

City of Leawood
Planning Commission Minutes

July 13, 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:

Mr. Klein: We do have one change. We have received a continuance request from Case 54-10 – MISSION FARMS – to the July 27th meeting.

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

APPROVAL OF THE MINUTES:

Approval of the minutes from the May 25, 2010 and June 22, 2010 Planning Commission meetings.

A motion to approve the minutes from the May 25, 2010 meeting was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

A motion to approve the minutes from the June 22, 2010 Planning Commission meeting was made by Neff-Brain; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

CONTINUED TO JULY 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 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 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**

CASE 46-10 – MISSION FARMS – FIRST REPLAT – Request for approval of a Final Plat, Preliminary Site Plan and Final Site Plan for Lot 20 of Mission Farms, located at 10342 Mohawk Road. **PUBLIC HEARING**

CASE 47-10 – RANCHMART NORTH – FAÇADE AND SIGNAGE REMODEL – Request for approval of a Final Site Plan to establish design criteria, located at the northeast corner of 95th Street and Mission Road.

CASE 54-10 – MISSION FARMS – DEVELOPMENT MONUMENT SIGN – Request for approval of a Final Sign Plan, located at Mission Road and 105th Street.

CONSENT AGENDA:

CASE 58-10 – CAMELOT COURT – ORANGE LEAF SELF-SERVE FROZEN YOGURT – Request for approval of a Final Site Plan for a tenant finish, located at 4260 W. 119th Street.

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

NEW BUSINESS:

CASE 52-10 – TOWN CENTER BUSINESS PARK – LOTS 8 & 9 – Request for approval of a Preliminary Site Plan, located east of Roe Avenue on Granada Road. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 52-10. It is a request for a Preliminary Site Plan approval for a 32,500 sq. ft. two-story office building in Town Center Business Park, located east of Sunrise Senior Living and South of the Peppes Dental Building. The proposed office would occupy the last remaining office-zoned lot within the business park. The remaining undeveloped lots are all zoned for retail uses. In light of this, staff has calculated the floor area ratio remaining for Town Center Business Park to determine if there is adequate floor area ratio for office uses. Based upon this calculation, a maximum floor area of 147,488 sq. ft. of office floor area is allowed within the business park. The proposed building and existing buildings total 121,966 sq. ft., so there is room. The proposed building would be located at the north end of the lot near Peppes Dental and oriented such that the main entrance faces southward toward the proposed parking lot. The side will take direct access from an existing private drive that also provides access to Sunrise Senior Living to the West. This drive is accessed from Granada Street. The proposed parking lot contains 126 spaces, which is within the allowable range. A detached trash enclosure is proposed on the west side of the parking lot. Resolution No. 1184, which was part of the approval of the original business park development, requires that all trash enclosures be physically attached to buildings and constructed of materials that match the building. Staff believes the plan should be revised to comply with that resolution. Elevations show the building is proposed to be constructed primarily of cast stone and brick with green windows. Building materials and architectural design details are reviewed and approved at the time of Final Site Plan. A Landscaping Plan shows perimeter landscaping along Granada Street and surrounding the site to the south and east. The plan complies with the requirements of the LDO. The Comprehensive Plan identifies a recreational trail for the south side of this property along the north side of a stream channel. This proposed trail would connect to Tomahawk Creek Park and is already constructed behind City Hall. The Site Plan shows the proposed trail roughly parallel to the existing stream channel through the south side of the property. The Parks and Recreation department has reviewed this plan for compliance with its policies and has requested that the trail alignment curve to the south and cross

the stream channel at the east end of the property. The applicant has indicated a preference to continue the alignment along the north side of the stream channel off the east end of their property line on the basis that the condominium property to the east on their plat has an easement for pedestrian access at the south end of the property. Staff is recommending that the applicant work with us and Parks and Recreation to identify an exact alignment prior to Final Site Plan submittal. The LDO requires the provision of pedestrian amenities along pedestrian routes, including landscaping, seeding, art, water features and shade trees. It also requires a minimum of 1000 sq. ft. of plaza area for pedestrians per 125 parking spaces. The proposed plan identifies an area for a pedestrian plaza area at the north end of the parking lot within a landscape island; however, details have not been provided at this point. Those would be necessary at the time of Final Site Plan, and staff is recommending a stipulation in reference to that. The plan shows a sidewalk going southward from the main building entrance through the parking lot, which does comply with the LDO requirement that pedestrian access from the parking lot be provided. The LDO also requires sidewalk connections to be made where possible. Due to that requirement, staff is recommending that the sidewalk be extended southward to connect with the future trail on the south end of the property. Staff recommends approval of this case, subject to the stipulations in the Staff Report, and would be happy to take any questions.

Chair Rohlf: Would it be better to approach these pedestrian access issues with the applicant so we can actually see the proposed area, or do you want to go over that with us? The Site Plan is not clear, and I'm not sure where these things are.

Mr. Rexwinkle: The Site Plan shows a future trail easement that runs from west to east across the south end of their property. If you can imagine the site, there is a stream channel that separates the retail lots to the south along 117th Street from this site that we're talking about. The trail would run along the north side of that stream channel. The Parks and Recreation department wants the easement to curve southward so that it is running north to south across the stream channel on the applicant's property; however, the applicant pointed out an existing pedestrian access easement on the south side of the condo property to the east. The details of whether or not that is actually far enough north to make that connection still needs to be ironed out. We need to figure out whether or not staff will support the applicant's position.

Chair Rohlf: They will probably show us the Site Plan in more detail so we can see that. Is there a set of design guidelines for this overall development?

Mr. Rexwinkle: No.

Chair Rohlf: So when we see the buildings at Final Site Plan approval, we'll know more about the materials and all of that?

Mr. Rexwinkle: Yes, they have provided quite a bit of detail. The building is almost entirely brick and cast stone. There is some EFIS detailing which is permitted, according to the LDO. Then there are a few other minor things that we will have more details on at time of Final Site Plan.

Comm. Elkins: I have a couple questions around Stipulation Nos. 8 and 9. You draw a distinction between utility boxes that are 55" tall versus those greater than 55" tall. Is there a basis within the LDO for drawing that distinction? Can you give us a little more explanation?

Mr. Rexwinkle: I believe the wording of both of those is straight from the LDO. The larger boxes have different requirements than the smaller ones, so we are just reiterating. These stipulations are standard.

Comm. Elkins: Is the level of review and recommendation that we have limited by the LDO to strictly in compliance with the LDO, or do we have advisory authority with respect to the placement of those boxes!

Mr. Klein: KCP&L has a lot to do with the placement of the boxes. We were having a lot of problems with the boxes placed at the last minute, making screening difficult. That is why the LDO is modified to include this screening requirement which requires the applicant to work fairly early on to actually get KCP&L to commit in general to the location. My understanding is KCP&L has certain technical standards that they try to meet.

Comm. Elkins: As you know, I've got a particular concern on those very lines. You indicated that KCP&L has a lot to do with where those are placed. Is that by virtue of some authority they have with respect to their utility easements, or is that strictly a matter of technical requirements? I'm trying to get a handle on how much a fuss I can put up about where those are located.

Mr. Klein: My understanding is a lot of it is based on technical requirements. They basically dictate to the developers where they will place the boxes. Our effort was to try to make sure the developer worked early on with KCP&L so that at least the Planning Commission would see that on the Final Site Plan. In that case, if the Planning Commission had a concern with those locations, it could be discussed then.

Comm. Elkins: I'm still of the mind that the owner, this commission and the Governing Body ought to have a little more input regarding the placement of these.

Chair Rohlf: I noticed in our folder that we have a revised memo from Public Works. Mr. Johnson, are you prepared to talk about why that language has been taken out?

Inaudible comments

Mr. Johnson: There are two changes. Staff is not supportive of native vegetation that is proposed on the south side. The plans have been revised. The slopes will meet a 3-to-1. The existing site today drains in that direction with native grass. With the site developed along the parking lot on the east edge, it will continue to drain in the same direction it drains today. There is also a section by the existing drive into the site that is grass now. When this development is complete, it will be grass and drain. In view of that, Mr. Ley changed his comments to allow for them to go ahead with that because it is consistent with how it is today.

Chair Rohlf: It looks like they discussed the concerns that Mr. Ley had and resolved them, hence the language changing.

Mr. Johnson: Correct.

Chair Rohlf: If there are no other questions, we'll hear from the applicant.

Applicant Presentation:

Charles D. Peters, 9990 College Blvd., Overland Park, KS, 66210, appeared before the Planning Commission and made the following comments:

Mr. Peters: For those of you who are not aware, this is our third involvement in Town Center Park. (*Refers to display board*) This is the overall Site Plan that shows how it relates to Granada and Sunrise, as well as Dr. Peppes' building on the north. It is a unique piece of property in that we are involving Lots 8 and 9. We have a minimal throat opening and access to this site, and this is unusual for this amount of property. We are sharing an access drive with Sunrise. We looked at whether there was a way to modify that cul-de-sac and the access and egress, and we couldn't without jeopardizing both fire and access to Sunrise. We had an interact meeting early on as required with the neighbors, and in those discussions, the concerns were

primarily with drainage on the site, which we'll get into in a little bit. They were also concerned with the open space, which is now going to be a building. The architectural style of the building is very much in keeping with the other two existing buildings to the north. We were surprised with all the modifications and the setbacks, but we have adhered to them. The building will be set 75' in to create juxtaposition for the building. We are here tonight with what we are going to present with no deviations, but we have some concerns with the stipulations that have been covered by staff. We have unique reasons for these concerns. We go back to the issue of a pedestrian bicycle access trail. I have a Google photograph of Sunrise, which shows an existing walkway from the cul-de-sac, which is a common access even though it is on their property. (*Shows photograph*) In the Sunrise property which comes off the same cul-de-sac we have, you'll notice a sidewalk. As a business owner and developer, I'm opposed to introducing bicycle traffic on a private piece of property, mainly for safety reasons. I am asking you not to connect this trail because there is an existing access off a very common access way off that cul-de-sac.

Chair Rohlf: Could you show me where the city is proposing this bike trail to continue?

Mr. Peters: (*Refers to display board*) This is on the east property. Tonight is the first time I've heard discussion from Joe regarding the egress on this bridge, which is shown on all the other plats on Sunrise's property. This is an existing easement for that connection, and I agree that the water does come down here. When we reviewed this property, we met with the city and showed them an existing easement platted on Sunrise's property that comes down here and loops across.

Chair Rohlf: Thank you.

Mr. Peters: Stipulation No. 3A, we do not agree with. If there is no discussion on that, I can continue.

Comm. Rezac: The first image you put up there looked like you were showing the sidewalk on the Sunrise property. Can you tell me if you were trying to relate that sidewalk with the one on the east side?

Mr. Peters: I think there is duplication here, and the egress makes it logical to come down that cul-de-sac. I'm not sure what the intent of the ordinance is in terms of people in an office building having direct egress to a path or for the surrounding areas to have access. I can tell you Reece and Nichols, our client, has no interest in having a connection to the path. An existing path runs parallel essentially off a common street that comes down to what is essentially a shared driveway, dumping right into a sidewalk. The egress is not in front of any building. It doesn't invoke any safety issues regarding vehicles or business people coming out and walking to bicycles. I'm not opposed to children, but in a business setting, to have children coming in front of this building without stop signs or something seems to be a bit erratic with the grade we have here.

Comm. Rezac: It looks like the egress would have to be extended.

Mr. Peters: No, it connects on the south side.

Inaudible comments

Mr. Peters: We're happy to work with staff on this bridge coming across. I think we're all aware of what is going on with the property south of this based on the owners and the city. It would be more prudent, in my mind, to allow that to work itself out. That's the other reason we went with the location of the existing easement for the egress crossing the south side; but also in order for us to work with the city, we would have to work out something with the present owners. With the conflict between the city and them, it would not make sense to me to enter into some kind of agreement on an egress until this is worked out. That's the second stipulation we do not agree with.

On Stipulation 4A, we did submit dimension plans for the building. We don't have an issue with that. The Commission has expressed concern regarding the special feature on the building. (*Refers to Landscaping Plan*) Brick Owens is our landscape architect and has done most of our buildings. Through him, we will provide something. As you know, we've done a lot of different fountains in our buildings and other pieces of art. You will see that at the time of Final Plan. Regarding the issue of these utility boxes, I've got a history with this. This all relates to the current easements. In view of that, I had our electrical contractor call KCP&L so we would know if we would be up against anything on this one. Having to address it midway through our last project was detrimental to us. We were under the jurisdiction of KCP&L, and they did what they thought they should do. As anyone who develops buildings knows, the developer has to put in conduit from Power and Light boxes. We put in the conduit and had to take them out at our own costs and then modify them at the city's request. I would just warn all the commissioners and City Council members that if you want to arrest this issue with where they're being placed, you should go to Power and Light. We are hog-tied doing this. We spent \$15,000 trying to correct something that never should have been brought up, given that plans were submitted. We don't know until we get approval from Power and Light where these will be. We did investigate for this site, and there will be no more boxes. I'm hoping at this hearing and the City Council, it is clear that we have not placed those boxes there, and we will tap into them. I don't think it would be fair to us and our client to extend or move those boxes, given that they have been there for four or five years. I ask for your help so that we don't have staff trying to do what you want them to do at the expense of people and/or owners. We all want a beautiful city, but I think there are reasonable ways to do that. Getting rid of the boxes is not under my control.

Comm. Elkins: I'd like to explore this with you a little further, but the point I am making is that decision and work needs to be done before you come here. I don't care how difficult it is to deal with the utility, but we need to know where those boxes are, not at the last minute. You made the comment that utility boxes are currently there. It looks like we don't have much of an issue in this case. They may need to be screened. The concern I have is that, historically, developers have blamed the utility and said, "We can't tell you where the boxes are until we come in with the Final." I don't find that acceptable. I know how difficult utilities are to deal with, but everyone ought to know where those boxes are going in up-front. That way, we can appropriately exert our power as a city. I sympathize with the developer and architect, but I believe both need to work with the utility before getting ready to start the building.

Mr. Peters: That would be a nice scenario, but that's not how it works. You can ask the Power and Light a number of issues, but as you know, there are moving pieces in a development, and this building might not be the only building going up at that time; or buildings come up after we come up and apply for power. Then within three months when they're supposed to put power in, they make changes. It is well out of our hands. I will agree with you that if we do a development of an office park, we should provide sizeable boxes, but when it comes to an individual purchaser of a piece of property in a development like Town Center Park and/or out south when there is nothing built on those properties and one gets built, that first person pretty well takes the brunt. I understand what you're saying, but until we get our building permit, we don't get to apply for power. When we apply for power, we get drawings. Those engineering drawings can take up to three months. Once we get them, we're well under construction.

Comm. Elkins: I don't think we're that far apart in our thought processes on this. As I say, my emphasis as a matter of policy is to have that platting done up-front and not at the back end.

Mr. Peters: I'd be happy to be part of a work session and discuss that.

Chair Rohlf: Thank you. Are you finished with your formal presentation?

Mr. Peters: Yes, I am.

Comm. Williams: I'd like to ask staff for clarification dealing with the placement of the sidewalk they are objecting to. Could you elaborate on why you are proposing the sidewalk in the location you are?

Mr. Rexwinkle: The recommendation is not for a sidewalk on the east side of the parking lot. Initially, staff requested that; however, when the applicant came back with the sidewalk through the parking lot, we instead recommended that sidewalk be continued down to the trail.

Comm. Williams: So basically from the south end of the parking lot where they are showing the sidewalk and the sidewalk markers through the parking lot, taking that on down not a long distance.

Mr. Rexwinkle: Correct, and we're not asking for a trail to go northward from the proposed trail along the stream channel; we're just asking for the sidewalk connection because that is a requirement of the ordinance – to connect building entrances with public sidewalks and trails.

Comm. Williams: In that respect, Mr. Peters, if it's going through the parking lot where you are showing pedestrian pathways, do you have any objection to continuing that through the south end of your parking lot?

Mr. Peters: The short distance is acknowledged. My opposition is strictly safety. This is a bicycle trail, and mixing bicycles and parking lots just seems adverse to common sense.

Comm. Williams: It's bicycle and pedestrian.

Mr. Peters: Yes, and even though it's not going to be an asphalt path to the sidewalk, it still could be used by children coming down Granada and going through this. I understand the ordinance, but there is a pathway that is very safe that meanders off a public street onto a semi-private street. That should be a sufficient connection.

Comm. Roberson: I guess I misunderstood. I thought that was what the recommendation was. Am I wrong?

Comm. Williams: No, could you put up the aerial that showed Sunrise?

Comm. Neff-Brain: I need a picture of what everyone is asking here.

Mr. Peters: (*Refers to aerial display*) This is Granada, this is the private drive in the cul-de-sac, and this is the point of entrance existing now with a sidewalk connecting to the path.

Comm. Neff-Brain: It is already constructed?

Mr. Peters: Yes, and it hits the trail 60' of where we are on the west, and this one would come down. This particular egress would be right to the front of the building. Going south is a pretty good grade. If we were only talking pedestrians, that would be one thing, but we are encouraging bicycles as well. This one doesn't interfere with anyone's activity or safety.

Chair Rohlf: That current trail is just through land, and that is not a parking lot for Sunrise.

Mr. Peters: No, it's not.

Chair Rohlf: I'm not sure why we would need another one.

Inaudible comments

Chair Rohlf: You said a sidewalk?

Mr. Rexwinkle: A sidewalk connection, not a bicycle trail connection.

Chair Rohlf: Where is that sidewalk you are asking for?

Mr. Rexwinkle: Here is an example. The existing sidewalk ends right here. *Inaudible comments*.

Chair Rohlf: Who would you anticipate using that sidewalk?

Mr. Rexwinkle: *Inaudible comments*. It continues southwest to this intersection southwest of City Hall and provides pedestrian connections to Town Center Plaza and Park Place. It is very possible that people that work in these buildings would want to walk to Town Center Plaza for lunch.

Chair Rohlf: Is the trail going to end right where your red line is ending?

Mr. Rexwinkle: The long-term plan for the trail is to connect to Tomahawk Creek Parkway to the east. (*Refers to diagram*).

Mr. Coleman: The sidewalk would probably have to curve or twist back on itself because of the retention pond that will be built. It won't be able to go straight from the parking lot; it will have to go along the slope.

Chair Rohlf: So that part of the trail is not there yet.

Mr. Coleman: Correct, there is no trail on the subject property.

Mr. Rexwinkle: This is the future (*inaudible comments*). This shows a trail connection being made at Town Center Drive right out in front of City Hall. A trail on the south side goes to Nall Avenue. This goes underneath Roe, behind Sunrise Senior Living and ends at that property line. This subject property is the next property to the east. As it develops, it makes the connection, and then eventually a connection is made along 117th Street or the south side of the condo property. That remains to be resolved.

Chair Rohlf: Does it end there, then?

Mr. Rexwinkle: No, it would connect to Tomahawk Creek Parkway.

Mr. Coleman: This is just the east end of the trail at the present time.

Comm. Neff-Brain: You'll have that trail either way. The only question is whether you put a sidewalk to the trail. If people were walking, wouldn't they want to go up across the space to Granada, cross at the light at Roe and go wherever they wanted to go?

Mr. Rexwinkle: They could go underneath Roe on the trail. I would want to do that instead of waiting at a stoplight.

Chair Rohlf: (*Refers to Site Plan display*) The sidewalk that is shown at Sunrise was put in at the time of the Sunrise building for the purposes of access to the trail.

Mr. Rexwinkle: Correct.

Chair Rohlf: That really goes nowhere.

Mr. Rexwinkle: To the east, there is no connection. The west provides pedestrian and bicycle access to City Hall, Town Center Plaza, Park Place and the Sprint Campus.

Comm. Roberson: But it will provide a connection to the east once the path is built, right?

Mr. Rexwinkle: And this is traditionally how the trails get built.

Comm. Roberson: Yes, so since it is a shared drive, why wouldn't I just walk out the front of the building, take a quick right, go down the cul-de-sac and go down the sidewalk that's already there? Why would we add another sidewalk through a parking lot?

Mr. Rexwinkle: If a person who works at Reece and Nichols wants to go the trail –

Comm. Roberson: They'd walk out the front door, take a right and go down the sidewalk.

Mr. Rexwinkle: First of all, I don't know if there is a connection from Roe Avenue to the trail. Secondly, that would be a long walk.

Mr. Klein: You're saying they would come here, take a turn and come to this sidewalk –

Comm. Rezac: Just add a connection from that existing trail by the cul-de-sac straight over to the parking lot.

Comm. Roberson: There is a parking lot there. You walk out the front door, take a right and go down the trail. It's very simple. I see no need for another sidewalk how many feet away.

Mr. Coleman: One is that we can't encourage people to walk in the middle of the street. If there was a sidewalk connection from that existing trail –

Comm. Williams: But it's the same traffic that's in the parking lot.

Mr. Coleman: If there was a connection from the sidewalk that is on the Sunrise property to the other property and to the building, then I would agree; but there isn't.

Comm. Roberson: Richard, is it not a shared drive? If it is, they both have access to that drive. As a result, they can walk out the door, take a right and go down the sidewalk, just like the Sunrise people.

Mr. Coleman: What I'm trying to convey is there is not a sidewalk for them to walk on to get to the existing sidewalk.

Comm. Roberson: There isn't one now for Sunrise, so I don't understand the issue.

Comm. Williams: Maybe a way to look at this is you come out the door, cross through the parking lot to that first island, and then you cross the driveway, which connects you to the sidewalk. That's no different than walking through the parking lot three times before you get to a sidewalk that takes you down to the trail.

Comm. Rezac: It basically just requires a possible reconfiguration of the sidewalk at that first island.

Mr. Rexwinkle: The only opposition staff would have to that is that this is Sunrise Senior Living's property that has the existing sidewalk on it. The connection we're asking for is to meet the LDO requirement that a building entrance connect to a public sidewalk or trail. On the subject property, we're just trying to provide that connection. What you're talking about now has Reece and Nichols patrons going on Sunrise's property to get to the trail.

Comm. Neff-Brain: It's a public sidewalk for anybody to walk on.

Mr. Rexwinkle: It's not within an easement or right-of-way; it's on private property.

Comm. Williams: I thought I heard staff talk about employees who would be in the buildings to the north of this one having the access to get down to Town Center and Camelot Court by going through this property or Sunrise, which you're now saying they shouldn't technically be on. I don't understand. If you want a public connection as you're talking about, they ought to be providing a sidewalk going north and connecting to Granada, which they have, if I'm reading this right.

Mr. Peters: If our planners feel, because this is a private drive, there needs to be a sidewalk, we're happy to bring that. What we really don't want to do is have that as a depot for cars to pull up to in order to go on the egress point. Also, the frightening thing for me is, at this grade, bicycles coming from the north will come down that sidewalk not knowing what they're expecting and potentially going through that parking lot with someone not paying enough attention. We have a path right there. Logic says to utilize the path. I know these ordinances have a benefit, but there has to be some insight when they get reviewed.

Comm. Williams: I think the pathway you have that goes from the front entrance down to the parking lot is rational and reasonable. The crossings through the parking lot are fine to me. I do share some concern about connecting that with the very public trail. Anything could happen. I guess the key is whether we could just live with the sidewalk that is going through Sunrise. Unless we put up signs telling people it is private property, the public is going to potentially have access to use that.

Mr. Peters: These two properties do share that under the covenants.

Mr. Klein: What we are trying to do is fulfill a requirement of the LDO to connect each of these buildings to a public sidewalk. We see it on a lot of the developments we have coming through. It's not a bike path, but they are connected to a public sidewalk. Staff requires it, but it is something that doesn't get discussed all that often. It is possible to connect these to the trail; whereas, the ones farther to the north do not have direct access to the trail. We're trying to follow the Comprehensive Plan for the city with bike connections throughout.

Mr. Coleman: Maybe there is a way by dedicating a public access easement on part of the property from Granada to the Sunrise trail property and then not extend the sidewalk in the parking lot to the trail. Is that agreeable?

Comm. Williams: I think several of us on this panel think that makes sense.

Comm. Rezac: It seems that you're still connecting to that trail system, so it still meets the intent of the LDO.

Mr. Klein: I understand what you're saying. The difficulty is that it's a different property owner who doesn't have an application before us today. It's basically just requesting that they do that; there is really no leverage at this point as far as requiring them. They may be more than willing to do that, but I really don't know.

Chair Rohlf: This is something that was going to come back at Final, anyway.

Mr. Peters: I might add that this is an existing sidewalk. It doesn't need a public easement; it is used and will be used unless it becomes an issue. I don't understand going through and dedicating a piece of property.

Chair Rohlf: I think you can work with staff to see what we need to do.

Mr. Peters: I think one of the misunderstandings in this whole debacle is that it was stated to be on the east side. On this particular location, this grade is very steep in that detention basin. To get a sidewalk up and down again makes no sense, especially when you have sidewalks 60' away.

Chair Rohlf: I know there are a number of things that we will see when you come back at Final with the landscaping and elevations. Hopefully you can work with staff and figure out if there is a way to do this.

Mr. Peters: One more thing that got overlooked in the review of stipulations was the trash enclosure. In our submittal, we show the material that matches what is on the building. This is a very unique site. We have a very narrow egress coming in. To put a dumpster in pretty well puts it adjacent to the neighbors. It is hard to get egress when you just have one side of the building facing this direction. We have difficulty attaching it to a glass building. This is another situation that is written in the books, but sometimes it doesn't work. In other cities, they are actually asking people to remove their dumpsters from the buildings because of things that have happened in the last six months. We would propose that this is not an issue of an eyesore. It is a location that will be heavily screened, and it would be the farthest from the residences to the east.

Chair Rohlf: Our drawings are not really detailed. Mark or Joe, do you see a place where it could be attached?

Mr. Rexwinkle: We discussed the southeast side of the building.

Chair Rohlf: Do we have any current buildings where we allowed the trash enclosure to be unattached?

Comm. Williams: Mission Farms.

Comm. Roberson: We did one off Tomahawk Creek, also.

Chair Rohlf: What is your reason for wanting it where you have it on the plan, Mr. Peters?

Mr. Peters: The windows go all the way around the building with an occasional stairwell. To connect it to the building would take away from the aesthetics of the building. This is an area that would not be disruptive. It's not visible from the street. Again, staff is doing their job. It's called for, and we have to respond to it in a way that makes sense.

Comm. Elkins: I'd like to get my mind clear on the bicycle path. To the best of your knowledge, is there any sort of public access across the Sunrise property that would permit the public to use this path that is meandering toward the existing bike path?

Mr. Peters: I do not believe there is anything public.

Comm. Elkins: Does your client have any sort of access easement that would permit it to have access across the Sunrise property to use that bicycle path as access to your client's building?

Mr. Peters: I would have to look at the covenants in the park. I know we have easements related to this drive. Obviously we both have to use it, and that's the point of entry into that sidewalk you're speaking of. If their clients would have egress to that, I would have no knowledge.

Comm. Elkins: So we know it applies to the drive. The question is whether or not it would apply to that meandering path.

Mr. Peters: Yes.

Comm. Elkins: If there was no public access and no easement that your client had, the folks at Sunrise could decide they don't want the bicycles going down the hill by their property the same way you don't want them going down their parking lot. Then they could put a gate across that path to prevent anybody from going down there, correct?

Mr. Peters: I'm not a lawyer, but I would suspect that whenever they were approved for that sidewalk, they would have agreed not to gate it off.

Comm. Elkins: Again, assuming there is no public access –

Mr. Peters: I understand. I can tell you now we have parking on this property that serves Sunrise. That, to me, is a code violation, but this exists today.

Chair Rohlf: Anything else for the applicant at this point? This case does require a Public Hearing.

PUBLIC HEARING

Gerald Klammers, 11623 Tomahawk Creek Parkway, appeared before the Planning Commission and made the following comments:

Mr. Klammers: I live in the condominiums that will neighbor this property. We have several concerns based on my examination of the plans. It looked like the elevation on the east side of the property was approximately 1'-2' lower than the elevation on the west side. We're concerned about water drainage. I'm not an expert, but it looked like the storm drain ran down the center of the parking lot. I'd be curious as to where the water collection points are and why they can't grade it so that the parking lot actually forms a channel to direct the storm water down the center of the parking lot. We have questions as to why the parking lot is so large. We are also concerned about the amount of silt and runoff that will clog our retention ponds. Privacy is an issue, and we'd like to know what recourse we have. As an engineer, I know plans don't always work out as planned, and we'd like to avoid any unnecessary issues. Thank you.

Don Lechti, 11609 Tomahawk Creek Parkway, appeared before the Planning commission and made the following comments:

Mr. Lechti: I'm also a resident of the condos. The additional question we have is about what was mentioned here tonight of a proposed retention pond. This is the first time we've heard about this, and we'd like to have some idea what that is. We get a lot of drainage off the hill anyway, and all we're doing is adding more concrete and asphalt? Thank you very much.

Rochelle Mitz appeared before the Planning Commission and made the following comments:

Ms. Mitz: I have a condo right on the corner in front of the plastic surgeon. We're having a problem right now, and I don't know how it got through the Planning Commission originally. I have flooding right now.

When heavy storms come, some of the drainage is coming from the top of where the plastic surgeon is located. What recourse have we got when this drainage continues to build up? it is getting more of a concern for us as homeowners because we are having the problem now.

Chair Rohlf: So this is water coming down from the north.

Ms. Mitz: Right, so with the heavy rain, it becomes a drainage problem for all of us. What recourse do we have when that area is not giving us enough drainage?

Comm. Roberson: Does water come in to your condo?

Ms. Mitz: Right now, yes. We're looking at the future for the rest of the property.

Chair Rohlf: Thank you.

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

Chair Rohlf: I would ask if Mr. Peters would like to respond.

Mr. Peters: I did meet this nice lady at the Interact Meeting, and we had a discussion about the water runoff. I can only assure this Commission tonight that in all these buildings – plastic surgery, Dr. Peppes' building and this one here – all the roof drains, parking lots and/or drives coming in to this are all fed to the storm sewer. If any of the property owners adjacent to the east have runoff due to these heavy storms, it is just from the natural embankment or hill or wherever else water would come from in these heavy rains. I know where I live, we've got a lot of problems. I would like to have Roger Cassity with Phelps Engineering address the gentleman who came in first. This is the first building in this entire development that is going to have a detention basin.

Roger Cassity with Phelps Engineering, 1270 N. Winchester, Olathe, KS, appeared before the Planning Commission and made the following comments:

Mr. Cassity: The drainage that is set up for this lot includes roof drains and a system on the west side of the building. A system on the northeast corner of the building will intercept water to keep the majority of it from going on to the property to the east. There is a small slope there. The amount of drainage going there today will be equal to or less than that amount. In the parking lots, we are collecting it in the storm drainage and take it down to the bio-retention basin which is on the south end of the property. We are collecting roughly 90% of our water here. As far as erosion control, we will be required by the state of Kansas to implement erosion-control measures. Before we turn any dirt, we have to prove to the Codes Department that we have implemented and gotten permits from KDHE. In this case, we'll use the bio-retention basin as a temporary sediment basin during construction and let things drain there. When the parking lot is built, we'll excavate the bio-retention basin and construct it like it should be.

Comm. Williams: Madame Chair, do you think it would be helpful for Mr. Cassity to point out where the retention is for the benefit of the public?

Mr. Cassity: *(Refers to display board)* This bio-retention basin will be down here on the low part of the property. We have a collection system starting here, and another here coming down through the parking lot. Then the water will be released to the bio-retention basin. There will be a pipe out of that, which will go in to the actual channel along the properties.

Comm. Rezac: On the east side of the property, can you explain how much of that is going to be re-graded or will stay as is?

Mr. Cassity: This is being built on a hill, so this parking lot will be above this here. It will be a 3-to-1 slope from the parking lot down to the property line.

Comm Rezac: And that will be re-graded?

Mr. Cassity: No, there is some drainage that comes on to this property now. In David Ley's memo, he said that we will maintain the amount of drainage that is there now; we don't want to increase it. That's what we did by putting in this other collection system up here. We've collected that water. What is going up here today will be equal to or less than what is there now.

Mr. Peters: I might point out the buildings to the north both have sizeable retaining walls. The way this particular property is being developed is with no retaining walls, with the exception of the patio directly north of the entrance of this building. You'll see that semi-circle with a 3' wall that will be a seeding area. This is a considerable improvement from the other two buildings to the north, based on elevation changes.

Chair Rohlf: Mr. Peters, in David Ley's original memo, he talks about a preliminary storm water study that was submitted, and any changes would be reflected at Final. So this will then be incorporated into that study, or is it there already?

Mr. Peters: It's already there.

Chair Rohlf: I assume that, at Final, we will see compliance by Mr. Ley if he is fine with that.

Mr. Peters: The site now kind of slopes from the north, and it all ends up, for the most part, on the apartment complex. With this work, basically the water east of the parking lot is what is going to drain to the condominiums. The rest of it is going to be captured in the storm sewer and then taken down to the bio-retention, where they assess water quality before being discharged into the channel.

Chair Rohlf: So this method of retention should take care of the residents' concern about silt.

Mr. Johnson: As was mentioned earlier, they will use the bio-retention as a silt pond during construction and grade and put silt protection in to allow the water to drain to that area where the silt drops out before discharging to the creek. Once everything is constructed, they come back in and construct the bio-retention, so they don't have the issue of silt filling up the bio-retention.

Chair Rohlf: Any other comments with respect to the Public Hearing?

Comm. Rezac: It seems like a couple people asked what their recourse was. I don't know if we've answered that yet. Is that something staff can answer?

Mr. Johnson: The drainage is between two private properties. Generally when we meet with either property owners or business owners, we try to get the two of them together to resolve the issue. Specific to the drainage issues up north, this site sits south of that. This water doesn't drain to that area. I haven't looked at the area north of the building to see what's going on and what can be done differently. I don't know if there is a storm sewer up there or if we've just have heavy rains. I can tell you, most public storm sewer systems have been exceeded, and we've flooded streets to 1' - 1 ½' in depth. The storm sewers can't handle the heavy rain in a short period of time.

Chair Rohlf: Any other questions or comments for the applicant? Then that will take us up to final discussion. We would need to have some revisions made to the stipulations if we'd like to see the pedestrian connection handled at Final. We also need to make a decision on the trash enclosure. I think everything else, we will deal with at Final.

Comm. Neff-Brain: I am interested in the conversation that began with, "What if the Sunrise folks decided to close off that sidewalk because it's a private sidewalk?" Is there something from when their plans were approved that would forbid them from doing that? If so, then they're not connected to the path.

Mr. Klein: I would have to go back and look at the plans, but I would imagine that sidewalk is there as a connection to the trail. Therefore, if they tried to remove that, they would have to come back before the Planning Commission and City Council.

Chair Rohlf: Perhaps there is some way to reflect that a discussion will take place to resolve this pedestrian connection, including whatever you would need to find out from Sunrise and whatever the applicant and Sunrise could work out. I'm not sure we know enough to dictate whether we want the pedestrian connection where it has been proposed or not without knowing some of the missing pieces of information.

Comm. Neff-Brain: I would agree because I think if you could keep pedestrians out of parking lots, you're better off.

Comm. Williams: I would totally agree.

Chair Rohlf: Perhaps we could modify No. 3 to include working with staff on this issue. That still leaves us the trash enclosure.

Comm. Roberson: I have no problem removing it from the building and putting it where they've suggested.

Chair Rohlf: Then I will leave it up to a motion-maker to proceed.

Comm. Rezac: I would like to be clear. Some commissioners mentioned that had been done before.

Comm. Roberson: That is correct.

Mr. Rexwinkle: You might also want to stipulate that the resolution for this development that required that be changed as well prior to Final Site Plan approval.

Mr. Klein: This overall development had that as part of their design criteria. As we've done on other cases where an applicant wants to do something other than what the design criteria for the development state, we would have to modify those design criteria first.

Comm. Williams: Do we have to put that in the stipulation?

Mr. Klein: If it didn't get reflected in the stipulation, I would be afraid that this case could slip through without the tie; whereas, if the stipulation was there, it would ensure the other one comes with the case.

Chair Rohlf: This is the last building in the group, isn't it?

Mr. Rexwinkle: In the office portion, yes.

A motion to recommend approval of CASE 52-10 – TOWN CENTER BUSINESS PARK – LOTS 8 & 9 – Request for approval of a Preliminary Site Plan, located east of Roe Avenue on Granada Road with Staff Stipulations and modifying No. 3 to allow the developer and staff to work out the pedestrian connection issue, to allow the trash enclosure to be detached from the building and requiring Town Center Business Park to revise design criteria to allow for detached trash enclosures prior to Final – was made by Roberson; seconded by Williams.

Comm. Elkins: I would just like to make a statement. I am supportive of the building that is planned. I agree generally with a number of the comments about the pedestrian access to the building. It does make the most sense to me to permit access via the Sunrise property and is a way to comply with the spirit and the text of the LDO. Having said that, I think there is a critical issue here, as I attempted to point out in my exchange with Mr. Peters, about the right of access across that meandering path. I would be concerned that it would be short-sighted of us to assume that the meandering path is an adequate access. Subject to all that and given the thought that this will all be resolved by the staff and Mr. Peters prior to the time we see this at Final, I will be supporting tonight's motion.

Chair Rohlf: Thank you. Is there anything else? Then I would ask for a vote, please.

Motion approved with a unanimous vote of 5-0. For: Roberson, Neff-Brain, Williams, Elkins and Rezac.

MEETING ADJOURNED.