

City of Leawood
Planning Commission Minutes

January 25, 2011

Meeting - 6:00 p.m.

Dinner Session – No Discussion of Items – 5:30 p.m.

Leawood City Hall Council Chambers

4800 Town Center Drive

Leawood, KS 66211

913.339.6700 x 160

CALL TO ORDER/ROLL CALL: Pateidl, Roberson, Jackson, Rohlf, Williams, Elkins, Heiman and Ramsey.
Absent: Neff-Brain

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

Approval of the minutes from the December 14, 2010 Planning Commission meeting.

A motion to approve the minutes of the December 14, 2010 Planning Commission meeting was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

CONTINUED TO FEBRUARY 22, 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 105-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2.7 (Table of Uses) – Kennels – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 114-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-6 – PERMANENT SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 119-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-7 (Table of Uses) – KENNELS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 05-11 – TOWN CENTER PLAZA – AMORE DESSERT CAFÉ – Request for approval of a Final Sign Plan, located at 4821 W. 117th Street.

CASE 10-11 – BI-STATE/CENTENNIAL PARK – HAUTE HOUSE – Request for approval of a Final Sign Plan, located at 1920 W. 143rd Street.

CONSENT AGENDA:

CASE 115-10 – TOWN CENTER PLAZA – THE LIMITED – Request for approval of a Final Sign Plan, located at 5000 W. 119th Street.

CASE 118-10 – PARK PLACE – NORTHWESTERN MUTUAL – Request for approval of a Final Sign Plan, located at 5251 W. 116th Place.

CASE 03-11 – TOWN CENTER PLAZA – ANTHROPOLOGIE – Request for approval of a Final Site Plan for a Tenant Finish, located at 5000 w. 119th Street.

CASE 07-11 – ONE NINETEEN – STANDARD STYLE – Request for approval of a Final Site Plan for a Tenant Finish, locates at the southeast corner of 119th Street and Roe Avenue.

CASE 09-11 – ONE NINETEEN – LE CREUSET – Request for approval of a Final Site Plan for a Tenant Finish, locates at the southeast corner of 119th Street and Roe Avenue.

CASE 12-11 – PARK PLACE – 117TH STREET PARKING GARAGE – ACCESS BRIDGE ENCLOSURE – Request for approval of a Final Site Plan for a Tenant Finish, located at 5200 W. 117th Street.

CASE 14-11 – ONE NINETEEN – BALDWIN DENIM – Request for approval of a Final Site Plan for a Tenant Finish, located at the southeast corner of 119th Street and Roe Avenue.

A motion to recommend approval of the Consent Agenda was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

NEW BUSINESS:

CASE 110-10 – CAMELOT COURT – CAMELOT COURT WINES AND SPIRITS – Request for approval of a Special Use Permit to allow packaged liquor sales under new ownership and Final Sign Plan, located at 11841 Roe Avenue. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 110-10 – request for approval of a Special Use Permit and Final Sign Plan for Camelot Court Wines and Spirits, located on the northeast corner of 119th Street and Roe Avenue. The Leawood Development Ordinance requires that Special Use Permits run with the owner rather than the land. The subject tenant space was previously the site of Wolf's Wine and Spirits. Due to a change in ownership of the business, a Special Use Permit is necessary. The Sign Plan proposes one wall sign with an existing sign band to read, "Camelot Court Wines and Spirits." The sign measures 16 feet, eight inches in width by nine inches in height for a total sign area of 12.5 square feet or 5% of the storefront. The sign is proposed to be internally illuminated with white routed letters within the sign band. The proposed sign complies with the approved sign criteria for Camelot Court Shopping Center and the Leawood Development Ordinance. No exterior modifications to the tenant space, other than the signage, are proposed with these applications. Staff recommends approval of both the Special Use Permit and the Sign Plan, subject to the stipulations provided in the Staff Report.

Applicant Presentation:

Mary Radochonski, 11841 Roe Avenue, Leawood, KS, appeared before the Planning Commission and stood for questioning.

Chairman Rohlf: Does anyone have questions for the applicant? Thank you.

PUBLIC HEARING

As no one 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 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

A motion to recommend approval of CASE 110-10 – CAMELOT COURT – CAMELOT COURT WINES AND SPIRITS – Request for a Sign Plan and Special Use Permit to allow packaged liquor sales under new ownership, located at 11841 S. Roe Avenue with all four stipulations – was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

CASE 01-11 – TOWN CENTER PLAZA – AMC 20 IMAX – Request for approval of a Final Sign Plan, located at 11701 Nall Avenue

Staff Presentation:

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 01-11 – Town Center Plaza – AMC 20 IMAX – Request for approval of a Final Sign Plan. The applicant is Affinity Sign Systems and is requesting to add the word “IMAX” below “AMC 20” on the existing sign on the south elevation of the AMC building. Per the Leawood Development Ordinance, signs that contain products are prohibited. In this case, IMAX is considered a product and is therefore not allowed. Staff recommends denial of this application for the reasons stated.

Comm. Jackson: Is the issue the number of signs?

Mrs. DeBoer: The three signs are allowed by the Park Place Sign Criteria and with a deviation to the LDO. The reason for the denial is the fact that “IMAX” is considered a product.

Comm. Pateidl: If I understand the position of the planning staff, under Ordinance 16-4-6.9(AA)–PROHIBITED SIGNS, it states, “Permanent signs which identify phone numbers, product or any other specific information about the tenant beyond the name of the tenant is prohibited.” I can understand their position as it relates to the inclusion of “IMAX,” given that the other signs are clearly stated as the AMC 20. What concerns me is the consistent application of this ordinance, if you will. As an example, on 135th and Roe Boulevard is a sign that reads, “Starbucks Coffee.” According to the website, it’s Starbucks Corporation. Across the street is CVS/pharmacy; CVS is CVS Caretaker, Inc. My point is that within our community, we are allowing some product information in the signs. I would not be a proponent of having either of those companies remove that identification. In the case of AMC IMAX, I believe there is a public service in informing the general public that this is an IMAX theater, which is a very specialized presentation, typically with family and environmental films. I find this ordinance, if not applied consistently, to be too restrictive on this body, given all the other restrictions we have with respect to signs. I would suggest that some flexibility be given or some thought be offered to revising the terms of our ordinances as it relates to this for future efforts. If AMC applied for a sign that says, “AMC 20, also known as . . .” or “doing business as AMC 20 IMAX,” would we approve the application?

Mr. Klein: You are talking about a designated business. My understanding is in order to do that, the business must be operating under that name at various locations. We really haven’t done that before. I certainly understand your point because we think IMAX is a good thing, too. We do see certain situations in which we struggle because some names are not particularly descriptive, and the sign could help clarify that.

On the applications we get, we do try to see if the name on the sign is a legal name. I don't know about the ones you mentioned and the timing of the sign approval. I understand your request to look at the ordinance with regard to this, but at this point, we probably would not.

Comm. Pateidl: It would be my recommendation that we give some serious consideration to this in order for us to be consistent with businesses operating in our community, regardless of size or configuration. As it stands right now, I feel as though we are not doing a public service to the citizens of Leawood with these restrictions.

Comm. Roberson: I assume this body does not have the authority to approve this application. Is that correct?

Mr. Coleman: You're making a recommendation to the Governing Body on the application. The reason for staff's denial recommendation is that the LDO states product names are not allowed, even though we are sympathetic to the circumstances.

Comm. Roberson: It is a licensed product.

Mr. Coleman: Yes, if it was an independent theater, it would be a different issue.

Comm. Williams: IMAX is a type of projection program, but isn't it a company that licenses these to theaters, also? AMC Dolby is a corporation doing business with AMC and others, so would that be disallowed also?

Mr. Klein: It would be the same situation. Last year we had an application in the One Nineteen development for Destination Maternity, I believe. The applicant was marketing three different brands and wanted all the names on the sign. The city took the position that we have one storefront located there and one name it was known by. Some people have brought up Bella B's and Bella Bambinos, in which a doorway connects the stores, and have asked if they are one entity. We required them to have a separate storefront and separate entry. Staff is trying to be consistent with how we interpret the ordinance. I do understand the comments made, however.

Comm. Jackson: Isn't the "20" also a product?

Mr. Klein: Yes, and many of these signs have been up since before the ordinance came into effect in 2002.

Comm. Jackson: If they want to replace the sign, they could only have one that says, "AMC"?

Mr. Klein: Yes, whatever the legal name is.

Comm. Heiman: If I want to open a bookstore and use my first name, "Book," could I not use the word "Book" because it is a product?

Mr. Klein: If your name has the description of the product in the legal name, it is allowed. In this situation, we are talking about a product and also a separate company. They are marketing it as a product they offer.

Applicant Presentation

Vonya Maxfield, Infinity Signs, 1551 North Courtney Road, Independence, MO, appeared before the Planning Commission and made the following comments:

Ms. Maxfield: Thank you for the opportunity to come before you. We appreciate the time and service you put forward. As was stated earlier, this sign is allowed by the city code with size and color. The problem is that we are adding what is viewed as a product; however, IMAX is also a company. If Dan were to open a bookstore and then later decided to partner up with a specific publisher, he would not be able to add the publisher's name. People would not know that is his main product line. As you go through Town Center, you will see several businesses that have words in their signage that help the public to know what is inside the building, including Over the Top Cupcakes and Yogurt, Kim's Tailor and Shoe Repair and Amore Chocolate Pizza Company. They are allowed because it is part of their business name. There are several other examples around town (*passes out photos*). You mentioned CVS as an example. HyVee at 12200 State Line has "Deli, Pharmacy, Dry Cleaners, Drug, Food, Restaurant, Post Office, Bakery" which are all products within the building. It is a service to the community to have those so that people can find their way around. Gates and Sons Barbecue is able to tell the public what kind of meat is inside its shop. Peachtree Frozen Yogurt is another example. IMAX and AMC were not in this joint venture when the original signage was in place, which leaves IMAX no option to add signage to the building under the current regulations. We are hoping you will be able to make a recommendation for approval so the community knows what business is inside there.

Comm. Elkins: You mentioned some sort of joint venture between IMAX and AMC.

Ms. Maxfield: Yes, the IMAX experience, which is what you could call the product inside AMC, is not just a product. IMAX is a company that has entered into a joint venture in which it shares tenant space with AMC. In order for them to have signage, they would need to be part of the name, but they are separate companies.

Comm. Elkins: When there is an IMAX theater within an AMC theater, has AMC licensed the IMAX equipment and name, or is IMAX actually doing the display?

Mike Winter, AMC, Grapevine, TX, appeared before the Planning Commission and made the following comments:

Mr. Winter: It is not a license; it is an agreement whereby IMAX provides equipment for that auditorium, and AMC provides the seating and auditorium. No one else can use that auditorium; it is exclusive to IMAX, and we share in the profits that come from that venture.

Chair Rohlf: Mark, if they are separate entities, if IMAX applied for this and wanted to put it on the building, could they do that?

Mr. Klein: We would be in the same situation we had over at One Nineteen with Destination Maternity. This was one storefront with three names.

Ms. Maxfield: Correct me if I'm wrong, but it seems to me that the spirit of the law is to avoid clutter which would be caused by several signs listing every product inside the building. The whole purpose of a sign is to direct the community so that they may find a way to the products they want and need. This will not add clutter.

Chair Rohlf: Any other questions of the applicant? Thank you. I think we need to be mindful that, unless we have interpreted this IMAX as something different than staff, we really are not in a position to approve this motion because it would require a modification to the sign language of the LDO.

Comm. Elkins: Mark, if you have multiple tenants in a single space, does the ordinance state that both tenants cannot have a name on the sign?

Mr. Klein: The Leawood Development Ordinance limits signage to two per building. This case is requesting three with a deviation. A multi-tenant building would require a sign per tenant. We've gotten into situations with companies that wanted the same storefront with two names. We have always required separate fronts.

Comm. Elkins: In the Bella B's / Bella Bambino case, was that applicant trying to have multiple names on the same sign?

Mr. Klein: We required separate applications with separate storefronts. Destination Maternity wanted to market Pea in the Pod, Motherhood Maternity and something else. Their argument was that each was a separate brand, but the LDO only allows one sign with one business name per storefront.

Comm. Elkins: I see a reference in the ordinance that you cannot have what the store is selling, but where does the ordinance reference the circumstance you just described?

Mr. Klein: Like I said in the beginning, it is more an interpretation of the policy. The ordinance limits businesses to two signs. We're trying to apply it in such a way to avoid several brands promoted on several signs on one tenant space. I do understand and appreciate the comments, and we agree that some businesses could use a description; but we are trying to comply with the ordinance.

Ms. Shearer: In Section 16-4-6.9 – Prohibited Signs (AA): "Permanent signs which identify phone numbers, product or any other specific information about the tenant beyond the name of the tenant . . ." I believe that is the question you were asking.

Comm. Roberson: With respect to the Meriwether Dental building, didn't we have a similar situation?

Mr. Klein: Yes, I believe we recommended denial for that one, and the Planning Commission felt that there was a way to put all the names together in a single sign.

Comm. Elkins: The difference there is that they were each tenants. The question here would be whether IMAX is a tenant.

Mr. Klein: On that building, we were looking at the limit of two signs per building.

Comm. Pateidl: Recognizing the fact that this body does not have the authority to make any approval of this application, I do have a question. If IMAX were to come in, show documentation as to their relationship with respect to that particular location, and it was deemed to be an arm's-length transaction, would the tenant not be allowed to put their sign on the side of the building?

Mr. Klein: The cleanest way to do it is to look at the sign code. The Planning Commission and Governing Body could then decide if there is more flexibility.

Comm. Pateidl: I fully agree that we should seriously look at this particular piece of this ordinance, but in the interim, in the interest of being of service to both the public and to business, I am asking if there is an opportunity for them to make an application for their own individual sign as a tenant of that building.

Mr. Klein: Not that I don't agree with you, but in the past, we have required a separate storefront for that situation. I don't know that the AMC theaters would have that.

Mr. Coleman: If they met all the criteria that Mark just described, we would certainly take a look at it.

Chair Rohlf: Unless there is anything else to discuss, I would ask for a motion.

Comm. Roberson: I will make a motion, despite the fact that I am very sympathetic and agree that this would be appropriate signage.

A motion to recommend denial of CASE 01-11 – AMC 20 IMAX – Request for approval of a Final Sign Plan, located at 11701 Nall Avenue – was made by Roberson; seconded by Elkins.

Comm. Williams: I would like to go on the record as being supportive of the proposed sign, but understand that we do not have an option.

Motion approved with a vote of 6-1. For: Pateidl, Roberson, Jackson, Williams, Elkins, and Ramsey. Opposed: Heiman.

CASE 02-11 – CHURCH OF THE NATIVITY – DUMPSTER SCREENING – Request for approval of a Final Site Plan, located at 3800 W. 119th Street.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 02-11 – Request for approval of a Final Site Plan to expand two existing trash dumpster enclosures at the Church of the Nativity. The first dumpster is located on the northwest corner of the site, adjacent to the school building. The second is located southwest of the church building. Two parking spaces will be eliminated as a result of the expansion of the southwest dumpster; however, the minimum number of required parking spaces will still be satisfied on the site. Each dumpster expansion area will be constructed of materials to match the existing dumpster enclosures, including painted blocks, stone coping and steel frame stucco panel gates. The height of each enclosure is seven feet, and the height of the enclosure should fully screen the dumpsters. Therefore, staff is recommending two stipulations to assure it will be accomplished. Section 16-4-7.6 of the Leawood Development Ordinance requires landscape screening surrounding the dumpster enclosures and requires it be a minimum height to fully screen the enclosure wall. In staff's opinion, planning of the landscaping around the enclosure is meant to soften the appearance of the enclosure rather than to hide it completely. Therefore, staff is recommending the Planning Commission consider initiating an amendment to this section of the ordinance. In the case of the southwest dumpster, staff recommends landscape screening in the form of a climbing vine in addition to what the plans propose. In the case of the northwest dumpster, staff is recommending a landscape plan similar to what we are recommending for the southwest enclosure be supplied prior to Governing Body. Subject to the stipulations provided in the reports, staff recommends approval of this plan.

Comm. Williams: The southwest dumpster has a landscape plan, a lot of which is existing pieces. You commented that we weren't looking to conceal it, but rather soften it. Are we talking about adding vines up the side?

Mr. Rexwinkle: Yes, in addition to what is proposed there, we are recommending vines be planted on it.

Comm. Williams: Why the vines?

Mr. Klein: We are working with the ordinance as it is written, so the vines would help obscure it and still comply with the ordinance. As Joe mentioned, if the Planning Commission wanted to make a recommendation to the City Council, they might look at the ordinance as totally obscuring the enclosures with landscaping as opposed to just softening it.

Comm. Williams: There are vines on other enclosures in the city?

Mr. Rexwinkle: This part of the ordinance is for dumpsters that are detached from buildings.

Chair Rohlf: It seems like toward the end of 2010, we had a discussion about recycling dumpsters. Is that the same ordinance that we were considering modifying?

Mr. Klein: That is a separate ordinance, and you will be seeing that again. As you recall, this body recommended denial of that application. It went on to City Council, and they remanded it back down. One of these is adding a recyclable dumpster, but we don't have an ordinance with regard to recycling bins. The applicant decided to enclose the recycling bin within a dumpster screen. We are therefore treating it as a typical trash enclosure.

Chair Rohlf: With respect to this particular dumpster, we would need to consider modifying the language of that section.

Mr. Klein: The way the ordinance reads is that it will be completely obscured within two years with evergreen plantings. The applicants made the argument that they are spending a lot of money to make the enclosure look nice by matching materials of the building and then the landscaping is hiding it. The argument is to soften the appearance rather than completely screen it.

Comm. Williams: The plantings closest to the existing structure are what size, relative to the size or height of the dumpster?

Mr. Rexwinkle: We don't know that information. One of the stipulations requires a new landscape plan, and we would ask for the species and height to be provided.

Comm. Pateidl: Is there any alternative to the climbing vines? The purpose for my question is it is pretty well known that vines climbing on masonry can cause some serious damage to the structure. I'm reluctant to see a representative of the city making a requirement that something detrimental to the structure be incorporated into the landscape plan. I wonder if we're not overstepping our bounds there with that kind of a recommendation.

Mr. Coleman: They could plant upright junipers like a lot of people do. It was just a suggestion for an inexpensive planting.

Comm. Pateidl: Do you have any concern with respect to the staff making a specific recommendation for this type of landscape usage?

Mr. Coleman: We're looking for a landscape plan from them. We don't have a plan for that particular dumpster site. We are simply making a recommendation for something that might suffice.

Comm. Pateidl: Is it a recommendation or stipulation?

Mr. Coleman: The ordinance that it be completely screened is a stipulation; the vines are a recommendation.

Comm. Pateidl: Number 7 reads, "The landowner agrees to execute a statement acknowledging in writing that they agree to stipulations one through seven," which include the use of climbing vine.

Mr. Coleman: We have no plan to approve at this point, so that is why we interjected that. Otherwise, the project will not move forward until they actually have a plan for you to approve.

Comm. Pateidl: Does this mean they have an alternative when they bring it in? It seems to me that we are saying, "You are getting the authorization with these conditions." Does that mean that they are compelled to do exactly that?

Mr. Coleman: If it was approved, it would have to be a vine of some type.

Comm. Pateidl: And if they chose another softening material? Do they have the option to do that?

Mr. Coleman: If it was sufficient to screen it, it could be approved by administrative approval.

Comm. Heiman: In Section 16-4-7.6 toward the end, it reads, ". . . shall be screened with walls or fences and planted with evergreen hedges and/or evergreen vines." To me, it is "and/or" and not "and/and."

Mr. Coleman: We were just trying to help the application out. We could change the wording.

Applicant Presentation:

Cary Knott, 12817 Sagamore, Leawood, KS, with Bell/Knott & Associates Architects appeared before the Planning Commission and made the following comments:

Mr. Knott: I also have Dan Koenig, who is the administrator for Church of the Nativity, if you have questions for him. I have read the stipulations and have no problem with No. 1, except for the definition of landscaping, which I'm sure we will talk about. Item Nos. 2, 3 4 and 7 are no problem. Nos. 5 and 6 are a bit of an issue with us. Currently, we have a dumpster enclosure that is a wood frame with some painted plywood panels and stone material that wraps around it. We're adding recycling bins, and the church tried to enclose them because they didn't like the way they looked. We've put walls around three sides of these with gates on the front, using materials that are compatible with the church, including DensGlass, stucco, brick, coping, and painted panels. It doesn't seem to make a lot of sense to screen our screens. We have added some landscaping around the northwest dumpster to soften it. We believe putting these climbing vines on there will draw attention to what we were trying to screen. Mr. Pateidl's comments are ones I was going to make as well: they are not good for that type of product because they will attract water and dirt. We don't have any problem with plantings around the enclosures to soften and keep the kids away from the enclosures. I do not agree with No. 5. I agree with softening and not screening. I would be happy to submit a landscaping plan that buffers and enhances what we are doing. We are spending \$50,000 to build an attractive enclosure, and we do not wish to screen it. I'm certain I can work with staff to come up with an acceptable landscaping plan as long as we focus on buffering instead of screening. With the exception of some modifications to Nos. 5 and 6 and some

clarification to No. 1, I am fine with the stipulations. I would respectfully request that you consider the points that have been made and allow us to do this in a very professional manner. We are not trying to skirt the ordinance; we are simply trying to use common sense in applying it.

Comm. Williams: The northwest dumpsters attach to the school away from 119th Street. I assume they have little, if any, visibility from public traffic along 119th Street.

Mr. Knott: If you knew what you were looking at, you could see them, but the attention is not drawn to them. You can see them now, but they are falling down and need to be rebuilt. You can see the dumpster that is two feet taller than the current enclosure.

Comm. Williams: The southwest dumpster is closer to 119th Street and more in public view.

Mr. Knott: Yes, but there is a large berm along 119th Street that blocks all but the top few feet of the enclosure from view. Again, unless you were really looking for it, you would not see it.

Comm. Williams: I was asking more for clarification. I think the intent of the ordinance for some of this screening is to soften the screen from public view. If the northwest dumpster is well removed from 119th Street, which would be the corridor for public view, I agree that landscaping to soften it and buffer from the kids would be appropriate. I wouldn't see a need to completely screen it, and likewise for the one on the southwest corner. I guess the key is providing a landscape plan that locates and identifies what it would be. I do agree that climbing vines are not necessarily the way to go.

Comm. Ramsey: I understand what you're alluding to, particularly with the vines. What I'm curious about, though, is that we are using the term "softening" and "screening." Could you describe the difference as you view it?

Mr. Knott: The difference would be if I'm asked to screen those, I am asked to put a planting that is green year-round and is the height of the enclosing walls to completely block them from view. If I buffer, I add colored plantings 2-3 feet tall that keep the kids away from it while still allowing the wall to serve as a feature.

Comm. Williams: You are saying the masonry walls around the dumpster units are the screen, and you are just trying to soften that screen.

Mr. Knott: Absolutely, I don't see any reason to screen the screens. If we're going to do that, let me go back and put up a whole different solution that would be more reasonable. What they've elected to do is make it a nice feature that can be maintained.

Comm. Ramsey: You would be willing to submit a landscaping plan to delineate all this.

Mr. Knott: Yes, to soften and buffer it, not to screen it.

Comm. Ramsey: When could you do that?

Mr. Knott: Probably by tomorrow.

Comm. Roberson: If I am reading this right, it suggests that the area shall be screened with walls or fences and planted with evergreen hedges and/or vines. I agree that vines are not the way to go in this situation. If you look at staff's opinion below, the landscaping around a trash enclosure, particularly one of masonry materials, is meant to soften the appearance of the enclosure rather than completely obscure it. Staff recommends the city issue an amendment that provides an effective and reasonable level of landscaping. Staff is in agreement, it seems, that softening is a way to go. Is that correct?

Mr. Klein: Yes.

Comm. Roberson: But, having said all that, given the ordinance at the moment, they need to screen with walls and provide planting.

Mr. Klein: Correct.

Comm. Roberson: Does it say the planting has to screen the screens?

Comm. Jackson: Yes, it says, "The plantings shall completely cover the wall or fence within two years' time of installation."

Comm. Roberson: At this point, we're bound by what the ordinance says. Without an amendment to the ordinance, there is not much we can do, except to recommend to the City Council that an amendment be made.

Comm. Williams: Some time back, we looked at trash enclosures for Mission Farms. They were originally attached, and there were problems because of odor. Are those walls completely covered with landscaping?

Mr. Klein: No, I believe they provided upright junipers on the north side of the residential property. I'm not sure if they will grow to screen it.

Comm. Williams: Didn't they put the roof on it?

Mr. Klein: Actually, I don't believe that one got constructed because it was too expensive.

Comm. Jackson: Unfortunately, we are encouraging flim-flam structures with lots of landscaping.

Mr. Klein: Staff doesn't disagree. I think we could say that they need to provide a revised landscaping plan prior to Governing Body approval. I'm not sure if you want to put your opinions on the record as far as amending the ordinance. At that point, the City Council can decide what direction it wants to go.

Comm. Ramsey: If I understand this correctly, the current ordinance calls for screening the screen.

Mr. Klein: Yes, that is correct.

Comm. Roberson: It also says you can put up a fence. This would allow a cheap fence with evergreens, and then I'm not sure we're accomplishing what we would like to accomplish.

Mr. Klein: That is a question for City Council to consider as well, I believe.

Comm. Roberson: In this case, you need to define what the wall and/or fence would be. You're not going to be able to put up a chain link fence around it and then screen it with plants.

Mr. Klein: In the past, we've encouraged the trash enclosures to be constructed of materials that make it look attractive. The wording that it must be completely screened within two years is what is causing the issue.

Chair Rohlf: Since the stipulations all start with, "Prior to Governing Body consideration," we could approve this, send it on with a recommendation that they look at modifying the ordinance, or we could continue it; but it will need to get to the City Council level to get an amendment started.

Mr. Klein: They would be required to provide a landscape plan prior to Governing Body. With that, if they were going to comply with the current ordinance, it would include screening the entire structure in a period of two years. They would also have on record your intentions about modifying the ordinance. If City Council wanted to look at it, they could discuss it.

Comm. Ramsey: What I am not clear on this evening is how to get to a "yes" on this.

Mr. Klein: I don't think you can get around it because the ordinance is clear. You can only recommend a review of the ordinance because as the ordinance stands, they would be expected to provide a landscape plan prior to Governing Body. At that time, Governing Body has all the information and could then decide what direction to go, which may or may not include considering amending the ordinance.

Comm. Elkins: Continuing on with that thought, procedurally, if we recommend this plan for approval as it is drafted now and sent it to City Council, who then amends the ordinance, would the applicant have the ability at that time to ask that the stipulations be amended back to buffering instead of screening?

Ms. Shearer: The text amendment would also have to come through the Planning Commission, so they would have to come back to this level anyway to go forward with the text amendment that would allow the things they want to have done.

Comm. Elkins: So the Council doesn't have the authority to take up the text amendment on their own without coming to us first.

Ms. Shearer: Not to the LDO, no.

Comm. Williams: The ordinance we're talking about refers also to meters, sprinkler risers, utility boxes and so forth. We've had discussions about utility boxes that end up where we don't like them. They don't get enclosed with masonry walls and then landscaped on top of it; typically what we see is just landscaping, and seldom, even with the landscaping they provide, does it screen the

utility box out of view. Let me go one step further. These are detached enclosures, but as the ordinance reads, it would apply to an attached trash enclosure unless you cannot tell that there is a trash enclosure there. Where have we required buildings to totally screen those sections of the building with landscaping? I can't think of one.

Mr. Klein: The ordinance quoted in the report stops when it stops referring to trash enclosures. That part of the ordinance continues on and says, "Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities and meter banks shall be screened from public view with landscaping or with an architectural treatment compatible with the building structure." This is where it states that the utility boxes do not require a wall or fence and landscaping.

Comm. Williams: That is fine, but a key word there is "screen". With few exceptions, the landscaping we have around these things doesn't totally screen the boxes; it softens or minimizes the view of them.

Mr. Klein: We have tried to get them to completely screen them within two years. I have been out at a few of the sites. Nall Valley Shops have many boxes at the corner. We had a stipulation that the upright junipers could be no more than a foot apart with the intent that they would eventually screen that way. When the application originally came in, they were spaced too far apart, and we stipulated that they space them closer together.

Comm. Williams: Can you tell me where we have required the landscape screening on trash enclosures that are attached to the buildings?

Mr. Klein: We do try to screen those with upright junipers. I do not disagree that most of those primarily soften. Staff isn't saying it may be the appropriate way to do it. We are simply saying that the ordinance calls for it, and we believe it needs to be addressed.

Comm. Williams: My point with this is that if the landscaping provided on the past projects that provided softening has been acceptable, then a landscape plan should be equally satisfactory here. If language change needs to be made for future projects, certainly go that direction, but do not beat these people over the head and make them wait to build these enclosures.

Comm. Roberson: We don't have that authority based on the ordinance. I don't disagree with what you're saying, but we're being backed into a corner because of the ordinance.

Comm. Williams: We've done it before.

Comm. Roberson: I understand, and we probably shouldn't have done it before if that's the case.

Comm. Williams: Staff recommendations said it was fine.

Chair Rohlf: I think we could possibly discuss this on many levels. Mr. Coleman, would you like to address this?

Mr. Coleman: Since this has become a controversial issue and part of it is the language of the LDO, I recommend that we continue it, do a text amendment, ask for a landscaping plan and bring it all back at the next possible meeting and move it forward together.

Chair Rohlf: I think that is a good idea.

Comm. Jackson: I think there is one more option. We could ask for them to provide a landscaping plan, not necessarily with the vines, that looks as it will be as encompassing as any other plan coming through here. They just put in the taller evergreens and show that they will be placed. I don't see how that is any different than anything else we've approved in the last several years.

Comm. Williams: I agree to eliminate the requirement for vines.

Comm. Jackson: It is subject to interpretation as to whether the landscaping will get big enough and wide enough to cover it. It's what we have always done; why not do it here?

Comm. Roberson: Because you're circumventing the ordinance.

Comm. Jackson: It's a subjective interpretation of the landscaping plan.

Comm. Roberson: I think Mr. Coleman's recommendation is the best.

Chair Rohlf: Right, because I'm not sure the applicant is interested in putting those types of plantings in. That was his point with not wanting to cover up something as expensive and high quality as it is. I think we need to continue this and have them bring back the landscape plans with the amendment. This will allow us some leeway in granting that type of landscape plan.

A motion to continue CASE 02-11 – CHURCH OF THE NATIVITY – DUMPSTER ENCLOSURES REVISED FINAL PLAN, located at 3800 W. 119th – was made by Ramsey; seconded by Williams.

Friendly amendment to add “to the February 22, 2011 Planning Commission meeting” was made by Williams; accepted by Ramsey.

Chair Rohlf: Does the applicant agree with this?

Mr. Knott: That is fine. I appreciate your consideration. I want to clarify that I am still talking about buffering and not screening. I agree with Mr. Coleman's recommendation.

Chair Rohlf: I think they had one point to make sure that the height of the dumpster is on the plan.

Mr. Rexwinkle: We'll be able to work with the applicant.

Motion approved with a vote of 6-1. For: Pateidl, Roberson, Williams, Elkins, Heiman and Ramsey. Opposed: Jackson

CASE 04-11 – TOWN CENTER PLAZA – LOT 9 – WALGREENS – Request for approval of a Final Site Plan, located at the northeast corner of 119th Street and Nall Avenue.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 04-11 – Request for approval of a Final Site Plan for a new 14,284 square foot Walgreens store with a drive thru, located at the southwest corner of Town Center Drive and Roe Avenue within the Town Center Plaza Development. On October 18, 2010, the Governing Body granted approval of the associated Preliminary Site Plan and Special Use Permit. As part of this approval, the Governing Body also granted deviations from the minimum required building setback along Town Center Drive from 40 to 30 feet and from the minimum required parking lot setback along internal property lines from 10 feet to 7.5 feet. The proposed Final Site Plan complies with all the bulk regulations of the ordinance, including the deviations granted by the Governing Body with the Preliminary Site Plan. The Final Site Plan proposes demolition of the existing building on the site and the construction of the new Walgreens store. The site will be designed such that the building will occupy the southwest corner of the intersection of Town Center Drive and Roe Avenue, much as the current building does with the parking lot to the south and west of the building. The entrance to the store is proposed for the northwest corner of the building with the drive-thru lane on the south side of the building. A pedestrian amenity space is proposed on the northwest side of the building near the building entrance. A sidewalk connecting this proposed pedestrian space with the building entrance and the public sidewalk along Town Center Drive is also proposed. The pedestrian space is proposed to be paved with decorative brick pavers and include seating, bicycle parking and an art piece, surrounded by planting materials on the north side and the building entrance on the east side. The Site Plan shows a sidewalk connecting the parking lot to the sidewalk along the west edge of the property; however, the plans do not show this connecting across the parking lot to provide a connection to the building entrance from the west edge of the property. Staff is recommending that this connection be continued across the parking lot and a connection be differentiated with the same paver material used elsewhere where sidewalks cross parking lots.

The landscape plan provides a mixture of street trees, ornamental trees, shrubs, grasses, annuals and perennials throughout the site in the quantities required by the Leawood Development Ordinance. Staff has some concern with the specific placement of some of the landscape materials, particularly the street trees along Roe Avenue, because they are placed too close together, and some of the street trees along Town Center Drive seem to be proposed to be planted directly over a storm sewer line. Staff is recommending two stipulations to address these two concerns. All of the existing landscaping on the site is proposed to be removed. Staff has received written communication from a member of the public, and it was provided to you. The commentary has to do mostly with landscaping. The elevations identify that the building will be constructed primarily of brick with clear glass windows. The windows on the east and south elevations will be fitted with integral window shades, whereas the windows on the north and west sides of the building will not. The design of the building conforms to the general design of the main center at Town Center Plaza. The brick used on the building is similar in color to that used on the main center, as is the roof tile. The plans propose two wall signs that read, "Walgreens". One is on the north end of the east elevation facing toward Roe Avenue and the second on the north end of the west elevation above the main entrance facing the parking lot. Two other information signs are proposed on the drive-thru canopy: one above the entrance reading "Drive Thru" and one above the exit reading "Exit." The drive-thru sign will measure six square feet, and the exit sign will measure 1.3 square feet. Each of the Walgreens signs will be identical, and each will be

constructed of red internally illuminated channels letters mounted directly on the wall. They will measure 3 feet, 4.5 inches in height by 14 feet 11.75 inches in width for a total area of 49.94 square feet each. The area of all the signs on each elevation is 2% of the east elevation and 2.1% of the west elevation, which falls below the 5% threshold. The signs comply with the approved sign criteria and requirements of the LDO.

The plans propose decorative wall-mounted lighting fixtures. The cut sheets provided with the Staff Report indicate the light source in the fixtures would be visible; however, the applicant has indicated that they will not. Staff is recommending a stipulation to ensure they are not visible once constructed. Staff is recommending approval of this Final Site Plan, subject to the stipulations provided in the report. We're happy to take any questions.

Comm. Williams: I didn't see any mention in the Staff Report about landscape screening for the attached 10-foot high trash enclosure. Do we need to add a stipulation for that as well?

Mr. Klein: It would apply, yes.

Comm. Williams: You talked about the street trees on Roe, which you said are too close together. They have a lot of landscaping along there that helps to soften the appearance of the building along Roe. The elevation is not too bad, but it is not as nice as the elevation on the entry side. Why are you concerned that the street trees are too close?

Mr. Coleman: The ordinance requires the street trees to be 35 feet on center. These are spaced approximately 18 or 20 feet on center, which is too close together for the maple trees.

Comm. Williams: In this particular case, would it not be a benefit because it helps to soften the view of the building?

Mr. Coleman: I think they provided enough landscaping around the building that it will soften the building. The idea is to have a boulevard effect on the street. If the trees are all compressed into one area, the effect is lost.

Comm. Williams: I drive that road every day, and I can honestly say I have not noticed the street trees at Town Center.

Mr. Klein: The ordinance went into effect in 2002, and Town Center Plaza began in 1995.

Comm. Williams: Likewise, the library went in before the ordinance, so we don't have the street trees going north of here as well?

Mr. Klein: Probably so.

Comm. Williams: So we're talking about enforcing the strict letter of the ordinance for this property.

Mr. Klein: The idea is that eventually over time, there may be an opportunity to get the street trees in. Town Center Plaza had a building to be constructed by Barnes and Noble on the south side and required them to have street trees at one per 35 linear feet on that side. Town Center has

been in before, and they have indicated they would like to come in with a new landscape plan to freshen up the center. That might be another opportunity to do that.

Comm. Williams: How many trees will be lost if we go to 35 feet?

Mr. Coleman: They are approximately 18-20 feet on center. The library's property does not extend to Roe, which is why there are no street trees there. That is city property.

Comm. Williams: I would think the city would want to put in street trees, wouldn't they? I'll move on. Public Works comments include a recommendation for pervious paving so that water can seep through.

Mr. Ley: Correct.

Comm. Williams: I know of the product but have never used it. Asphalt always needs to be patched, repaired or resurfaced. How do they take care of this so that the drainage requirements remain intact?

Mr. Ley: They will need to vacuum the parking lot periodically. We constructed a parking lot with pervious pavement about five years ago. We haven't yet had the need to vacuum it.

Comm. Williams: If the parking lot needs repair in the future, do they need to pull a permit so we know the pervious product will go back in?

Mr. Ley: Yes, they will have to get with Public Works on that since it is part of their B and P on the site. We will inspect that every two years. It will be constructed of concrete, so it will be easy to cut that out and replace it.

Comm. Williams: Going back to a comment on the east elevation, do I understand they are real storefront windows with just blinds behind them?

Mr. Rexwinkle: Yes, the windows on the east and south elevations would have integral blinds. They are the clear glass windows, and we have material samples we can pass around.

Comm. Williams: Many of the Walgreens stores I have seen in the community have what appear to be window panels with advertising. I don't see anything in here that references that potentially taking place or prohibiting it from taking place.

Mr. Klein: That would be prohibited. We have an ordinance that prohibits permanent signage that advertises products, and we also have an ordinance that states it can be no more than 5% of the window area.

Comm. Williams: They could put advertising behind the glass.

Mr. Klein: A window sign is defined as anything visible from the public right-of-way.

Comm. Williams: My concern is even though Walgreens has done several very nice stores in the metro area, they get destroyed by these advertising panels they have. I think they've got a good start with this building, and I would hate to see that happen.

Mr. Rexwinkle: Staff has discussed that with them. I believe they have no intention of doing that.

Comm. Williams: Many of these stores also sell propane, so there are racks outside the stores. Will we see that here?

Mr. Rexwinkle: Outside sales are prohibited by the ordinance.

Comm. Ramsey: I have a Walgreens by me, and they don't sell propane.

Comm. Williams: I believe that is the only one in Leawood at the moment, but you get outside of Leawood, and you'll see great looking buildings with a propane rack and advertising panels. Thank you.

Applicant Presentation

Seth Reece with Olsson Associates, 7301 W. 133rd Street, appeared before the Planning Commission and made the following comments:

Mr. Reece: I have Doug Henzlik, the developer, and Nick Telowitz, the architect, as well. We appreciate being here today. Staff has been good to work with on this project. We've looked through the recommendations, and we agree with all of them. We don't have a problem with spacing the trees 30 feet. We will not lose any trees in doing that. If you have any questions, our team can attempt to answer them.

Comm. Williams: On the blinds, I think the term was "integral". To me, that implies that the blinds are sandwiched in the panels. Is that what we're talking about, or are we talking about blinds on the inside?

Nick Telowitz with Nova Group Architects, 6312 Hazelwest Court, Hazelwood, MO, 63042, appeared before the Planning Commission and made the following comments:

Mr. Telowitz: The windows would be an anodized aluminum storefront frame, exactly the same as windows you would be able to see through into the store. The glass would be tinted blue, clear insulated glass. Behind the frame would be the beige blinds within the width of the aluminum frame. Behind that would be a drywall panel, and the blinds would be permanently closed position. The blinds are from a sub-supplier to Con-Air Company, who makes the window frames.

Comm. Williams: Is there light between the blinds and the sheet rock wall?

Mr. Telowitz: No, sir. These windows are in areas of stockroom, mechanical service, office and restrooms.

Chair Rohlf: Any other questions for the applicant? I think we're ready for any other discussion, leading up to a motion.

Comm. Jackson: I would like to commend everyone for getting the bike racks in.

Comm. Williams: I would also like to commend Walgreens for working with Town Center and staff to get a building that many were concerned about and in doing a fairly good job of carrying out the theme of Town Center.

A motion to recommend approval of CASE 04-11 – TOWN CENTER PLAZA – LOT 9 – WALGREENS – Request for approval of a Final Site Plan, located at 4701 Town Center Drive, adding Stipulation No. 18 to require that the landscaping be of a height in nature to screen the trash enclosure in accordance with the Leawood Development Ordinance, which would give a total of 20 stipulations – was made by Williams; seconded by Elkins. Motion approved with a vote of 6-1. For: Pateidl, Jackson, Williams, Elkins, Heiman and Ramsey. Opposed: Roberson.

CASE 05-11 – TOWN CENTER PLAZA – BRISTOL – Request for approval of a Final Site Plan for an outdoor dining area, located at 5400 W. 119th Street.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 06-11 – Request for approval of a Final Site Plan for an outdoor dining area adjacent to the southwest corner of the Bristol Restaurant, located at the northeast corner of 119th Street and Nall. The plan proposes an outdoor dining area on the southwest side of the building in a portion of the lot currently occupied by sod and landscaping. The landscaping, which includes ornamental trees, annuals and a mixture of shrubs, is proposed to be removed. The area will contain seating for 44 guests and will be paved with bluestone pavers and covered with a pergola and cantilevered umbrellas. On the west side of the dining area is an entrance and exit gate, providing pedestrian access to the parking lot. The dining area will be surrounded by a low masonry wall along most of its enclosure with bronze cabling to enclose the rest of the patio. A 16-foot tall fireplace, which has been approved by the fire department, is also proposed on the southwest side of the patio. Landscaping consisting of a mixture of grasses, shrubs, annual, perennials and trees will surround the outside of the walls, the bronze cabling and the fireplace. Shrubs will also line the edge of the building inside the patio. The plans identify a sidewalk connection to the building entrance from the public sidewalk along 119th Street. A previously approved Site Plan, known as Case 18-95, required the sidewalk connection; however, this connection was never constructed. Where this connection crosses the parking lot, the plans identify that the connection would be striped to differentiate it from the parking lot; however, Section 16-2-9.2(E)(4) of the Leawood Development Ordinance requires that such connections be enhanced and differentiated where they cross a parking lot through the use of brick pavers or textured concrete. Staff recommends approval of this Final Site Plan, subject to the stipulations provided in the Staff Report.

Comm. Williams: Going back to the parking lot, you are asking them to put in a paver to differentiate the walkway?

Mr. Rexwinkle: That is correct. The plan in 1995 showed it the way this plan shows it; however, staff feels that since the plan is being presented now, it needs to comply with today's ordinance requirements.

Comm. Williams: Is there some measure of change and renovation to a building that gives us the purview to require them to come up to the current ordinance? What else would need to be changed with the building to bring it up to the current ordinance?

Mr. Rexwinkle: I am familiar with other ordinances in other cities when, if a certain investment is made in the property, the owner has to comply with all of today's standards or a certain portion of today's standards, but our ordinance does not have any clause like that. It would only refer to the legal, non-conforming issues which pertain to use and structures, not specific Site Plan elements like the sidewalk.

Comm. Williams: So again, what do we hang our hat on to require them to do that?

Mr. Coleman: When they are making an application under the current ordinance, they are required to comply with the ordinance.

Comm. Pateidl: Looking through the application, we see there will be 44 additional dining spaces inside the complex. I don't see anything in the review regarding adequacy of parking. Bristol has been a huge success, and it is hard to find a parking place in the evenings. This will add 44 places for people to enjoy our community, but where will they park?

Mr. Rexwinkle: Since it is part of Town Center Plaza, they share parking with the remainder of the shopping center. If you'll recall, when we did the initial review for Walgreens, they had 1,000 spaces over the requirement.

Comm. Pateidl: If we are looking at a brick paver sidewalk from 119th Street sidewalk to the front door where people cannot park anyway, should we not have some delineation of pedestrian way from the east? In the interest of public safety, are we doing anything to address that issue?

Mr. Klein: We have done that on other applications when they were part of the main parcel of Town Center Plaza. In this particular case, Bristol has its own parcel, so it was more difficult. It is a single applicant, and we really cannot go to Town Center Plaza and require something of Town Center Plaza that was part of this application.

Comm. Pateidl: So they either are a part of Town Center, or they are not a part of Town Center.

Mr. Klein: They are a part of Town Center as far as the development. They have a cross-access parking agreement; however, they own their own parcel at that corner.

Comm. Pateidl: Do you agree that we do have a potential for breach of public safety?

Mr. Klein: I do agree, and we try to address those issues when we have the ability to do so.

Comm. Pateidl: Does this issue of ownership obviate the need for public safety?

Mr. Klein: It does not, but we have a hard time requiring somebody who isn't part of the application to do something that does not include their property.

Mr. Rexwinkle: It would be something we would need to look at across the entire development. We have talked about it internally, but it would include a new development plan with all the property owners.

Applicant Presentation:

Kurt Thuenemann with Houlihans Restaurants, 8700 State Line Road, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Thuenemann: Once again, I want to thank you for looking at our proposed patio addition. We've enjoyed working with staff over the last five or six months and have enjoyed working with Town Center to get this plan developed. The staff presented us with fifteen items to modify initially. We have addressed every one of those with the exception of one, which would be the brick paver connection from the south end of our parking lot to the main door. We have proposed striping similar to what is done elsewhere in Town Center. As a life safety and maintenance issue, we feel that cutting out the asphalt and putting in concrete and brick pavers could create tripping hazards long-term due to settling issues. That is our only small issue with the recommendations.

Chair Rohlf: Do you have something that will reflect the sidewalk area that we are talking about?

Mr. Thuenemann: I have a Site Plan I can put up (*places Site Plan on the overhead*). The original sidewalk stipulated in 1995 is shown here. That sidewalk, for whatever reason, was not put in. We agree that we should put the sidewalk in to connect the 119th sidewalk to our parking lot. The striped piece you are talking about is right here (*refers to Site Plan*). That is the one area we think striping may be a better application than the brick pavers. As we drove around the center, we had a difficult time finding brick pavers leading from the parking lot to individual stores like Dick's, Macy's and so forth.

As you know, we have operated the Bristol in Leawood for nearly 16 years and have really enjoyed being a part of the community. Our corporate office is part of the community, and we have had great success with the restaurant. One recurring request we constantly hear is for a patio. This goes back long before some of the newer restaurants that have put in patios. Last year, we started looking at it and spent a lot of time developing this. We want a high-end patio that blends nicely into Town Center, the building and the community. Staff did a nice job of explaining my presentation for me. The patio is roughly 1,000 square feet off the southwest corner of our building. It has a total of 44 seats, and the access is through an existing door on the south side of our bar. We will remove that door and put in an aluminum storefront system. The location was chosen for operational issues and proximity to the bar/dining area. The patio has two main areas (*places plan on the overhead*). The western area is all dining with 22 seats and two cantilever 10x10 umbrellas to shield the sun. The larger area is a lounge and seating area with a large fireplace, which ties into the existing architecture. Some of the materials in the patio include a Pennsylvania bluestone on four inches of concrete for the floor. All of the low walls will be three different brick patterns, two of which tie into the existing brick on the building. We asked the vendor to find a different mix for the third to tie it in nicely. At three strategic locations, we have left out the low retaining wall and are putting in a bronze cable wire system. This is so the guests can experience a more open feeling, and it also gives a great opportunity to bring landscaping to the interior of the patio. Other key features consist of a heavy cedar timber pergola with bronze structural fittings. Going across the rafters of the pergola, we are inserting a 1/8-inch thick aluminum pressed panel that will slide through each one of these ends that will help provide shading and cast a nice shadow.

As I mentioned, we have a fireplace off to the west side of the patio. This will use the same bricks mentioned previously. We have a see-through fireplace. On the outer side of the fireplace, we will install a triple-pane glass system so the wind can't blow the fire into the patio, and the patron crossing the sidewalk won't get burned from touching the glass. Although the patio furniture will be a resin with cushions, the top will consist of a resin tumbled stone material made to look like travertine. Within the large pergola area, some of the added features are two 46-inch exterior televisions, six infrared heaters mounted up in the tress bay of the pergola, painted the same color as the metal, three ceiling fans, small bullet lights to spot the tables and certain elements on the patio and a Bose speaker system tied to the music we play inside the restaurant.

The landscaping will be removed on just this one corner. We took a lot of time to make sure we not only picked and designed a landscape plan we thought was aesthetically pleasing to the overall

development, but also for the patio. We did have to remove one blue spruce on the corner to achieve this. (*Places landscape plan on the overhead*) We have three blue alder cedars in the back to help enclose the patio. There will be larger specimen 10-12 feet tall. Along the western side here, we will plant yews, which we plan on using to create a 4-foot hedge. That protects the patrons from the car headlights. We will have roses on the back side of the fireplace and natural grasses on the landscape cut-out sheet. We are also incorporating coneflowers and salvia, which is currently around the perimeter of our restaurant. Where the large spruce tree was located on the corner, we will put in four large specimen trees. During planting, we expect to have around 7-8 feet; at the top of the canopy, we have 12 feet. We have an all-new lighting package for the landscaping to up-light the trees. The trees will also align with access of the structure of the pergola. We truly feel that this patio will be a benefit to Leawood. I more than appreciate your time and am happy to answer any questions you may have.

Chair Rohlf: Does this particular site sit down from the street?

Mr. Thuenemann: This sits up from the street.

Chair Rohlf: How far is it from the patio to 119th Street?

Mr. Thuenemann: We have two rows of parking, so maybe 100-120 feet. I also have our director of construction here to answer questions.

Chair Rohlf: I'm just trying to think about sitting out there and what the patrons will see and hear.

Mr. Thuenemann: That is why we spent a lot of time and effort on the landscape package. We really didn't have an option for location of the patio. The east side would be a great location because we would not have to contend with the sun, but operationally, we could not get to the area.

Comm. Roberson: When do you plan on constructing this?

Mr. Thuenemann: As soon as we get approval.

Chair Rohlf: It appears the only stipulation we need to discuss would be the paver question.

Mr. Rexwinkle: Staff would like to recommend that the Commission add a stipulation pertaining to the fire memo following the report. We accidentally left it out.

Chair Rohlf: Just looking around the crosswalks where we've used the different types of materials, I have noticed one that doesn't hold up at all is the one in Cornerstone. Do you know what was used there and why?

Mr. Klein: I believe it was a colored concrete. I have noticed some of the colored concrete has done well; other has crumbled. Plaza Pointe had an issue with the colored concrete crumbling at the intersection. I think a lot of it is the quality. It really comes down to enforcing the maintenance.

Chair Rohlf: Is that textured concrete in the phrasing in here?

Mr. Klein: Yes.

Comm. Ramsey: Mr. Coleman referred to a code requirement. Are we applying that to this situation?

Mr. Coleman: Yes, the Leawood Development Ordinance.

Comm. Ramsey: What is the requirement?

Mr. Klein: The requirement is that they differentiate pedestrian crossings from the vehicular traffic with a different material and color. That is what they are doing with this. The idea is it is a way of delineating where pedestrian traffic can go. We require a different material for this.

Comm. Ramsey: Is that being required because the crosswalk is now encompassed as part of this project?

Mr. Klein: That is part of it. There will be a sidewalk connecting to the parking lot, and this will carry the pedestrians farther across the parking within the development to where the restaurant is.

Comm. Ramsey: So we are not going back and retroactively applying the LDO to an area that is beyond the scope of this improvement?

Mr. Klein: No, the Town Center Plaza development was constructed before the current LDO, so there may not be pedestrian crosswalks. Staff is aware of this issue in Town Center Plaza. However, with each application that comes in, there is an opportunity to enforce this requirement.

Comm. Williams: I would like to clarify Item No. 2 on the fire department memo. It talks about future textile enclosures requiring fire sprinklers. Would anything above and beyond this plan then kick in the requirement for fire sprinklers?

Mr. Rexwinkle: The Fire Marshal is referring to applicants who build a patio and then come back later to enclose it. This statement is just to inform the Planning Commission, staff and the applicant that if they choose to enclose it in the future, it would be required.

Mr. Thuenemann: I did ask the Fire Chief when I spoke to him if we had any issues related to that, and we didn't.

A motion to recommend approval of CASE 06-11 – TOWN CENTER PLAZA – BRISTOL – Request for approval of a Final Site Plan for an outdoor dining area, located at 5400 W. 119th Street with all staff recommendations and adding Stipulation No. 4, requiring the developer/property owner to agree to comply with the attached requirements of the Fire Marshal, to create a total of five stipulations – was made by Jackson; seconded by Williams. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

CASE 08-11 – PLAZA POINTE – CROSSFIRST BANK LEAWOOD – Request for approval of a Final Plan, located at the southwest corner of Roe Avenue and 135th Street.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 08-11, Request for approval of a Final Site Plan to reroof the Crossfirst Bank building at the southwest corner of 135th and Roe Avenue and the addition of an ATM and associated site improvements for the ATM. The property is located at 135th and Roe. The plans propose replacing the existing roofing material with a DaVinci grey synthetic slate that is allowed by the Leawood Development Ordinance. An ATM is proposed to be installed on the

south end of the bank drive-thru within an existing parking lot island. To accommodate the ATM, the parking lot south of the drive-thru lanes will be modified from its current layout. Access to the ATM and other bank drive-thru lanes will come through a common access point within the site. The ATM will have its own lane and a bypass lane. This configuration will result in the removal of eight parking spaces in the parking lot. The parking provided following construction will exceed the minimum number required by ordinance. Three non-illuminated informational signs are proposed on the ATM to identify it. An additional directional sign is also proposed near the drive-thru entrance. Each of these signs complies with the Leawood Development Ordinance and the approved sign criteria. Staff recommends approval of this case, subject to the stipulations provided in the Staff Report.

Applicant Presentation:

Amy Faust, 1237 Southwest Crossing Drive, Lee's Summit, MO, appeared before the Planning Commission and made the following comments:

Ms. Faust: We appreciate your time and also the staff comments. I believe the plan we submitted complies with all the staff requirements, and we would appreciate your approval. I'm happy to answer questions.

Comm. Elkins: I am just curious about the replacement of the roof. Is that because of a failure of the current roofing material? Is there a lesson we should take away from that building about building materials?

Ms. Faust: No, it is just a change in materials that coincides with what's in the development now.

Chair Rohlf: Anything else? Then I would ask for a motion.

A motion to recommend approval of CASE 08-11 – CROSSFIRST BANK LEAWOOD – Request for approval of a Final Plan, located at the southwest corner of Roe Avenue and 135th Street with three staff stipulations – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

CASE 11-11 – REED'S ADDITION – Request for approval of a Preliminary Plat, Preliminary Plan, Final Plat and Final Plan, located at 146th Terrace and Mission Road.

Staff Presentation:

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 11-11 – Reed's Addition, located at 146th Terrace and Mission Road. The applicant is Brick Owens with NSPJ Architects and is requesting approval for a Preliminary Plat, Preliminary Plan, Final Plat and Final Plan to divide 20 acres into two 10-acre residential lots. All bulk criteria have been met. Staff recommends approval of this application with the stipulations stated in the Staff Report, and we'd be happy to answer any questions.

Chair Rohlf: I recall we had this plan in previously subdivided into multiple homes. Mr. Ley, I remember something on the water. I can't remember if it was an easement or if that has changed.

Mr. Ley: They need to meet the stream setback coordinates. When we do a large subdivision, we require those to be in tracts. Since these are just two 10-acre lots, we will allow that to be inside an easement. This would contain the 100-year flood and the stream setback. It would just be a

setback easement with no construction in that area. It was previously a tract that would be dedicated to the homes association.

Chair Rohlf: I just wanted to make sure we accounted for it. Any other questions?

Applicant Presentation:

Brick Owens, landscape architect with NSPJ Architects, appeared before the Planning Commission and made the following comments:

Mr. Owens: We've been involved in the project for about six months. Last time we were here, we had twelve lots on twenty acres. We did listen to what you said and worked with our neighbors to find a happy medium. We did not find it, so we are in front of you now to request the lot split of the twenty acres into two 10-acre lots. It matches the three 10-acre lots due north of us. We are here to answer any questions you might have. We are in agreement with most of the stipulations. The one we have an issue with is the \$311 per linear foot fee for Mission. As we understand it, we cannot settle this with the Planning Commission; this is a Governing Body issue. With me this evening is Jeff Myers who owns Lot 1 and is planning to build his personal house on that lot for his family. Lot 2 will be owned by Dr. William Reed, and he is not sure where he is going with that because of some family issues.

Chair Rohlf: I seem to remember that both lots have driveways. How is that possible?

Mr. Owens: There are driveway connections to Mission Road. The northern one is being used as the driveway entry to the 20-acre site that did have a house on it that burned down. There is a second driveway and a gate through the metal picket and rail fence along Mission Road. The idea is to use the existing driveway as the northern access for Lot 1 and the existing driveway that is primarily a maintenance access now will be the entry for Lot 2, which is the south ten acres.

Chair Rohlf: Does anyone else have questions for the applicant? This case does require a Public Hearing.

PUBLIC HEARING

As no one 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 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

Chair Rohlf: That takes us up to any final discussion and a motion.

A motion to recommend approval of CASE 11-11 – REED'S ADDITION – Request for approval of a Preliminary Plat, Preliminary Plan, Final Plat and Final Plan, located at 146th Terrace and Mission Road with all seven staff stipulations – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

CASE 19-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-2.6, Sewage Disposal; Septic Tanks – Connection to Sanitary Sewer.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 19-11 – Leawood Development Ordinance Amendment to Section 16-4-2.6, Sewage Disposal; Septic Tanks. This is related to the connection to sanitary sewer. Currently, the LDO requires if sanitary sewer becomes available within 300 feet of your property, you would have three years to connect if you happen to be on septic. We are proposing to change the 300 feet to 200 feet. The reason for this is Johnson County Wastewater deals with the hookups to the sanitary sewer, and they also regulate the septic tanks. Their current regulations and policies they impose now require within 200 feet. This would align the city ordinance with Johnson County Wastewater's requirements. Staff is recommending approval of the LDO amendment, and I would be happy to answer any questions.

Comm. Roberson: In terms of changing this, how many people does it affect? Do we know?

Mr. Klein: It will probably affect some people. I don't have that number off the top of my head.

Comm. Roberson: Would they be south of Leawood?

Mr. Klein: I know some of them are. One issue was with somebody at 143rd Street close to Kenneth Road. Another was along 143rd Street as well.

Mr. Coleman: We had a rash of sewer issues this past year. We had a meeting with Johnson County Wastewater, the City Administrator and staff from both the county and the city. We went over all the regulations. As far as dealing with the 200 versus 300 feet, we came to the conclusion that it would make the most sense for the city to come into conformance with the county's regulations to avoid this conflict. There were probably five or six properties directly affected at that time.

Chair Rohlf: Any other questions for staff? This case requires a Public Hearing.

PUBLIC HEARING

As no one 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 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

A motion to recommend approval of CASE 19-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-2.6 – Sewage Disposal; Septic Tanks – Connection to sanitary sewer – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

CASE 21-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDEMENT TO SECTION 16-4-6.14 – Permitted Signs by Type – Canopy Signs in Existing Sign Bands.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 19-11 – Leawood Development Ordinance Amendment to Section 16-4-6.14 – Permitted Sign Types. This is related to canopy signs and existing sign bands. As you know, the Planning Commission and City Council see all of the sign plans that come through the city. We have received feedback from the sign community that

sometimes they get frustrated as far as length of time it takes for the signage to go through. However, City Council really would like to continue to maintain the process. There might be some signs out there that really don't have that much flexibility, and those are located in these existing sign bands. What we are proposing is a new category within the table to include canopy signs in an existing sign band. I would like to tighten it up a bit so we are all clear: "Canopy signs in an existing routed metal sign band." That will prevent other people from trying to make the argument that they are in a sign band when they are on a canopy. I will show some pictures to illustrate (*Shows pictures on the overhead*). These are the ones we're talking about, and they are located throughout the city. Camelot Court has some; Leawood Plaza has some as well. Another development near HyVee has them. Within these canopies are metal routed sign bands that will hold the sign. We do take them through City Council now, often times on a Consent Agenda. They are listed as being conditionally approved, which means that they would have to meet both the LDO and the sign criteria. Staff would apply it the same as we always have. Staff is recommending approval of this amendment with the modification as I stated, and I would be happy to answer any questions.

Chair Rohlf: Questions for staff? This case does require a Public Hearing as well.

PUBLIC HEARING:

As no one 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 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

Chair Rohlf: Mark, you would like revised language.

Mr. Klein: Yes, it would read, "Canopy signs in an existing routed metal sign band."

A motion to recommend approval of CASE 21-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6.14 – Permitted Signs by Type – Canopy Signs in Existing Sign Bands, with the change in language to read, "Canopy sign in an existing routed metal sign band" – was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

MEETING ADJOURNED.