackson: The screening wall is not going to change, then? They'll all fit behind it?

Mrs. DeBoer: Yes.

Applicant Presentation:

Matt Austin, Polsinelli Shughart Law Firm, 6201 College Blvd., appeared before the Planning Commission and made the following comments:

Mr. Austin: As you pointed out, this was just before you a couple months ago. Essentially, what is before you tonight is an amendment of what was previously approved. We are adding four new microwave antennas. As staff has pointed out, they will all be behind the existing screen wall. This will not change the visual appearance of this whatsoever. Once again, we meet the LDO and have staff approval. I'll stand for questions.

Chair Rohlf: What caused you to need to add these additional antennas?

Mr. Austin: In large part, it was the idea that we thought we would be at 170' and now we're at 90'. Now, we needed the ability to do more backhauling at this site since we'd be doing less at the other site.

Chair Rohlf: This should take care of it?

Mr. Austin: Yes.

Public Hearing

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

A motion to recommend approval of CASE 31-10 – BANK OF BLUE VALLEY – CLEARWIRE WIRELESS BROADBAND – Request for approval of a Special Use Permit for a wireless

communications antenna for Clearwire Wireless Broadband, located at 13401 Mission Road – was made by Elkins; seconded by Heiman.

Comm. Elkins: We've approved four antennas for a Special Use Permit, and we're approving three tonight. We have SUPs out of synch here as well now.

Mrs. DeBoer: Yes, these three would be five months later.

Comm. Elkins: If we could start to look at some way to get these synched up, it would make things more efficient as we go down the road, but there may not be a way to do that.

Mr. Austin: I believe it is a total of eight antennas. There are three of what we call the panel antennas and one microwave. This is adding four new microwaves.

Mr. Klein: We are only counting the three they proposed in the Staff Report. We want to clarify if it is truly four.

Chair Rohlf: Is that something staff didn't catch?

Mr. Klein: I think it was due to the notation. It won't have any effect as far as the visibility of the application. Evidently, on the plans where it has five, it used to be one; so that would be four being added.

Comm. Elkins: I would amend my motion to four antennas and rooftop equipment cabinet.

An amended motion to recommend approval of CASE 31-10 – BANK OF BLUE VALLEY – CLEARWIRE WIRELESS BROADBAND – Request for approval of a Special Use Permit for a wireless communications antenna for Clearwire Wireless Broadband, located at 13401 Mission Road to include four antennas and a rooftop cabinet – was made by Elkins; seconded by Heiman. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Heiman and Rezac.

CASE 29-10 – ONE NINETEEN – LA BODEGA – Request for approval of a Final Site Plan for a tenant finish, located at the southeast corner of 119th Street and Roe Avenue.

Staff Presentation

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 29-10. It is a request for Final Site Plan approval for a Tenant Finish for La Bodega, located within the main center at One Nineteen, located at the southeast corner of 119th and Roe. The proposed tenant will be located in a space occupied by Jp Wine Bar. The applicant is proposing modifications to the northwest and northeast elevations of the storefront for the new tenant. The new tenant will make use of the existing patio on the northeast side of the storefront with modifications to include two fireplaces, an outdoor kitchen and installation of sliding windows in place of two of the existing windows. The sliding windows will be similar to those found at the NoRTH Restaurant on the opposite end of the main center. They will allow free and open access between the interior of the space and the patio. The new tenant is proposing modifications to the plaza area in front of the northwest storefront as well. These modifications include the construction of a service counter on the west side of the main entrance and a staff access door just west of the service counter, as well as some outdoor seating and railings to surround the seating and service counter area to define what is effectively an

extension of the patio around the front of the storefront. In order to accommodate these modifications, the applicant is proposing the relocation of two existing trees in that patio area. The applicant is also proposing modifications to the building elevations, including the addition of red fabric awnings above the windows and colored porcelain tile in red, white, yellow and blue. These tiles will form mosaics behind each of the wall light sconces and below the service counter as well as below the windows and above the main entrance. The applicant also proposes replacing the existing window to the left of the main entrance with a roll-up window that will allow open access between the interior and the patio in the front. The door at the main entrance will be replaced with a revolving door, above which will be a "Welcome" sign and a flame ring. The Fire Marshall has reviewed these plans and notes that his concerns are addressed, subject to the stipulations provided in the Fire Marshall's memo. The applicant is also proposing two wall signs reading, "La Bodega," one on the northeast and another on the northwest elevation. These are proposed to be aluminum channel letters, dark bronze in color with halo illumination. The signs will be approximately 3'10" in height by 12' in width with a maximum letter height of 3'10". As part of the Consent Agenda, you did recommend approval of changes to the sign criteria for One Nineteen that will allow the letter height of 3'10". Approval of this by the City Council is necessary for approval of the signs. Staff is supportive of the exterior modifications with the exception of the colors of the proposed awnings and porcelain tile. Staff recommends these colors be revised so that they are more consistent with the color of awnings and tiles found elsewhere in the One Nineteen development. The applicant also has not provided details regarding the proposed "Welcome" sign in terms of the height of the letters and material of the sign. The applicant has also not provided details of the blade sign. If the Planning Commission forwards a recommendation for approval this evening, staff recommends that information be provided prior to Governing Body consideration. Staff recommends approval of the Site Plan for La Bodega, subject to the stipulations in the report.

Chair Rohlf: Did we get a copy of the approval letter that goes for the overall development?

Mr. Rexwinkle: We forgot to include that, but there is a letter from them.

Chair Rohlf: So they were fine with the red awnings and the mosaic tile, even though it's technically not in compliance with the design guidelines?

Mr. Rexwinkle: They really didn't reference that in their letter from my recollection, but they did say they were fine with the proposal overall. They didn't specifically reference the tile or the awnings.

Comm. Elkins: Do you have any materials with you that show the existing color schemes of the development?

Mr. Rexwinkle: We did visit the site, and there is one storefront that is vacant that has awnings, and a second tenant has the exact fabric awnings, and they are basically brown. The other tenant space that has the mosaic tile is an earth-tone color.

Comm. Elkins: Do you recall which tenant it is?

Mr. Rexwinkle: It's Natural Body Spa.

Comm. Williams: For us to consider a change in color for the awnings, since the design guidelines specifically reference the color of the awnings, does that not require a change in those guidelines?

Mr. Rexwinkle: I believe it does, but the changes have not been proposed. That is one of the reasons staff opposes it.

Comm. Williams: Can this body even consider the change, then, if the development isn't making that change? Don't we have to approve their change before we can approve the color change here?

Mr. Klein: Within the design guidelines is a section on awnings that indicates the developer can approve deviations. Another alternative would be to make a stipulation within this Staff Report that calls for a change to the design criteria with an approval of this. We do have a letter from the development itself indicating support for the application. Staff is not supportive of the drastic color change. I've passed around some color elevations of the original approval showing the dark, neutral awnings.

Comm. Williams: Is there a provision in the design guidelines that restricts the color of any mosaic or porcelain tile?

Mr. Klein: Actually, the design guidelines don't really address the tile. We have allowed the tenants to have their own character. Natural Body Spa has a mosaic tile that is more earth tones with glass and tile mixed in.

Comm. Neff-Brain: I'm looking at the picture and the design guidelines. I don't see an awning or a mosaic spelled out precisely.

Mr. Klein: The mosaic really wasn't spelled out. It was basically to allow each individual tenant to have some character. The West Elm has the artificial wood slats. Natural Body Spa has earth-tone tile.

Chair Rohlf: As far as we know, that letter was all we had – nothing that indicated a deviation was requested or granted with respect to the awning.

Mr. Rexwinkle: The only criteria change the developer requested was for the sign criteria change.

Comm. Rezac: Staff Recommendation No. 4 reads, "Staff is recommending that the sign over the main entrance door shall be limited to a maximum letter height of 8'." What standard or guideline is that based on?

Mr. Klein: This typically is something that is more to provide character for the overall restaurant rather than being the name of the tenant, so staff is looking at it as more of the architecture and therefore limiting the scale of it so it is not so bold. It's located above the revolving door on a metal band. The 8' was to try to find something that didn't appear too large in staff's opinion.

Applicant Presentation

James E. Taylor, Sr., appeared before the Planning Commission and made the following comments:

Mr. Taylor, Sr.: I am here with my son tonight, and we will present together. I'm interested in the comments Mr. Williams made. Let me assure you, we would not be here today if we had not received total approval by the developer. The developer has a representative here tonight and will speak to these design criteria. I'd like to go through the project. La Bodega is an unusual restaurant. It's an authentic Spanish restaurant that takes on the theme of Spain. The color is very important to the delivery of the product and the whole atmosphere. That's what we're trying to capture out here. I would also like to point out that this particular location we have the opportunity to take over needs energy. We need people to be able to recognize it and see it. Red is visible and doesn't offend. Red has different values, and we selected the red that has a very bright value. There are awnings in the center that match the stucco finish. They're not black in all cases; there is an olive color out there. There are also elements as far as the overall center. We have red signs out there. We have other bright reds on signs. We also have an outside patio area on the corner at NoRTH. I think this patio speaks for itself. There are umbrellas that are orange. (*Refers to diagrams on the*

overhead). When we talk about elevations, we have color demonstrated in the center. These are placards all over that center. The umbrellas at Sullivan's have to be considered as part of the building. The representative of the development is here, and I'd like to have him speak to you about the standards which the developer has made that all of these shops should have individuality.

Jose Rangel, DLR Group, 7290 W. 133rd Street, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Rangel: As Mr. Taylor represented and as Mr. Klein eloquently said, the concept for all of RED Development projects is to bring individuality into some of the developments through the tenant storefronts. This is what we are trying to accomplish here with La Bodega. A couple of other good examples that have been expressed already are the NoRTH umbrellas and the tile on Natural Body. These are all representations of those individual tenants and how they bring their character into the development. RED is in agreement and has approved the design and the colors. They are also willing to modify the tenant criteria manual to represent the new colors and new textures that are being requested this evening. I'll be happy to answer any questions. I think the opportunity here is to look at the individual tenants and see what they can bring to the shopping center.

Chair Rohlf: I think you can see our dilemma right now with the language that is currently in your design guidelines.

Mr. Rangel: Yes, and as Mr. Klein represented, there is that slight verbiage in there that allows deviation. Again, there are no issues with RED Development updating that criteria and bringing that into the next session.

Mr. Taylor, Sr.: (*Refers to various overhead photographs*) This is the mosaic at Natural Body. That is their concept of their color schemes. I'd like to go through the plan and the elevations, if I could. The plan is very simple. (*Refers to elevation*) To orient you, this is the northeast section. There are two locations that are established tree pockets. Because they are in the direct walking path from the parking lot, we have asked to relocate them. Where those pockets existed, we're putting back brick in those areas. This is the end of the center over here, and on the side is the patio. On the patio is the various seating. Again, this would be the elevation for the patio. You'll see we have an outdoor kitchen. We have a fireplace on the corner and another up against the building. Again, we're trying to have outside activities and action from the standpoint of people feeling they're in some type of residential atmosphere and not in a commercial. This is the elevation on the front, and we have the revolving door. If you've been there recently, you've seen a screen out in front of that existing door. The fire ring is right above here, and it is just a gas jet that has bouncing flames on top of it. The sign that you asked about is a metal face, and all the letters are cut in that metal face. The garage doors are on the left-hand side and will open to allow the outside atmosphere to come in. Over here is a sangria bar, and it will serve people on the outside in the front of the patio. It also will have coffee and soft drinks. I'd like to introduce my son to give you a background on the thoughts behind La Bodega.

James Taylor, Jr., 31 West Dartmouth Road, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Taylor, Jr.: I'd like to go through a brief history of La Bodega restaurant. We opened in 1998. The concept is traditional Spanish cuisine and tapas. Tapas goe back to the 1500's, back to the pilgrimage days through Barcelona up through France. It's a very traditional way of eating in most of Europe. We wanted to do the best we could of bringing that style of food and ambience into the culture of Kansas City. We've been fortunate to be around for the last twelve years, and we feel that it's time to expand. The concept is based on a lot of the culture of Spain, primarily of San Sebastian in the Barcelona Catalonia area. A lot of

the architecture and art was based off experiences in those cities. A lot of the tile mosaic is based off Gouty, and a lot of the Plaza de Catalonia, Casa Mia and Le Greta de Familia, which is the cathedral in Barcelona. The actual tile design is based off authentic designs. We have art that is done by a local artist, and she has done murals. We use the primary blue, yellow, red and white. We are basically bringing those elements that we have at La Bodega on Southwest Boulevard that we feel are very branded and very proprietary to the concept here in Leawood. We believe the mosaic on the outside is part of our brand concept, similar to Natural Body. We do want traditional tapas both inside and outside. We talked about the sangria bar with espresso in the morning. We have plans to do breakfast on Saturday and Sunday, so that will help bring an outside atmosphere that would be similar to being in Barcelona and Spain. We do want a very inside-outside presence with the fire pits. The fire pit in the middle would help feel like a rotunda. Additionally, we would like to put an outside grill so that we can have private parties and do tapas outside. We feel that we pay rent 24/7 on the space, so we'd like to get as much activity and use of that space as possible. We desire to bring as many of the elements of La Bodega and the energy and feel you get down on Southwest Boulevard to Leawood.

Mr. Taylor, Sr.: (*Refers to photographs*) These are the mosaics that are at the Southwest Boulevard location. These would be on the exterior and the interior. You can see that it's not that gaudy, frankly. I did a little survey of some other locations. The original BMA building has red awnings. Again, I don't think it is that gaudy for that old building. I surely don't think it will be gaudy on this site, but rather energetic. Dean and DeLuca is not going forward at this time, and we need to have some type of energy out there. We would like to do it in color. Are there any questions?

Comm. Neff-Brain: I understand the ABC can give an alcohol permit for the patio area, and it's fenced and confined. You can serve alcohol on a public sidewalk?

Mr. Taylor, Sr.: It's a private sidewalk. I'd like to comment on the staff comment, "In addition, the fact that the design standards prohibit red awnings . . ." That is not a true statement. It has not stated that red awnings are banned. The representative from RED Development has verified that.

Comm. Williams: On your mosaic, the examples from the current restaurant show broken versus modular pieces. Is that going to be the case here as well?

Mr. Taylor, Sr.: Correct, and these will be the patterns.

Comm. Williams: I'd like to talk about having these garage doors opened up and let the inside outside. In today's environment of energy conservation and the city's effort to help promote that, when you have this open, are we going to be air conditioning the great outdoors?

Mr. Taylor, Sr.: I don't think so, and the clients are going to dictate that pretty much as far as they are not going to be out there in 100-degree weather with the garage doors open. It's really going to be the atmosphere that we have maybe tonight.

Comm. Williams: I've been to the Southwest Boulevard location with the windows open, and it has been nice.

Comm. Heiman: It appears there are additional mosaics behind the light sconces on the walls.

Mr. Taylor, Sr.: I forgot to mention those. Again, those are existing light fixtures. To attract attention, we are putting small mosaic patterns behind them.

Comm. Jackson: Could we have staff clarify if these red awnings are all right within the guidelines as they currently are or not?

Mr. Klein: There is no statement that specifically prohibits red awnings. It does state that black awnings are what are approved in the development. They do allow deviations, as we called out in the awnings section. Staff's position is this shopping center came forward with a more contemporary design with a lot of earth tones. When the One Nineteen development came forward, there was much discussion on the awnings. Within the development, we have allowed some individuality, but still in the neutral tones. Staff's opinion is that the red awnings are such a contrast to what is currently there as far as the neutral material. Mr. Taylor did point out NoRTH and Sullivan's, but staff feels that the umbrellas are patio furniture that get approved with the Site Plan that you have for the outdoor dining area and are not part of the building.

Chair Rohlf: Mark, if we decided we are comfortable, as a Commission, with the choice of color, can we approve this plan and then make it a recommendation that these design guidelines be modified before this is taken up at Council? I'm not comfortable, particularly with no letter from the developer approving any kind of deviation to the awnings or the mosaics, but I think as the development is changing, perhaps some modifications to the design guidelines would allow some more leeway. I don't know whether that is something we need to approve first or if it is something at Council's doorstep.

Mr. Klein: We could actually add a stipulation stating that the design guidelines shall be modified prior to installation of the awnings. The applicant has indicated that a representative from RED Development would be willing to make an application to revise those design guidelines. They have a section right now that allows deviations that they can approve.

Chair Rohlf: You may want to take a look at that beyond the scope of this particular application to see if there is anything else that might be coming in the future that you could add.

Mr. Rangel: As Mr. Klein stated, we don't want to waste anyone's time with revisions to the tenant criteria. We don't want to waste your time with anticipated changes, knowing that those things may not occur. If we can do them after the fact, stipulated that it is not an issue, I think that would work.

Chair Rohlf: Personally, I like the addition of color to that development. I happen to think that it would be a nice contrast to the other colors up there. That's my opinion, so we'll see what the other commissioners have to say.

Comm. Pateidl: I have a question for the developer. You're expressing a willingness to make some changes to your criteria to accommodate this tenant. Have you discussed this matter with any of the rest of your tenants? Do you have any protocol to gather their concurrence? Do they have expectations that this type of a change would be allowed within the immediate area of their business locations?

Mr. Rangel: Unfortunately, I don't have an answer to that. I would think that if they see this as an opportunity, that they could potentially come back and visit with you all in the future with similar instances.

Comm. Pateidl: Would it be fair to say that your motivation here is to maintain tenancy in that building more so than the integrity of the architectural environment?

Mr. Rangel: I don't necessarily agree. The idea or the concept is to allow the individuality of each tenant. As they've come in, I think we've been able to do that with several of our tenants. I think it's going to improve the overall aesthetics of the building, similar to a lot of the other tenants that have already come in beforehand.

Comm. Neff-Brain: I really love the mosaic, and I think that adds a lot. I like the awnings in this particular instance. What would concern me is we approve this in red, and then the guy next door comes in with yellow, the next one comes in with blue. Where do we stop? It's one thing to have a burst of color in one place, but we could ruin the whole concept and design of the center if this would go too far. I don't know if the mosaic and then a black awning would be a good compromise. That's just a thought of mine.

Mr. Rangel: I believe everything has to come in front of this body for approval.

Comm. Neff-Brain: It's a precedent thing.

Mr. Rangel: I think for the most part, there are a considerable number of hard canopies that just cannot change.

Comm. Neff-Brain: That might be an issue. How many soft canopies are allowed in this center?

Mr. Rangel: I know West Elm and Z Gallerie both have the black awnings, but I don't believe anybody else there has the potential for fabric awnings.

Mr. Klein: This is a little different in the fact that the development actually had hard canopies there supported by cables and black awnings in addition to that. This is a spot we weren't anticipating to see any kind of fabric awning because the hard horizontal canopies are located that position. The applicant is proposing to place a canvas awning that angles down, hits the hard canopy and also has a portion located underneath.

Comm. Neff-Brain: Could other tenants do the same thing?

Mr. Klein: That would come before the Planning Commission. This is new territory as far as what an applicant has requested. West Elm has the fake wood metal slats around the door, which was fairly subdued. Natural Body Spa has the neutral tones that don't change the main portion of the building located outside that tenant finish area. This actually is going a bit beyond that in the fact that it's proposing to have the awnings come down to the hard canopy and modify that look.

Comm. Neff-Brain: Would you be fine with the same design in black?

Mr. Klein: Right now, we're just opposed to the color. The color they have chosen is the most vibrant red, so the Planning Commission may encourage a more toned-down color.

Chair Rohlf: Mr. Taylor, with respect to the other stipulations, just so I know as we get closer to winding this down, are you comfortable with the other stipulations that don't talk about the awnings or the tile?

Mr. Taylor, Sr.: The last stipulation would have to be modified to reflect the developer's modification to the guidelines.

Chair Rohlf: So we really are down to finalizing our decision on the awnings and the mosaic tile.

Comm. Williams: On the awnings, even within the design guidelines, stipulation does allow for deviations to be reviewed on an individual basis. That first gives the developer some control on future colors that may come into this. Also, I don't know if someone was starting to put the elevations on the screen for the center. The drawing of the center itself shows the hard canopies and the awnings. There are very few awnings on those drawings.

Mr. Taylor, Sr.: There are four awnings.

Comm. Neff-Brain: I understood these were not planned for awnings; they've been added.

Mr. Klein: The color elevation I passed around was with the original approval. That drawing shows a horizontal canopy that went out. This is a location for the horizontal metal canopy. The canvas awnings they propose in the two locations are actually on windows that did not have a hard metal canopy extend over them. This is a change from what was originally thought of at the time.

Comm. Williams: On the canopy and color of the awnings, I support Mr. Taylor when he talks about the color of the awnings, the color of the tile and the theme of the restaurant. That calls for that vibrant color to make the identity statement. I'd like to switch gears and talk about storefronts. The design guidelines talk about storefronts that have quality craftsmanship, innovation and creativity. There is nothing in there that prohibits bold colors, much less a reference to color in that storefront. It really does push for that creative look and craftsmanship. I think the design approach the applicant has taken with these becoming more than just a tile wall would be a lovely addition to the center. I wouldn't change a thing.

Mr. Rangel: The development in itself is very symmetrical with the exception of the two ends where we have the NoRTH restaurant and what is planned to be La Bodega. I think the characteristics of everything between those two bookends will probably also want to stay pretty close to the original design. We've got the opportunity on just four other awnings. I think the developer would look at the effect on the symmetry of the development if awning color changes were proposed.

Comm. Neff-Brain: On the original plans, there were to be no awnings on this storefront. These are being added. They could then be added other places in the development if a tenant wanted them. Theoretically, we could have a lot of awnings. I think it looks great, but I want to point out that it is difficult to say that the next applicant cannot have the colors because they came in second.

Comm. Williams: Do you then make everything the same so you don't have that problem in the future? Everything we do opens a precedent for something.

Comm. Neff-Brain: If somebody next door comes in with yellow or blue, do we care if that is the case? Again, I think the mosaic is beautiful, and I like this. I just worry about the precedent.

Mr. Taylor, Sr.: Keep in mind, the developer is the one who controls that property. Secondly, if he did allow what you're suggesting, you all have the authority to recommend or deny that and go through to the City Council. You have three stops there.

Comm. Neff-Brain: I understand the process. I just know that when a developer wants tenants, he tends to recommend things. When it comes to us with precedent that it's been done before, it's harder for us to have a rational reason to deny it the next time.

Comm. Rezac: I have to say that I am in agreement that I think we are opening ourselves up. I like the red; I like the design of this. It is hard to deny with a precedent set. Even though I do like the look of the red awnings, I would probably lean more toward the cautious side.

Comm. Elkins: Did these design guidelines get approved during a time when we were approving cultured stone as well as true stone?

Mr. Rangel: I believe we modified that to be natural stone. That whole issue was raised when Sullivan's came to the table, and we required them to do natural stone.

Comm. Elkins: I know we've had a lot of discussion about that, and Stipulation No. 7 recognizes proposed stone or cultured stone. I would be inclined to remove the "cultured stone." There is a timing issue, and I wasn't sure when the guidelines were established. The next question is to staff. The geometric design of the sign above the red awning – which, I think, looks very nice – fits within the sign guidelines for the LDO?

Mr. Rexwinkle: If the City Council approves the recommended sign criteria change, it complies with the sign criteria for the development and the LDO

Comm. Elkins: The change we recommended tonight was for sign criteria and not the LDO, correct?

Mr. Rexwinkle: Yes.

Comm. Williams: Mr. Taylor, does this location have cultured stone?

Mr. Taylor, Sr.: No, we're putting on natural stone. We will match the limestone on the east façade.

Comm. Jackson: Mr. Taylor, would you be all right with a little more subdued red, or do you need the bold, primary red?

Mr. Taylor, Sr.: First of all, I would be amenable to a different value, and I have a sample of that. I'd be happy to show you the red that is a different value than what we proposed (*refers to sample*).

Chair Rohlf: If there are no other questions, we are ready for discussion.

Comm. Pateidl: I, too, would like to log in on the issue of precedent. I would like to point out that there is a great stretch of imagination in establishing that precedent, just as we saw tonight in looking at umbrellas and calling them part of a building and justifying a color. Candidly, I take a little offense at that. Be that as it may, what we do and approve is going to be brought back to us, not only in the development on 119th Street, but in every other location we have in and around the city of Leawood. They'll point to the various things that have been done as precedent. Not long ago, a young lady was proposing a painted sign, but we had a specific LDO that wouldn't allow that to be done. Tonight, we are looking at a mosaic that is going to be on the front of the building that, admittedly by the applicant, is a big part of their business, just as that painted sign was. We denied the painted sign that fit very well within the architecture and the ambience of the location. We're looking at a proposal here for very bright red awnings and bright multi-colored tile on the front of a building. Let's face it, we do have restaurants that fail in Leawood and in Johnson County, and this will still be there if that happens. If this body has a responsibility to the existing commercial residents in our community and to the architectural integrity of our community, then I think we've got some real decisions to make here as they relate to this precedent. What we decide on this issue will come back and revisit us.

Comm. Williams: On the painted signage, we had an LDO that clearly prohibited that type of signage, so we didn't really have any latitude but to deny that sign. To deal with things that are more subjective, it makes our job collectively harder. The comment was made about this being here forever if the restaurant fails. The prime example is the restaurant that is leaving as this one comes in, and it will be different. If, heaven forbid, these people go out of business in 5-10 years, a new tenant has the right and will likely come in and change the architecture to meet their corporate identity and presentation they want to make to the public. I understand the concerns about precedent, but to look at this as a permanent installation is not accurate. It is subject to change with future tenants and future owners.

Comm. Elkins: I would go on the record as joining Commissioner Williams. You can always take either side of the argument to a logical extreme where it makes no sense, but if we bind ourselves to precedent, then

we end up with a Leawood with 400 boxes of stores. That is not going to be attractive. We have to be careful about binding ourselves too much to precedent. I think it's worth reiterating that the difference with the painted sign is the LDO gives us a framework around which we have to measure our judgment. Part of my view of what our job on the Commission is, is to exercise that judgment. If somebody comes in six weeks from now with a purple awning for One Nineteen, I'm going to be marching up to the front of the podium to say, "Absolutely not." I'm going to support a red awning tonight because I think, in the context of this particular business, it is appropriate. I give credit for some nice drafting on these guidelines because they appear to contemplate an exception on the design and the colors on the awnings. If red were prohibited in either the LDO or design guidelines, I would be opposing it. If there is no exception, then we are bound. I think we need to be careful about being too bound to precedent and not being willing to exercise our judgment on a case-by-case basis. I am going to be supportive tonight of both the awning and the mosaic.

Comm. Neff-Brain: I think some of us are at a disadvantage because we weren't here when the center was approved. At Park Place, we have a pink store and next to it, a turquoise store. Those stores are very different all the way down, and I know it is meant to look like a streetscape. This, to me, looks like more of a planned area. Is that how it was meant to be? Were they all meant to be very modern and the same colors?

Mr. Rangel: The building itself was to have this more contemporary feel to it, but still allow for the tenants to come in and bring some of their individuality to the space. Again, we were able to accomplish that with Apple, with Natural Body and with West Elm.

Comm. Neff-Brain: They are still all within the harmonious color scheme. Would something like this have been anticipated?

Mr. Rangel: Something similar to this would have been approved at the beginning stages of the development. The design is an elegant design, and on an individual basis, as Mr. Williams said, some of them aren't going to work. I think the developer would have issues before even coming before you. With this, it's an impressive presentation and certainly worth sharing with you and getting your thoughts on it.

Comm. Heiman: I also want to go on the record and state that I agree with Commissioner Elkins' summary. In addition, just looking at the facility itself, I am not able to see the mosaic at Natural Body Works unless I'm right on top of it. If we're going to go through the effort to make these mosaics, I think they need to be visible. Frankly, I like the mosaics a great deal. I think the establishment needs color. I'm also in favor of the red awnings. I think I like the subdued version a little better, but I still think it needs color. I am certainly sensitive to precedent; we deal with this all the time, but at the same time, we do have several stop-gaps here which should help us in the future.

A motion to recommend approval of CASE 29-10 – ONE NINETEEN – LA BODEGA – Request for approval of a Final Site Plan for a Tenant Finish, modifying the stipulations as follows: No 1, "The applicant shall revise the Final Site Plan to show fabric awnings that are Jockey Red in color." No. 2, "The design guidelines shall be modified prior to the Final Site Plan coming before City Council." No. 7, "Cultured stone" would be deleted – was made by Jackson; seconded by Williams.

Mr. Klein: In having them revise the design criteria for the development prior to Governing Body, the developer would need to bring an application before the Planning Commission. We would have that application probably at the same meeting, but prior to the La Bodega application. That does allow you to see the design criteria and how they're changing it prior to it moving on to Governing Body.

Comm. Jackson: Commissioner Elkins pointed out that we may not even need to change it.

Comm. Williams: There is nothing that I read that indicated prohibition.

Comm. Jackson: Let's just delete No. 2.

Mr. Klein: Another option would be to stipulate that the awnings shall be black unless modified by Governing Body prior to installation of the awnings.

Chair Rohlf: I don't think that's necessary, but we would have to delete No. 2.

Comm. Jackson: Since Leawood opened up to commercial businesses, we have had a responsibility to give them an opportunity to succeed. I don't see that little corner of One Nineteen as being able to be very successful when you have Dean and Deluca proposed building boarded up and not much else to attract anyone down to that area. I think this gives a business a little better opportunity to succeed there, and I think that's an important part of this Planning Commission's job.

An amended motion to recommend approval of CASE 29-10 – ONE NINETEEN – LA BODEGA – Request for approval of a Final Site Plan for a Tenant Finish, modifying the stipulations as follows: No 1, "The applicant shall revise the Final Site Plan to show fabric awnings that are Jockey Red in color," deleting Stipulation No. 2, and No. 7 to delete the words, "cultured stone" – was made by Jackson; seconded by Williams. Motion approved with a vote of 4-3. For: Jackson, Elkins, Williams and Heiman. Opposed: Pateidl, Neff-Brain and Rezac.

MEETING ADJOURNED.