

City of Leawood
Planning Commission Agenda
April 27, 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: Roberson, Neff-Brain, Rohlf, Williams, Elkins, and Rezac. Absent: Pateidl, Jackson and Heiman

APPROVAL OF THE AGENDA:

Motion to approve the agenda was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

APPROVAL OF MINUTES:

Motion to approve minutes from the March 23, 2010 meeting was made by Williams; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

CONTINUED TO MAY 25, 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 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 40-10 – THE ESTATES OF OLD LEAWOOD – SALES TRAILER OFFICE – Request for approval of a Special Use Permit for a temporary sales trailer, located at 8901 Sagamore. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 34-10 – MISSION FARMS – ARVEST BANK – Request for approval of a Final Sign Plan, located at the northeast corner of Mission Road and I-435.

CASE 36-10 – NALL VALLEY SHOPS – ZENAIL & SPA – Request for approval of a Final Sign Plan, located at 5321 W 151st Street.

CASE 37-10 – RANCHMART NORTH – O'NEILL'S RESTAURANT & BAR – Request for approval of a Final Site Plan, located at 9417 Mission Road.

CASE 39-10 – MISSION FARMS – JULIA SHAPIRO PHOTOGRAPHY + ART – Request for approval of a Final Sign Plan, located at 10517 Mission Road.

CASE 41-10 – WELLS FARGO – Request for approval of a Tenant Finish, located at the northwest corner of 103rd Street and State Line Road.

Motion to approve the Consent Agenda was made by Roberson; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

NEW BUSINESS:

CASE 32-10 – TOWN CENTER PLAZA – OUTLOT BUILDING 12 – Request for approval of a Preliminary Site Plan, located west of Roe Avenue and north of 119th Street. **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 32-10. It's a request for approval of a Preliminary Site Plan for a new out-parcel building located on Lot 12 of Town Center Plaza. The applicant is Gary Ceepo with Developers Diversified Realty and is requesting approval of a 12,254 sq. ft. retail building that is proposed to be located on the east side of Town Center Plaza between Dean and DeLuca and Barnes and Noble along Roe Avenue. Town Center Plaza is a 653,000 sq. ft. retail shopping center consisting of three multi-tenant buildings forming the main center, surrounded by twelve out-parcel buildings. The proposed building would be the 13th out-parcel building, bringing the total floor area of Town Center Plaza to 665,978 sq. ft. The property is zoned Planned General Retail. This zoning district permits a maximum of floor area ratio of .25. The proposed development would result in an overall floor area ratio of .217 for the development. The proposed building will require the elimination of 74 existing parking spaces in the area between Barnes and Noble and Dean and DeLuca for a total of 3,858 parking spaces across the development. The total number of parking spaces provided with the proposed development would exceed the minimum requirement by 1,644 spaces. The building is oriented such that the storefronts would face west toward the interior of the parking lot south of the main center, and the back of the building would face east toward Roe Avenue. The plans indicate that there is potential for five tenants in the building, and they show a pedestrian crosswalk connecting the main center at Barnes and Noble with the proposed building. Outdoor patios are also proposed for the north and south sides of the building. A service yard containing a trash dumpster, a transformer and a grease trap is proposed to be located east of the patio on the north side of the building. This service yard is proposed to be screened with a 6' tall brick screen wall. The building is proposed to be constructed primarily of two varieties of brick, one variety being a light red color and the second variety being beige and used only for accent purposes. The remainder of the façade would be three varieties of stucco. The building is designed with tower elements on both the north and south sides of the west elevation. The proposed landscaping plan does satisfy all the requirements of the Leawood Development Ordinance, with the exception of the requirement for the number of ornamental trees along Roe avenue. Staff recommends a stipulation that addresses that. The east elevation of the building will face toward Roe Avenue, and there are no storefronts or windows proposed for this elevation, which is proposed to function only as a service entrance for individual tenant spaces. At the time of Final Site Plan, staff suggests that the applicant consider moving one or both of the patios to the corners to provide a bit more interest and activity on the east side of the building. You have a revised Public

Works comment on the dais. All details regarding the building materials and designs as well as landscaping and signage are subject to future Site Plan approval. Staff recommends approval of this preliminary plan, subject to the stipulations in the report and is happy to answer any questions.

Chair Rohlf: David, could you clarify what you updated in your report?

Mr. Ley: We updated Public Works Stipulation No. 7. The original one read, "Building Permits will not be issued until all public improvements have been instructed." We actually do allow the building to begin construction; we just don't allow occupancy.

Chair Rohlf: Joe, we have seen this plan a couple of times over the last several years. I don't remember seeing that particular lot, but are there any other remaining outstanding lots to be constructed?

Mr. Rexwinkle: There are no platted lots that are vacant in the development. What may have happened with Pottery Barn, for instance, was that they separated that lot out at the time it was developed. It's possible that could happen down the road with other pieces of land that are adjacent to the roads surrounding the property, but they would have to go through that process themselves. This particular building is not proposing to re-plat anything; it would be located on the same lot as the main center.

Chair Rohlf: Was it there to begin with?

Mr. Rexwinkle: The building was not.

Comm. Roberson: So conceivably, they could have other buildings built in Town Center?

Mr. Rexwinkle: That's correct.

Comm. Neff-Brain: I'm concerned about a couple of things. One is the east elevation. Are those two masonry walls disguising back doors?

Mr. Rexwinkle: I believe they're intended to screen the service doors.

Comm. Neff-Brain: Is there asphalt or concrete that goes along the east side, or is that going to be grass?

Mr. Rexwinkle: They have proposed a sidewalk to connect those doors with the service yard on the north side of the building.

Comm. Neff-Brain: But there wouldn't be any ability to get cars or trucks up there.

Mr. Rexwinkle: No.

Comm. Neff-Brain: The second is the parking. I know you have an adequate number. My concern is that, on that end of the center, particularly at Dean and DeLuca, there is not adequate parking. I know that within the whole center, there may be enough spots, but it's where the spots are located.

Mr. Rexwinkle: In initial discussions, staff did share that concern with the applicant. However, our understanding is that there is a shared parking agreement across the entire site, so they do meet the requirement of the LDO as far as number of parking spaces.

Comm. Neff-Brain: People are parking illegally around Dean and DeLuca because there are no spots, and they're blocking entrances.

Mr. Rexwinkle: The applicant may be able to expand on that issue.

Comm. Rezac: I understand that number-wise, that area of Town Center still meets the requirements. Is there any kind of guideline on distribution?

Mr. Rexwinkle: No, there is not.

Chair Rohlf: Does anyone else have questions for staff?

Applicant Presentation

Henry Klover with Klover Architects, 10955 Lowell, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Klover: Pleasure to be back with you again. With me tonight is the developer owner's representative, Gary Ceepo and also Len Corsi, General Manager for Town Center Plaza. We are requesting a preliminary plan approval for an additional building in Town Center Plaza, 12,254 sq. ft. I highlighted it so you can see it on the Site Plan. It is going on the east edge of the property along Roe. We have three reasons for choosing that location. One is the bonus of parking. I'm going by memory. (*Town Center plan placed on overhead*) Dean and DeLuca has 12.5 cars per thousand. The building next to it, which is 810 Zone, is something like 15 cars per thousand on their lot. The area we're in, which is bounded by the main drive coming in all the way to the east has 6.6 cars per thousand. The building in front, which is the parking right along the face of Roe, has 10 cars per thousand. Overall, part of the reason we chose that area is there is an abundance of parking. The issue is not the parking in our area; the issue is the private lot, which is Dean and DeLuca. The good and bad is they are successful. There is no restriction on where people can park, but we do not see that this building will interfere with that in any way. The parking lot you're referring to is across from the entrance and above a 5' high retaining wall. It's not a path that anybody could even take to get to that parking without walking around. More than likely, people would be parking to the west of this building and then walking back down to it. The second reason we chose this area is street frontage, and the third is tenant interest; we have people who wish to move in there.

The building has two potential patios (*Refers to Site Plan*). They are potential because nobody has signed up for them, but the goal is to create outdoor areas for both potential restaurants on each side. The existing green line is where the actual parking goes now. There is an existing inlet where water drains to the east. That will be picked up by a new inlet that is installed to the west of the building. That area will all go to grass. This reduces parking count, which is obviously a concern for the city, but it also creates a ¼ acre over 9,400 sq. ft. of additional green space on the property itself without reducing the parking. We're lining up with an existing island in there, so that's why there is a space behind it. The preliminary elevations are designed to be compatible with the existing shopping center. We'll use the same forms and buildings, as well as the recently constructed Pottery Barn. If you are concerned about the rear of the building, I did bring photographs of the Pottery Barn, one of which is a view from the backside of the building, which is what we'll be mirroring (*hands photographs to the commissioners*).

We are generally comfortable with staff recommendations, with the exception of a few clarifications. The first is on the patio itself. We think it's very logical to move the patio; however, we do want to stipulate up-front that it will be tough to get the tenants to do it, according to leasing. We will agree to work with them and encourage them, but we can't guarantee anything. Restaurants are typically rigid in how they want their kitchens to lay out. Regarding the ornamental trees, we'll obviously work with staff in correcting and doing what we need to do to come to agreement. We actually counted several of the existing trees. There are two huge evergreens sitting there that are not being counted as ornamental. We were counting some of the existing trees that are by the entrance today. Regarding the lighting plan and photometrics, we will be using the existing lighting fixtures. The Traffic Report is the most important to us. We were requested to do an analysis mostly for accidents. We were informed there were several accidents

that occurred at the 118th St. and Roe exit, which is the access just to the north of our building. Four of the accidents were people turning left out of Camelot Court, and one of them was a northbound left turn and southbound through that actually caused the accident. Most of the recommendations they have in the report include recommending improvements to the radius and taper to Camelot Court. We felt like we were asked to do the report to deal with other people's problems. While researching the report, they did find that 10% of people making that right turn made it illegally. We're more than happy to work on that. We would prefer not to foot the bill for problems that are primarily created by the adjacent shopping center. Item No. 6 indicated that plats would not be released. We're not actually asking for any plats on this, so I don't think this really applies. We stand for any questions you may have.

Chair Rohlf: With respect to the Traffic Report, are you saying you're fine with what Public Works has recommended with the median?

Mr. Klover: They recommended either a $\frac{3}{4}$ median or a correction for working on the right turn. We would not agree to be responsible for creating a $\frac{3}{4}$ on our own nickel when most of the problem is caused by Camelot Court. We would be happy to work with Public Works on any issues in terms of the right turn.

Chair Rohlf: I think the recommendation was just the median, correct?

Mr. Ley: We gave them two options. One was an island in the middle of Roe, and the other was to correct the island exiting eastbound and then also extending that island 15' to the north to restrict the through movement.

Mr. Klover: I would agree with that. I looked at that today.

Mr. Ley: Staff is fine with removing Stipulation No. 6 on Public Works.

Mr. Klover: We mainly wanted to clarify that we aren't agreeing to correct everything.

Chair Rohlf: You've indicated tenant interest, and you are asking for patios on both the north and south ends. I assume the tenant interest must be restaurants. Would you put two restaurants in that type of an area?

Mr. Klover: I would defer that question to Gary Ceepo.

Chair Rohlf: I was just concerned with the parking lot we are talking about. It might be ample for certain types of tenants, but if we're getting into something that could be two popular restaurants, we may have parking concerns.

Gary Ceepo, VP of Development Specialty Centers, Developers Diversified Realty, Cleveland, OH, appeared before the Planning Commission and made the following comments:

Mr. Ceepo: The total building of 12,000 sq. ft. is profiled on the plan. We're currently talking to restaurants for both ends that would be in the range between 1,800 and 2,500 sq. ft. This is not a problem. These are specialty boutique restaurants. In mixed-use development, we would expect people to park in front of this restaurant and other stores and walk around. We have done things and will continue to do things to enhance the center and make it more attractive to pedestrian traffic, including covered walkways.

Chair Rohlf: The shared sidewalk looks like it already exists.

Mr. Ceepo: The red sidewalk that goes in front of Barnes and Noble, across the parking field and over to the island is striped now, but it will be a red concrete path.

Chair Rohlf: But it's the same one.

Mr. Ceepo: Yes.

Comm. Williams: My question has to do with the placement of the trash containers relative to the patio driveway, relative to the primary drive in and out of the center at that point, and also the relationship to Barnes and Noble. Has Barnes and Noble seen this and given blessings to have a trash dumpster within a few feet of their front door? We've had a lot of experience in this town with restaurants' trash being a mess. How are you going to control that?

Mr. Klover: I'm not sure anybody can control a restaurant, other than just maintenance and operation. I understand exactly where you're coming from. We're required by your ordinance to have it attached to the building. In that location, we have two choices. One is to put it on the front corner and have it across the street from the Barnes and Noble and have the patio on the backside; the other is to put it toward the back corner and get it as far away as possible. We also made it very large. It won't be tight or overburdened. It's something like 28' x 17'.

Chair Rohlf: Can you show me where it is?

Mr. Klover: (*Refers to Site Plan*) It's in this location right here.

Comm. Roberson: How is the other restaurant supposed to get its trash to there?

Mr. Klover: The tenants will have to come across the back to get there.

Comm. Roberson: I only see a partial sidewalk. How will they do that?

Mr. Klover: This doesn't go all the way down. The tenant's access door is on this corner. This is very heavily landscaped. This is almost nonexistent in terms of visibility. It's very much lower on this side. You've got a lot of trees. This is a plateau from across the street.

Chair Rohlf: The existing landscaping is below?

Mr. Klover: This is all low; this is high. This had a grade change of probably 8'-10'.

Chair Rohlf: Then it's relatively flat.

Mr. Klover: Remember, this has a retaining wall and is a very steep slope. This is actually a two-level building. You're literally going from one level to two. Across the street, you're about 10' below.

Chair Rohlf: You probably won't even see that building from Roe.

Mr. Klover: No, you won't. I'm sure a lot of them are going to ask for signs.

Comm. Neff-Brain: On the east elevation, there is something that looks like windows. Are those just bricked in?

Mr. Klover: They are patterned at this point. They will not be clear windows. There really isn't even any use because it isn't readily visible from the street.

Comm. Neff-Brain: The walls that cover the back doors?

Mr. Klover: They are screen walls that are the same as the photograph of Barnes and Noble.

Comm. Neff-Brain: Are they hiding the doors?

Mr. Klover: Yes.

Comm. Neff-Brain: So if you put an attractive door on there, would there even be a necessity for screen walls?

Mr. Klover: No, we'd be more than happy not to have them.

Mr. Klein: Typically, service doors are used for service areas. I'm not sure where this will be located within that section. Pottery Barn uses a similar method to screen their service doors along 119th Street, so they are repeating an architectural feature currently used in the development.

Mr. Klover: I think it was pretty successful.

Comm. Williams: Walk us through how deliveries would take place for the restaurants.

Mr. Klover: Deliveries will come into the service yard and then will be taken behind the building into the other buildings. The first restaurant has direct access; the second restaurant would not have direct access. Deliveries are made off peak hours. They're usually early in the morning.

Comm. Williams: Will you have a provision in the tenants' lease or somewhere that would require the deliveries to be made in that service yard and trucked to the back?

Mr. Ceepo: It is typical that our tenants are required to use the service areas for deliveries and disposal of rubbish. The UPS truck may stop out front and run in a parcel on occasion, but food will not come in the front door, nor will trash go out the front door. It really messes up their public space.

Comm. Williams: I could see with the tenant to the north being so close that they would probably use the service yard, but the one on the south end might find that a little more awkward. There will be a restriction.

Mr. Ceepo: I believe our REA that is part of the shopping center already prohibits storefront deliveries.

Comm. Rezac: On the landscaping, I noticed a landscaping plan here, and you also referred to some of the existing landscaping. Is the intent to add to the existing landscaping?

Mr. Klover: Most of them are added. The only things that are existing are these hedge rows, some ornamentals and the big trees. We've got a couple utility boxes that will need to be screened. We've got the street trees that need to be added to and supplemented. The biggest issue is the ornamental trees at 12' that need to be added.

Comm. Rezac: You mentioned something about the lights. I assume you're talking about the lights at the front of the building.

Mr. Klover: Existing today are two light poles that are in islands. (*Refers to Site Plan*) This entire parking bay is lit by these poles. Obviously we'll provide information and documentation, but the reason I mentioned it is that it was not designed under your current criteria. If I give you photometrics of the existing lights, they don't meet the height, wattage or any other current criteria. We are not changing the center in terms of lighting. The existing lights here close to the street are moving away and will be shielded by the building now in terms of the lighting that would filter on the street.

Comm. Rezac: On the plan are some square elements that go down the sidewalk. What are those?

Mr. Klover: Those are actually the tower elements on the building.

Comm. Rezac: I think staff commented on the entrance to this on the north side. It seems to call for a gateway-type of an entrance. Can you comment on that?

Mr. Klover: Any time you put a building at an entrance, you are naturally creating a gateway. Their comment was referring to the patio area going on the back corner of the building; creating more of a plaza area here (*refers to Site Plan*). We're happy to look at that. The issue is going to be tenant leasing and getting the tenant to do that. Certain tenants will do an open kitchen in the middle, and they don't necessarily care that it is open on that side, but that's going to be the exception rather than the rule. If we can get the tenant to go to that corner, we'd be more than happy to.

Comm. Rezac: Since we're in the preliminary stages now, I would hope to see that corner a bit more thought-out during the Final Plan stages. I understand the tenants want what they want, but I also think that this center and the Commission have some say in what that should ultimately look like.

Mr. Klover: We're really dealing with a huge grade change there with an existing retaining wall. I can't necessarily get a building there on the corner where you would have a traditional building.

Comm. Rezac: I was speaking more toward elements on the building, not necessarily making the building bigger.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Rezac. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

Chair Rohlf: This takes us to discussion, hopefully leading to a motion.

Comm. Neff-Brain: I am generally in support of the application and will probably vote to approve it. I do have the concern about the parking, maybe not for this structure itself, but for the overall end of the center. It's an issue for the center as a whole. I also share Ms. Rezac's concern about that corner entering into the center. I'll have to look at the elevations, but as you drive in, having the dumpster right there is not appealing. Perhaps something more creative at that corner would be a great asset, and we can explore that as we get further into the process.

Chair Rohlf: If no one else has anything to say, I would ask for a motion.

Mr. Rexwinkle: Before you make a motion, you may want to consider the Public Works memo before you this evening. You may want to strike comment No. 6 in the memo. It references the plat.

A motion to recommend approval of CASE 32-10 – TOWN CENTER PLAZA – OUTLOT BUILDING 12 – REQUEST FOR APPROVAL OF A PRELIMINARY SITE PLAN – Located west of Roe Avenue and north of 119th Street with all 23 of Staff Stipulations , striking Public Works Stipulation No. 6 in the Public Works memo – was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

CASE 43-10 – MARKET SQUARE CENTER – Request for approval of a Revised Preliminary Site Plan, Revised Final Site Plan and Revised Final Plat, located at the northeast corner of 135th Street and Mission Road. **PUBLIC HEARING**

Staff Presentation

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 43-10 – Market Square Center – Request for approval of a Revised Preliminary Plan, Revised Final Site Plan and Revised Final Plat. This application is before you tonight to address some issues regarding the existing development within the Market Square development, primarily located along 135th Street. There was a series of four pad sites approved in 2007. At that time, there was an error in the base map, which resulted in an error in the site map. Property lines were skewed as a result. In addition, a typical stipulation required screening utilities. In the process of screening, the applicant proposed to construct some screen walls to match the building. In doing so, they extended those walls out to the property line, and they no longer met the minimum 10' required interior setback for buildings. The Leawood Development Ordinance offers a deviation that would allow a zero building lot line, as long as the development has adequate open space. In this particular development, perpetual green space is along Mission Road. This offers much open space, and there is plenty of open space between the buildings along 135th street as well. The other request has to do with the building on Lot 9, which is adjacent to the Bank of Blue Valley. It is approximately 5' too close to the east property line. This was as a result of that base map error. A service road is located on the east side, so the deviation really isn't available for that. However, it could be re-platted to where they could move that east property line of Lot 9 over to the east, therefore allowing the building to meet the 10' required setback. Staff recommends approval of this application with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chair Rohlf: Mark, is there any downside to doing this?

Mr. Klein: I really don't believe so. This is a deviation that could have been requested at the time the initial application went through. I imagine it would not have been controversial. Another deviation was granted with this application that had to do with allowing a zero parking lot setback, which was commonly given with the development. Part of the problem was a technical issue as far as the base map being referenced in Auto CAD. The other had to do with the applicant trying to meet the screening requirements. If the screening walls had been on their plans, we could have checked to make sure they met the 10'. If they didn't, there is a chance that staff would have recommended a deviation to allow a zero lot line between buildings. This application is also necessary for the next application. It is not necessary for the existing buildings since it affects not only the one that is the subject of the next application but also another building that is farther to the east. This building has the worst-case scenario where they have the screen wall built out, and it is actually on the interior property line.

Chair Rohlf: Will we take care of that when that particular building would come before us for something else?

Mr. Klein: This is being brought forward by the overall developer of the Market Square development, and so they're requesting these deviations for the center itself.

Chair Rohlf: It was this application that brought this to light?

Mr. Klein: Yes, the following application is where it was noticed.

Chair Rohlf: Does anyone else have questions for staff?

Applicant Presentation:

Paul Waid with Copaken White Blitt, 1100 Walnut, Suite 2000, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Waid: We were not aware of the fact that we had run afoul of the setback requirements on the interior lots until the application came forward and staff made us aware of these issues. We appreciate staff working with us to get those things remedied. We feel like we've addressed all of them in what we've done with the re-plat and asking for the zero-foot variance. I do have our architect and our civil engineer here available to answer any questions you may have regarding that, but we're looking at this as primarily a housekeeping issue and getting those lot lines adjusted.

Chair Rohlf: Would it be possible to show us where all of this is occurring and how it affects the remaining buildings? I think there are four new buildings from the bank down to the corner.

Mr. Waid: There are three new buildings. We have our F building right next to the bank. Then there's the vacant pad site and then our D1 and D2 buildings that are right at the corner of 135th and Pawnee.

Chair Rohlf: So the one on the lot between is just vacant?

Mr. Waid: That's correct.

Chair Rohlf: If you could just show us exactly what is being remedied, that would be great.

David Contag, DLR Group, 7D 290 W. 133rd Street, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Contag: (*Refers to Site Plan on the overhead*) On the west side of Building F, the enclosure to screen the electrical meters is 5.6' off the property line. Then on the west side of Building D2 is the zero-foot setback that Mr. Waid talked about. Everywhere else on-site, we're good. We also had to construct an enclosure on the north side of Building D1, but it is 15.7' off the internal property line, so we exceed that. We work pretty hard to provide minimal enclosures to screen what we had to screen to meet the city ordinance on that. We're hoping we can get this approved tonight.

Chair Rohlf: Does anyone else have questions for the applicant?

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

Chair Rohlf: That takes us up to discussion, hopefully leading to a motion.

A motion to recommend approval of CASE 43-10 – MARKET SQUARE CENTER – Request for approval of a Revised Preliminary Plan, Revised Final Plan and Revised Final Plat – located at the corner of 135th and Mission Road – was made by Williams; seconded by Rezac. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

CASE 17-10 – MARKET SQUARE – DOG DAYS PET RESORT (KENNEL) – Request for approval of a Final Site Plan, located north of 135th Street and east of Mission Road.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 17-10 – Market Square Dog Days Pet Resort (Kennel). The applicant is requesting approval of a Final Site Plan, located north of 135th Street and east of Mission Road. This application is located within Building F of the previous application that need the deviation and re-plat within the Market Square development. The applicant is proposing to use Building F as a kennel. The exterior changes to the building primarily include reconfiguration of the parking lot that is located on the north side of the building facing Price Chopper. As part of that reconfiguration, the applicant would be creating a drop-off located on the north side of the building. They would also be constructing an outdoor play area for the dogs, located at the northeast corner of the building. In the process of doing that, they would eliminate a total of 15 parking spaces, including ten along the north side and five along the east side of the site. The applicant has provided a procedural manual as far as how they intend to handle some of the waste. As you may recall, we had an application for a kennel in the Bi-State development a little more than a year ago in which that became an issue. They have provided letters from the Kansas Department of Health and Environment, who looked at the proposal. In addition, Johnson County Waste Water has also written a letter. The applicant is proposing to have the waste recorded, and then the solid waste would be disposed of in an auger toilet within the development itself. To handle the urine, they will have a filtration system within the outdoor play area. This is a curbed area; therefore, there should not be any drainage going across the play area. In addition, the applicant is proposing to enclose the play area with a 6' stucco wall that will encompass that. One of the issues that occurred with the wall was the perimeter sidewalk along 135th Street, along the east side of the building and then connecting with the plaza area in front of the building on the north side. In the construction of the outdoor play area, that access was cut off. The applicant is proposing to extend that sidewalk off 135th Street farther to the north, wrap around this outdoor play area and connect to the plaza area. The applicant is also proposing a canopy that extends approximately 30' out from the building on the north side. The canopy will be constructed of tubular steel painted dark bronze to match the mullions of the building. They are also proposing a dark gray canvas top with that. This use is allowed within the SD-CR zoning district. Staff recommends approval with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chair Rohlf: Questions for staff?

Comm. Williams: The staff report indicates that there will be a maximum of 90 dogs at this kennel. Does staff know at this time how many dogs could potentially be in the outdoor play area at any given time?

Mr. Klein: I do not; that would be a good question for the applicant.

Comm. Williams: The Staff Report talks about the filtration system in the play area for dog urine. Does that system also have some form of odor control?

Mr. Klein: I believe there is a spray they put down between each session. Again, the applicant would probably be able to expand on that.

Comm. Williams: Following up to that, you've got 90 dogs potentially coming in and out of the kennel; some will probably stay longer, but there will be a lot of traffic. Dogs aren't known to necessarily wait until they get to a spot to do their business. I don't see that much of a provision for this. This is sitting right next to the Bank of Blue Valley. I can't imagine that Bob Regnier is happy with the idea of having a kennel with 90 dogs right next to his first-class office building.

Comm. Roberson: Can you imagine opening up a restaurant next door?

Comm. Williams: Yes, and when we discussed this years ago, the talk was that this potentially could be a restaurant. I'm not opposed to the idea of the kennel, and I love dogs. It's just that I have some concern in that respect. Have we heard from Mr. Regnier?

Mr. Klein: I have not heard from Mr. Regnier. We have talked with the overall developer with regard to this site, and they are supportive of the application. Again, when this application came in, staff had to review it against all the requirements of the LDO. The first thing we checked was the zoning, and it is allowed. There are a number of places like Jane's Canines that are, admittedly, on a much smaller scale within the SD-CR district. We also checked the bulk regulations, which is when we actually noticed the Market Square development had some deviations necessary not only for this building, but for an existing building. Those needed to be done for that overall development. The parking falls below, but we've always taken the parking ratio over the overall development. You might have a restaurant that would have higher parking requirements, and so you may have a few more parking spaces located in that general area; however, the overall development will still meet the parking ratio. One of the stipulations in the Staff Report is that they would have to have a cross-access parking and easement with this.

Comm. Williams: Going back to the noise, when we discussed the dog kennel at Bi-State Park, there was concern about the noise level. Yet, it was in the Bi-State Park and not next to a first-class bank building. We have requirements that control the noise for the 810 Zone with the outdoor patio. Dogs aren't quiet. Again, depending on how many dogs get in this play area, the noise level could be concerning for the neighbors.

Comm. Roberson: Did anybody talk to Bank of Blue Valley and Price Chopper specifically about this?

Mr. Klein: No, we did not go out and solicit opinions, but typically we don't do that. I want to appear fair to everybody.

Comm. Rezac: Can you remind me how the LDO addresses noise level for the city in general?

Mr. Klein: We allow 60 db at the property line. That's for any kind of use. If there were complaints, the owner would have to address the issue.

Comm. Rezac: That's something they obviously can't control.

Mr. Klein: I actually raised a lot of these same concerns when I met with the applicant, including noise, order and control of the dogs. We have looked at these and tried to address as many of them as we could. They indicated they hoped the wall would direct the noise up. Again, the applicant may be better able to answer some of these questions.

Comm. Neff-Brain: How far is the nearest house?

Comm. Roberson: It would be Waterford.

Applicant Presentation:

Chris Sailors, RH Sailors and Company, 2045 W. 141st Terrace, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Sailors: *(Refers to an overhead drawing)* This is a use that is really underserved in Leawood – a first-class kennel for our pet owners. Let me talk to you a little bit about why we are looking seriously at this location and believe this would be an excellent opportunity for us and for Leawood to have a kennel. What we like about this location, besides excellent visibility to 135th Street, is that it does create an isolated area, being an individual building. With this particular building, we can put a play area for the animals on the east side of the building, farthest away from the bank. Next to it is a driveway, so it doesn't get close to a neighboring building. The idea behind this outdoor play area is that the solid wall that matches the building will create a significant sound barrier. Let me tell you a little bit about kenneling. We have a maximum of 90 dogs. A typical industry standard, we'll run about 50% of an average occupancy. You really only have that maximum number during the peak holiday times like Christmas and Spring Break. Most of the time, we're talking about fewer than 50 animals and even less than that other times. In addition, we have an indoor play area for the pets as well, creating flexibility with weather and the number of pets boarded at a time. We are going to provide a place for the pets to eliminate on the way in and out of the building. What we want to do differently than most of the facilities we've studied and researched is to take all of our solid waste and put it into the sanitary sewer system, so we have nothing outdoors in the dumpster area and nothing creating any odor. If you have questions or concerns, I'll address those now.

Comm. Roberson: I thought this was a great idea for the Bi-State Park – good location and good place for the noise. Why the move?

Mr. Sailors: In this current economic environment, this is a better opportunity for us as opposed to building that facility from the ground up.

Comm. Roberson: Wasn't there a housing development that was supposed to go across the street at 135th?

Chair Rohlf: I think the sunset clause has expired on that land.

Mr. Klein: Directly south across 135th Street was the area of Mission Corners. It was a mixed-use development that had residential and retail in those three buildings. Then across from Mission Road, there was an office retail development that was located farther west. On the east side, I think it is currently designated mixed-use on the comprehensive plan, which would have a combination including residential.

Comm. Roberson: The Oddo development is right there on Mission, but is it past 137th Street?

Mr. Klein: Correct.

Comm. Williams: Could you elaborate on how the dogs will take care of business on the way in?

Mr. Sailors: We'll put a river rock area on either side of the doors a little away from the entries. They'll be marked, and we'll have to clean those and bring that waste inside. It does happen, and it's picked up and taken inside.

Comm. Williams: In the outdoor play area, roughly how many dogs might be out there at any given time, and how do you control the odor?

Mr. Sailors: We'll put the dogs in groups of 15, and we'll divide that play area up so we can separate the animals according to their size and activity level. We'll put them through in shifts, so there could be as many as 30 dogs out there at one time. It's almost a 3,000 sq. ft. area, so it's a good size. The solid waste is picked up and taken in, but then that whole area is washed down into the filtration system to control the odor.

Comm. Williams: Is that done once a day?

Mr. Sailors: Oh, yes.

Comm. Williams: Typically for the dogs' exercise, how often does that happen in the course of a day?

Mr. Sailors: At least twice.

Comm. Williams: It will be open until 7:00?

Mr. Sailors: Yes, we have a stipulation on when the dogs have to be inside. In terms of hours we'll be open to the public, it will be different; but the animals will be in and settled down by 7:00 p.m.

Mr. Klein: Under your proposed performance guidelines, it was 8:00 a.m. to 7:00 p.m.

Comm. Williams: Thirty dogs in an outdoor play area with a 6' high fence, so anybody my size or taller could walk by and clearly hear all the noise of the dogs. Has there been a conversation with the folks at Bank of Blue Valley? Are they supportive of the business going in to this location?

Mr. Sailors: I have not had any discussions with them. I don't know if the developer has or not. I assume they'll think it's a wonderful idea.

Comm. Williams: I'm not at all opposed to the idea. Unfortunately, my dog is not with us anymore, but when she was, getting a good and convenient kennel was very difficult to do in Leawood. We went to great pains to find some nice places for her. Having something like this close would be good. Knowing dogs get noisy - even a single dog in a back yard can create noise - I'm just concerned with the neighbors. If we didn't have a first-class office building next door, I wouldn't be as concerned. I wouldn't have any concern with this going in at the Bi-State Park. I do have concerns with the amount of noise and some issues with the odors with this amount of traffic where it's proposed.

Comm. Roberson: I'd like to echo Commissioner Williams' statement. I think this is a good idea in the wrong place.

Chair Rohlf: Mark, it is a permitted use within the zoning district. Do we have anything similar in Leawood? Maybe they're just grooming places like the one that's at 133rd and State Line.

Mr. Klein: Yes, that is Jane's Canine. There was also The Barking Club at Iron Horse Center, although they are no longer there.

Chair Rohlf: Are they included in this type of use?

Mr. Klein: Yes, any kind of boarding overnight would be in this situation.

Chair Rohlf: But this is, by far, the largest one in Leawood.

Mr. Klein: Yes, this is the largest.

Chair Rohlf: It is an allowed use, and there is nothing that prevents this from going in. It meets all the criteria since we approved the deviations. What is the recourse here if it turns out this is not a workable place to have a kennel? What if we do get complaints from future tenants? I think the only complaint would be noise. I believe they've handled the waste and odor part effectively. I am concerned about the noise, and I'm not sure how that could be measured. It's a different type of noise.

Mr. Klein: You can put decibel meters at the property line. What happens city-wide if someone complains, we would go out with a meter at the property line and measure the noise. If they exceeded the 60 db, they would be contacted. Some of the difficulty with that is you have a lot of traffic coming off 135th Street, which is probably close to 60 db; but we're talking about 60 db being generated from their site.

Chair Rohlf: It's a different type of noise. I'm concerned what would happen.

Mr. Sailors: We were concerned about that, too. The distance of the outdoor play area from the bank and parking is over 100' or better. With the solid wall between there, that play area is isolated out by the street and the east edge of that. I think it's very manageable. We're aware of the ordinance, so we're very interested in making sure we can comply with that. We haven't maxed out the building. We could put a lot more kennels in it if we didn't have the indoor play area that we provided in the space. If you have a problem with getting a lot of dogs and some loud ones, you have the opportunity to keep the right ones inside and manage it that way. This is not a facility where it is playtime and the dogs go out; they have to be managed. It's very important. We'll have a trainer on-staff because pet training is a very big part of this business. All of our handlers will be trained and will understand how to manage the animals. If you want it to be convenient for people and be in an area, you have to manage it at a level that is commiserate with the area. We think we can handle it.

Comm. Neff-Brain: Is the Blue Valley property owned by Blue Valley, or is it leased?

Inaudible comments

Comm. Neff-Brain: Unlike a rezoning, is there any notification to adjacent property owners of the Public Hearing?

Mr. Klein: Not with a final plan; typically if you have a plan that is in substantial performance with the preliminary, there are certain standards that, as long as they are maintained, they do not go back to preliminary. One of those is expansion of the building itself. None of the things they are doing rate going back to a public notification.

Comm. Neff-Brain: So even though the developer of the shopping center knows about this, Bank of Blue Valley may not know; the Waterford folks may not.

Mr. Klein: Correct, there was no public notification.

Comm. Neff-Brain: Is the grocery store leased or owned by Price Chopper?

Mr. Klein: I believe it's leased, but it appears to be all the same property owners.

Mr. Sailors: They have been contacted.

Comm. Neff-Brain: They can leave if they don't like it, but Bank of Blue Valley and those property owners can't.

Comm. Williams: In terms of the operation, we talked about the play area. Is part of the service for animals that are kenneled any outside walking, or is it just limited to the indoor and outdoor play areas?

Mr. Sailors: Once they come into the facility, they'll stay either inside or in the outdoor play area. They won't be taken outside the parameters.

Comm. Williams: We could see the owners with their dogs going up and down the parking lot, but your people aren't going to be doing that.

Chair Rohlf: Anything else for the applicant? This takes us up to discussion.

Comm. Williams: I'd like to pose a question to staff. If they get complaints on the noise and the meter shows it as an excessive amount at the west property line, how do you solve the problem?

Mr. Klein: The way it is set up is the neighborhood service officer would go out there and send a courtesy notice if the decibels exceeded 60. This would give the applicant ten days to correct the problem. If it persisted, a citation would be issued. This would lock them into the court system, and there would be daily fines. That's the standard procedure.

Comm. Williams: But how do you solve the problem? Would we allow them to add to the height of the wall? Would that be appropriate? Could they put a roof on it to keep the noise down?

Mr. Coleman: It would be in the applicant's best interest, if they were in the court system, to find a solution to that. One of the solutions could be to put a muzzle on the dogs that do bark when they go outside.

Comm. Williams: All right, thank you.

Chair Rohlf: Anything else? Keep in mind we do have a permitted use. I think if the applicant wants to take this risk and the city does have recourse if it doesn't seem to be working, I think everyone's interest would be protected.

A motion to recommend approval of CASE 17-10 – MARKET SQUARE DOG DAYS PET RESORT (KENNEL) – Request for approval of a Final Site Plan, located north of 135th Street and east of Mission Road with all staff stipulations – was made by Neff-Brain.

Comm. Williams: Before this goes to Council, I'd recommend that the applicant contact adjacent property owners so that they're aware this is going in. I just can't help but think there may be some issues.

Mr. Klein: We'll ask the applicant to contact them.

Comm. Williams: If the bank is notified and fine with it, then it should be fine.

Motion approved with a vote of 4-2. For: Neff-Brain, Rohlf, Williams and Rezac. Opposed: Elkins and Roberson.

MEETING ADJOURNED