

City of Leawood
Planning Commission Minutes
February 22, 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, Elkins and Ramsey. Absent: Neff-Brain, Williams and Heiman.

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

APPROVAL OF MINUTES:

Approval of the minutes from the January 25, 2011 Planning Commission meeting.

A motion to approve the minutes of the January 25, 2011 Planning Commission meeting was made by Jackson; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey

CONTINUED TO MARCH 22, 2011 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 73-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-1.3 RECYCLE BINS – 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 15-11 – PARK PLACE – EJ'S BOUTIQUE – Request for approval of a Final Sign Plan, located at 11543 Ash Street.

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

NEW BUSINESS:

CASE 26-11 – CITY OF LEAWOOD – CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2012-2016 Capital Improvement Program. **PUBLIC HEARING**

Staff Presentation:

Joe Johnson with Public Works made the following presentation:

Mr. Johnson: Good evening. With regard to the 2012-2016 Capital Improvement Program, there is not much change from last year. The two main additions include pushing back the improvements to 143rd Street between Nall Avenue and Windsor. Originally, it was to be constructed in 2010 with the section from Windsor to Kenneth to be done in 2012; each has been pushed back five years. The other addition we have in the CIP is funding in 2013, 2014 and 2015 for traffic signal replacements on State Line Road from 103rd Street north. Page 21 of the CIP shows those projects as uncommitted. The Public Works Committee met last week and has a recommendation that, when City Council addresses the 2013-2017 CIP, those projects be committed for funding in those years. Other than that, we have no major changes or new programs. If there are any questions specific to the CIP, I would be happy to answer them.

Chair Rohlf: For those of you who weren't at our Work Session, feel free to ask any questions now.

Comm. Jackson: The city is starting a new initiative for complete streets, which make room for the bicycles and sidewalks. When you look at funding for streets, will it be available for those projects?

Mr. Johnson: The improvements to 143rd Street include a bike/hike trail that will run along the north side of 143rd from Nall to Kenneth Road and sidewalks on the south side. As far as other improvements, the city is working on a comprehensive plan to identify those streets that we want to assign as a bicycle way. As we make improvements, we will look at the streets and restripe them at the time we mill and overlay them in order to accommodate alternate modes of transportation. Right now, staff is working on identifying those streets. Eventually they will be presented to the Governing Body for adoption, and then appropriate funding would be requested at the time we make improvements.

Comm. Jackson: Are any of the streets you anticipate being among those being redone in the next two or three years?

Mr. Johnson: I don't know. Right now, 143rd Street and Mission road south of 135th Street will have those improvements that allow alternate modes of transportation. As far as the streets shown in the Arterial Program, I don't think they would have those requirements on them because they are limited in width.

Comm. Jackson: Do you have enough idea as to how much extra it will cost to include those plans?

Mr. Johnson: It all depends on the width of the street. It could be just as easy to provide striping if you're looking at the section of Mission Road between 119th and 135th Street because it is wide enough to allow for striping on the outside for a bike lane. If you look at 119th Street and wanted to accommodate it, you would

have to make the road wider and add 3-4 feet of pavement. Of course, that is very expensive. It all depends on the routes that are chosen and how wide the streets are.

Chair Rohlf: Any other questions? 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 Elkins; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey

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

A motion to recommend approval of CASE 26-11 – CITY OF LEAWOOD – CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2012-2016 Capital Improvement Program – was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

CASE 17-11 – IRONWOODS PARK – RESTROOM – Request for approval of a Final Site Plan for a new restroom at Ironwoods Park, located at 3141 Ironwoods Court.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 17-11. It is a request for approval of a Final Site Plan for a new restroom at Ironwoods Park. The applicant is the city's Parks and Recreation Department. The Director of Parks and Recreation and the architect are here this evening, should you have any questions for them. This plan proposes the construction of a restroom building within the park and associated site improvements to the existing parking lot, as well as the construction of a pedestrian path connecting this area located just north of the existing parking lot with the path along the south side of where the proposed restroom would be. This area is located approximately 375 feet south of the north property line of the park and 660 feet east of the east property line of the park. Elevations show the building is proposed to be constructed of a stone veneer and cedar siding. Plans show the landscaping will surround the building on the north east and south sides. This landscaping will consist of a mixture of grasses, shrubs and trees. The west side of the building will contain restroom entrances and face onto the proposed pedestrian path that will be constructed. Proposed signage on the building is limited to identification signage, all of which comply with the Leawood Development Ordinance. The Preliminary Site Plan for Ironwoods Park was approved in 2001, and it approved the overall park design and layout, including a restroom in this area of the park. Consequently, this plan before you is being reviewed as a Final Site Plan, which does not require public notification. However, staff conducted courtesy notice in which all homeowners associations that contained property within 500 feet of the park were mailed notification of the proposed plan and its consideration before the Planning Commission this evening. Additionally, all landowners within 500 feet that were not a part of the homeowners association were each mailed individual notification letters. At the time the Staff Report was written, staff had received no comment from the public regarding this plan. Since that time, over two dozen letters have been submitted, and they are before you on the dais this evening. Staff recommends approval of this case, subject to the stipulations contained in the report and is happy to answer any questions.

Chair Rohlf: We did review a Preliminary and Final Plan in 2001, correct?

Mr. Rexwinkle: The 2001 plan was a Rezoning, Preliminary Plan and Final Site Plan.

Chair Rohlf: Questions for staff?

Comm. Ramsey: Were the restrooms included at that time?

Mr. Rexwinkle: They were identified in a shelter building, and the Staff Report that went along with that plan identified that the shelter building was inclusive of several different items. One included a bathroom; another included a concession area and facilities for the amphitheater.

Chair Rohlf: Can you tell me a bit about how these restrooms are operated, including hours of operation and maintenance?

Mr. Rexwinkle: The applicant should be able to answer that.

Applicant Presentation:

Chris Claxton, Director of Parks and Recreation, 409 Southeast Stillwater Drive, Lee's Summit, MO, appeared before the Planning Commission and made the following comments:

Ms. Claxton: In reference to the operation of the restrooms, they would operate the same hours as the park, which are different in the fall than summer. They would also be cleaned by our staff, which is done not only on a routine basis, but also after an event. Also, we would install an electronic lock system, which we have on all of our exterior restrooms now. These automatically lock when the park closes.

Chair Rohlf: Do you have any other comments to make on your overall presentation?

Ms. Claxton: Not at this time.

Chair Rohlf: Does anyone have questions for the applicant? Ladies and gentlemen, I know you are here to listen to this plan. I know some of you have comments you would like to make. We are going to make an exception this evening if any of you would like to speak. Typically, we do not have a Public Hearing associated with a Final Plan, but since many of you have sent letters to the city, I thought it would be appropriate to let some of you speak this evening. I do have a couple of parameters, including a time limit. I would like to caution you that we are not here to discuss the amphitheater; we are here to discuss the restroom. I would ask that we try not to repeat comments, as we all reviewed the letters you have sent.

PUBLIC COMMENTS

Brian St. Denis, 14620 Mohawk, Leawood, KS, appeared before the Planning Commission with supporting documents and made the following comments:

Mr. Denis: (*Places e-mail on the overhead*) The Commission's actions tonight are in direct violation of Leawood city ordinances and deny the residents of Steeplechase and Leabrooke, the residents most affected by the adverse impacts caused by Ironwoods Park, the right to fair and due process. In New Business for tonight, we have a request for a Final Site Plan for Ironwoods Park restroom. My comments are primarily about its status as a Final Plan. What is in front of you cannot, under any possible interpretation of the city ordinances, be considered a Final Plan. According to city ordinance 16-3.4, a development plan cannot be a Final Plan unless it has gone through the Preliminary Plan stage, which requires notice to the surrounding homeowners. We ask when the plan went through the required stage. To answer this question, Steeplechase resident Kerry Phillips sent an e-mail to Chris Claxton, Leawood's Director of Parks and Recreation, asking her when the official Interact Meeting would be held on the Ironwoods restroom project. Director Claxton responded, "The Interact Meeting was held when the initial park design came in with the Preliminary Plan in 2001." Accepting this is true, the plan you are voting on is

allegedly a Final Plan that went through the preliminary stage in 2001. However, according to ordinance 16-3.4, a final development plan is intended only to provide final additional details or minor changes, but shall otherwise conform to the approved Preliminary Development Plan. In conflict with that ordinance, the plan before you tonight is a significant change to the plan that was allegedly approved in 2001, as you can see. *(Places a drawing of the restroom on the overhead)* The styling of the new restroom is not consistent with the design from 2001 or with any building in Ironwoods Park, such as the existing restroom, Nature Center, lodge or the cabins. The cost of the proposed restroom is \$.5 million, while the existing stage was built for \$100,000. The intended use of the plan has significantly expanded up to fifteen stalls and into a separate building, which is not part of the 2001 plan, nor is it necessary for the existing amphitheater. In order for the plan tonight to be a Final Plan that was preliminarily approved in 2001, it can only include final additional changes or minor details and, as a Final Plan, must conform to the approved Preliminary Development Plan, per Leawood Ordinance. It clearly does not.

Referring again to Case 17-11 being considered a Final Plan further violates Leawood Development Ordinances. As was indicated by Director Claxton, the plan is a Final Plan based on a Preliminary Plan approved in 2001. Does it even make sense to start construction on a building plan approved a decade ago? City ordinance 16-3-7 (E) - Duration of Validity states that, "In no event shall an approved Preliminary Development Plan be valid for a period longer than 24 months." In short, the Preliminary Plan from 2001 in which Case 17-11 – Ironwoods Park – Restroom is based is no longer valid, so this cannot be accepted by the Commission as a Final Plan. Even if the plan is considered a Revised Final Plan from 2001, Ordinance 16-3-14 addresses this, saying, "Final Development Plan approval shall not be valid for a period longer than five years from the date of the approval." Because Case 17-11 is a Final Plan approval case and cannot be successfully related to a Preliminary or Final Plan from 2001 as stated, city ordinances require a new Preliminary Plan to be submitted for this project. This is reason enough to reject this plan.

Speaking of the Preliminary Plan for the restroom at Ironwoods Park, even elements of the plan as documented for you tonight in the associated Staff Report violate city ordinances and preclude the consideration of this plan as a Final Plan. Leawood city ordinance 16-5-1.2 requires that the applicant hold a pre-application meeting as part of the Citizen Participation Program. Subsection E requires a written summary of this meeting, and Subsection F states, "The CPP meeting summary will provide a basis for city staff consideration and will become part of the written Staff Report to the Planning Commission and Governing Body." The Staff Report for Case 17-11 is missing the CPP meeting summary. This leaves the plan before you tonight incomplete. An incomplete plan is not suitable for the Commission's review, nor is it suitable to be recommended to the Governing Body because neither the Commission nor the Governing Body can give the CPP report appropriate consideration.

In conclusion, the Park Commission's attempt to railroad Case 17-11 through as a Final Plan is a direct violation of several Leawood city ordinances. If the Commission takes action to approve this plan, it will deprive the homeowners surrounding Ironwoods Park of their right to due process and subjects the city to significant financial liability. I appreciate your time and effort and urge this Commission to reject this plan tonight and require that it go through the proper approval channels as set forth by city ordinances. Thank you.

Susan Szczulinski, 3409 W. 147th Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Szczulinski: My back yard backs up to the park. I need to reiterate some points Mr. St. Dennis made with regard to the characterization of this plan. Not to belabor the point, but factually, Ms. Claxton indicates that the Preliminary Plans for these restrooms were made in 2001, thus requiring no further notice to the surrounding community within the requisite 200-500 feet. However, in the Parks and Recreation minutes from December 14, 2010, Ms. Claxton was reporting that the next step was to go to the Planning Commission, questioning whether it should go as a Revised Final or Revised Preliminary Plan. She was asked by Brian, a fellow board member, "If it's a Revised Final, would it be approved by the Planning

Commission? If it is a Revised Preliminary Final, certified letters will be sent to everyone within 200 feet." They also spoke about the fact that the Planning Commission would need to start construction on this project in March. Ms. Claxton replied that if it is a Preliminary Plan, the March deadline could not be met. After a slight bit of discussion, Ms. Claxton decided she was now going to call this a Revised Final Plan. Brian then said, "Would it be wise to move forward with the citizen concerns we have spoken about?" No one addressed these concerns; as a matter of fact, they changed the subject. The point here is if the Advisory Board, in December of 2010, could not determine whether the project could be considered Revised Preliminary or Revised Final, how can we be here less than two months later with a Final Plan? This isn't even a Revised Final Plan. I find the comments quite circumspect when they couldn't even decide what it was two months ago unless they could meet the construction deadline.

Ms. Claxton also reiterated that an Interact Meeting with regard to the Preliminary Plan had taken place in 2001. As you heard Mr. St. Dennis state, this violates your own ordinances if the Preliminary Plan and the Interact Meeting occurred in 2001 because the time expired nearly seven years ago. Your ordinance states that it "shall be heard within 24 months," and by written request, it can be extended for only one 12-month period. If you call it a Final Plan, it would be five years, and we are now five years past that date. Our contention is that we are not here to address a Final Plan; we are here to address a Preliminary Development Plan. As such, the applicant has failed to abide to the notice requirements. Under 16.3-4, the city sets forth an entire host of minimum requirements that must be done before a Preliminary Plan can be approved. In the interest of time, I will not read those to you. However, an application must be made, and notice and Public Hearing must be held, according to Ordinance 16-5-3. Since this plan is expired, a new Preliminary Plan would have to be in place, including a new application. In addition to that, in 16-3-5, you will find preliminary findings for an application, the contents and the submission requirements. Most importantly for us would be an item found on the second page, which states, "A depiction of the property to be included in the proposed development, plus the area within 500 feet thereof of adjacent properties." Not a single individual in this building or anyone residing within 500 feet of these proposed restrooms has received any kind of notice. In 2001, most of the homes didn't exist.

The point here is that you have failed to follow your own requirements for Public Hearing under your own Article V. This restroom needs to be treated as a new application process, and you must follow all the requirements set forth in 16-5-3, which requires a notice of the Public Hearing in the official newspaper at least 20 days before, the mailing of return receipt applicants within at least 20 days before the hearing to all homeowners within at least 200 feet. None of these were done, and we respectfully request that the Planning Commission deny the approval of the Final Plan.

Kerry Phillips, 14616 Chadwick, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Phillips: There is a brief reference to the larger amphitheater project, but this is about the bathroom project. This project is clearly a new design and is Phase One of a much larger, separate development. It is a new plan and is not final. The original design is dated 2001 and is this plan here (*shows a plan on the overhead*). It looks nothing like the November, 2010 plan, which is on the agenda for the evening. Both the restroom plan this evening and the 2008 amphitheater design are of the same style and designed by the same architect. This design is very contemporary, and it does not match the existing rustic style of the lodge, Oxford School House and the Nature Center. The proposed project does not fit with the character of the other existing park buildings. Leawood Parks and Recreation assures us that this restroom building will be used for current programming in the space, regardless of whether or not the rest of the amphitheater project is built. Surrounding residents have repeatedly described the current programming to be detrimental to their way of life. The park land itself is too small to handle current crowds, and this restroom project will only encourage more use. Leawood Parks and Recreation has repeatedly ignored the requests of the surrounding neighborhoods to move Parks Programming and the Leawood Stage Company to a more suitable location. The commercial building belongs in a commercial area where shop and restaurant owners will benefit from the attendees spilling out into the theater every night. This restroom is part of a bigger plan.

The restroom project encourages the destruction of our park lands, which are currently enjoyed not only by Leawood residents, but by people from surrounding cities as well. We are all huge supporters of the arts, but this project is too big a cost to our natural lands. I respectfully encourage members of the Planning Commission to decline this request.

Leann Wiggins, 14405 Windsor Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Wiggins: I would like to enter on the record that I, too, am opposed to the building of these bathrooms in Ironwoods Park. I agree with the facts presented ahead of me by my fellow neighbors. This building is clearly not a Final Plan, since it is new as of 2010 and in no way resembles the drawings from '01. If someone here were to argue that this bathroom has nothing to do with the accepted but not approved amphitheater plans but is merely a bathroom next to an existing stage, why doesn't it look more like the bathroom that is already out there? It is rustic and matches the theme of the park. Calling this a Final Plan instead of a Preliminary Plan has deprived our residents of a right to due process. Proper notifications need to be given, as has been stated. I would also like the record to show that Steeplechase Homes Association did not receive the communication regarding this meeting. I know this is a courtesy notice. As president of the association, I did not receive the communication. Our management company did not receive it, nor did the former president. I have received other communications from the city regarding City Council meeting agendas and the Reed's addition. I find it suspect, as do other Steeplechase residents, that we are being left out of Ironwoods Park information distribution. I have since verified my address, and in today's mail, I received the notice for this meeting tonight. Hopefully we're on the right track.

Now I'd like to speak about the hardship that you, the Planning Committee, the City Council, and Parks and Recreation are going to be putting on our Steeplechase Association if you approve these plans as currently proposed. In 1999, Council member Bussing stated that an amphitheater in the back of City Hall wasn't ideal because it apparently infringed on Edgewood residents. The suggestion to resolve this was for Leawood Stage Company to move to South Park and abandon the City Hall site. That solved the problem for a few years, but here we are again, infringing on residents. We propose the city ask Leawood Stage Company to abandon Ironwoods Park now that the city has allowed several residential developments to be built so close to the park edges, it can no longer be home to the productions that the Stage Company visions. The proof is in the number, and Steeplechase Subdivision stands to lose millions of dollars. We can't argue that putting in that bathroom that matches the amphitheater plans isn't going to be a problem for us. That is why we are here today, to start early enough to prevent this. We stand to lose millions of dollars of value if you move forward with this project, which we all know is attached to the theater project. (*Places study on the overhead*) The Steeplechase Board of Directors initiated an independent Impact Analysis to assess any change in property value, and it showed the amphitheater plans going through as they stand today. To quote the study, "There will be damage or negative impact to the market value of at least a portion of the homes and possibly all of the homes within Steeplechase caused by this external influence theater expansion." There are 270 homes in Steeplechase. At closest proximity to the park, we would lose those nine homes that have been done in the study thus far, and these homes are valued at about \$400,000 or more. The loss equates to \$60,000 or more on each of those nine homes. This is over \$.5 million loss in Steeplechase just for those nine homes. As the ripple effect fans out, the percentages would decrease, but even a 10% loss is \$40,000. With the number of homes in close proximity, that adds up. This well-respected appraiser also noted the potential increase for the market time added to sell any home. In the impact rule of value of 3% loss accumulated every six months of market time added, that is \$12,000 per home if it takes that much longer to sell our homes. We're talking about a lot of money and that is why we are concerned.

To wrap it up, I would just ask if a private developer came to the city and wanted to put something like all of this, starting with the bathrooms, into an area this close to residential areas, would you allow it? Historically, the city has said no to these things. By denying the residents of Steeplechase the city's protection from drastic home value loss, you would be, in essence, forcing our homeowners into a corner,

having to take action against the city to stop this for our own welfare and survival. For most of our residents, as in all of America, our homes are our single largest investment. This would create great hardship for our residents. Many have already approached our board, requesting the HOA to spend funds to hire a lawyer to stop the city's unlawful and unwise actions. While this is being considered as a last effort to save our homes, we respectfully ask you to decline this application for the approval of the bathroom projects in Ironwoods, realizing it is a stepping stone to a much bigger project. I have this analysis if you are interested in having this on record.

Quentin Hammontree, 14546 Canterbury, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Hammontree: One thing I noticed on the actual website is that Leawood claims in a mission statement under the 2001 budget, "It will continue to maintain the residential property values, sustain environmental sensitivity, retain natural landscapes and provide public open space." This entire project, starting with the bathroom, violates everything listed here. Moving from our home is not an option. We have been residents in Leawood for 30 years. We purchased our home on a walking trail to be near the park and be near our school. We all know the phases of this project. If the project proceeds, nearby homeowners will undoubtedly suffer. A better location is one that is not planted or sandwiched between neighborhoods. My family is a supporter of the arts, but I am asking you to please be considerate and responsible as a Planning Commission and deny this project in its current location.

Darrin Holmes, 14622 Windsor, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Holmes: I also live in Steeplechase. Out of respect, I will not get into the impacts of the amphitheater. I do have a few points to make. I agree with all the comments made by my neighbors. We are concerned that this project is being railroaded through because of timing. I don't know the tenure of each of you, but I suspect that many of you have not seen the 2001 Preliminary Plan. I believe we've shown you that whatever plan may have existed looks nothing like what is being built or proposed now. What I would also add is that I think it is clear that this is the first phase of a large amphitheater project. I think the location, building style and architecture is consistent with the large \$7 million plan being pursued through private funding at this point. I will also say that if this were a commercial project, there would be an enormous amount of concern from everyone here about putting it that close to a residential area. I would also add that I have reviewed a lot of documentation from the city, and I cannot find any concern from this body or the Governing Body about approving or allowing any of the homes in Steeplechase, Leabrooke or Camden Woods to be built for fear of their close proximity for what might be planned at Ironwoods. I have found nothing on the record where anyone expressed any concern to any of those developers that an active park with a \$7 million amphitheater was planned so close. To err on the side of caution, we know this is a controversial project all around. I would urge this body to send this back and allow it to go through the normal planning process, which would allow the homeowners to have a much more active role in an Interact Meeting and future sessions of this sort.

I do want to wrap up with one item that is part of the Leawood city code, 11-206, "It is declared that the protection and preservation of the home is the keystone of democratic government, that the public health and welfare and good order of the community require that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy." This amphitheater will violate all of those. Thank you for your time.

David Stewart, 14753 Fairway Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Stewart: I live in Leabrooke. I had everything that everyone else has covered. I would like to say that I agree with everything my neighbors have said. I was under the impression, when we built our house in 2007, that this was the best of Leawood and the last of Leawood. With the current restroom and other plans, I don't believe it is going in that direction. I don't think this Final Plan is really a Final Plan, and I agree with everything else said tonight.

Kipp Adkins, 14557 Windsor, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Adkins: I thank all my friends for bringing this to my attention. I wasn't aware of any of this until yesterday. In these times, to consider using our tax dollars for a restroom should be embarrassing. That is my emotional feel on this. I use the park every day in the mornings and evenings. I have never seen a line at a bathroom. I've never seen anybody at a bathroom. These are people's homes. We bought in that area in good faith. We deserve better. Our tax dollars deserve better.

Kimberly Sheek, 2007 W. 84th Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Sheek: I would like to begin by acknowledging the previous speakers and their heartfelt concern for the issue, having spent plenty of time at this podium myself a number of years ago when a project that I didn't care for was going on. To recap what we've heard, the first quote regarding this project dates back to 1999, preliminary approval to 2001. Yet, it is being characterized as being railroaded and in a hurry. Really? We've heard that this will diminish their property value but that the plan pre-dates the homes in question. I have some sympathy for their concerns, but I don't think it is the fault of this project or this body that they were not aware they were buying a home close to this project. Thank you.

Chair Rohlf: Is there anyone else who would like to comment this evening? If not, I would note that the Public Comment section of this case has finished. I would ask that we recess and go into Executive Session, please. It is now 6:50.

Ms. Shearer: For how long and for what reason?

Chair Rohlf: I think we need some clarification on some of the LDO issues.

Ms. Shearer: Would you like to receive advice from Counsel?

Chair Rohlf: Yes.

10-Minute Recess for Executive Session

Chair Rohlf: We are back on the record, and the time is now about 7:07. I would like to report that no action was taken during our Executive Session, and I have asked our Planning Director, Richard Coleman, to make a presentation and help clarify why we are here to look at this Final Site Plan.

Planning Director Richard Coleman made the following presentation:

Mr. Coleman: I would like to explain the history of the plan for the park and how the restrooms came to be located where they are shown on this Final Plan. There was a Preliminary Plan filed to rezone this property from AG to Recreation. It included a Final Plan in 2001. This process included an Interact Meeting and notice given by certified mail to the residents at the time, including Pruett Homes and Pulte Homes that were building in the area at the time. With that approval by both the Planning Commission and City Council, the

plan included the lodge, the cabins, the Oxford School, parking, field/play area and the amphitheater, which included a two-story shelter building with restrooms. Based on that plan, Parks and Recreation has come back for a Final Plan, which was required because they did change the architectural style of the building, and the building was in a slightly different location with that amphitheater planned. The restroom building under consideration was smaller than the one that was on the original plan. The original plan included the restrooms and room for concession. It also was two stories because at the time, they were anticipating putting stage lights in that. That restroom was located closer to the residents than this plan shows. Staff has interpreted that as being a minor change because it is less than 5%; it is not an increase; it is less impact than the original shelter and restrooms.

Comm.. Elkins: In the Public Comment portion of our meeting, there was comment made about the time period related to Final Plan approval. Could you explain where we stand there?

Mr. Coleman: There were two time periods. One referred strictly to the Preliminary Plan. In this case, they filed the Preliminary, the Rezoning and the Final all in one. The second time frame has to do with substantial construction, which has to be initiated within five years. Most of the plan that was approved by City Council has been constructed. The restrooms had not been constructed, and the plan came back with minor changes. They had to come back with a Final Plan because of the minor changes. If they had so desired, they could have built the entire shelter building structure as shown on the Preliminary and Final.

Comm. Ramsey: So if they had come back in and decided to use the original design, they could have gone forward without any notice whatsoever?

Mr. Coleman: That is correct. They would simply have made application for a building permit.

Chair Rohlf: Thank you. That takes us back to any questions

Inaudible comments

Chair Rohlf: I'm sorry; we have closed the Public Comments section of this case. This takes us to any further discussion on the specifics of this plan and any of the modifications we have seen with regard to the location and style. Are there any questions for the applicant or staff?

Comm. Elkins: I have a few questions for Ms. Claxton. My first question relates to the style of the structure. I remember a few years ago, the Parks Department came to us and sought approval of permanent restrooms adjacent to the play area. This design is fairly dramatically different from that design, in my view. Ms. Claxton, could you comment on why the difference is so prevalent?

Ms. Claxton: We look at the different areas as different segments of the park. One of the charges given our architect was to fit the restroom into that area with what we have on our staging area with the concrete. Their design is to fit in with the somewhat rustic look, including the limestone, rough cedar and other details. The last time we had a change out there would have been when we built the bath house. That is similar to that area because if you get down by the cabins, you will notice the cabins are quite different than the Nature Center. That restroom is quite different than the restroom by the playground. We asked our architect for something rustic to blend into the area. We are happy with the result, and we feel it does fit into the park and the area as it exists right now.

Comm. Elkins: Thank you. I would refer you to the plans included in our packet. The first is a layout of the park (*placed on the overhead*). There is an indication that the distance north and south from a square around the proposed restroom facility to the north boundary of the park is about 375 feet. Could you give us

an estimate of the distance from the existing restrooms adjacent to the play area to the north property line? Are these restrooms farther from the property line or closer than the restrooms adjacent to the play area?

Ms. Claxton: I don't have a specific answer, but I would say based on visuals, it would appear that these restrooms are farther into the landscape and therefore farther away from the property line than the existing restroom. Our current architect and engineer did not work on the previous project, so I would not ask them to speak to that.

Comm. Jackson: Could you speak to any plans that might be in the works to change this area? Is this going to be a design that will hold through for this area, or are you going to build something new and then need to change these also?

Ms. Claxton: In the space there now, you will find a rustic stained cedar-looking decking. We asked our architect to include something to complement what is there now.

Comm. Jackson: To be clear, if you do change and put in a new amphitheater, that is not part of the 2001 Final Plan, so that would have to come back through as a Preliminary Plan with notices going out to residents, correct?

Ms. Claxton: Yes. I'm sorry; you're talking about future development? The future development was part of the original plan.

Comm. Jackson: Future development of what?

Ms. Claxton: You asked if we were to build anything else in the future. Are you asking if it will be a different style?

Comm. Jackson: I am asking two questions. Is there something else on the plan that will be within this style? I have not seen that full plan.

Ms. Claxton: If there is anything built in the future, I am speculating it would match this because that is the area. I would say that the amphitheater was identified on the original plan in 2001. Technically, it would not have to come back.

Mr. Coleman: Let me try to clarify this. If they come back with something different than what was originally approved in 2001, they will have to come back for a Final Plan approval, just like they are doing tonight.

Ms. Claxton: Could you identify what the criteria for that would be? We talked about percentages earlier.

Mr. Coleman: It would have to be a minor change from the original plan. If it is moved slightly, that is a minor change; if it is moved to another part of the park, it would be a major change, which would require a new Preliminary Plan. A change in the architectural style would require them to come back with a Final Plan.

Comm. Jackson: I am confused, then. Is the amphitheater in existence from the 2001 plan or not?

Mr. Coleman: It is part of the 2001 plan; it is not the entire plan, which included several structures.

Chair Rohlf: Anything else? Thank you. This takes us to final discussion or comments on this case.

Comm. Elkins: I would begin by expressing some reservations. This is a theme not directed specifically at the Parks Department at all. It has come up in other cases in which the city has been an applicant. The essence of planning and our charge is to evaluate the impact that an overall development might have on the city, on the neighbors and the citizens of Leawood. I am mildly concerned that we are being asked to plan on a piecemeal basis. Again, I don't think there is a grand scheme or conspiracy, but I think there is a practical matter. We start out tonight with a restroom, and then we keep adding pieces until we get to a place where we are essentially backed into a corner with really no choice of how to proceed. That concerns me, quite frankly, because in order to do our job as planners and to make recommendations to City Council, we need to have the overall plan shared with us. I express that reservation for the record. Having said that, I am certainly persuaded by the comments that Mr. Coleman made that we are certainly within the scope of our authority under the city ordinance to consider this. This was a Final Plan approved in 2001, and the requirement to begin construction was satisfied. If you look at that plan from 2001, you will see a two-story pavilion, which seems to be much more obtrusive and contains many more concerns than the single restroom we are evaluating tonight. I would also note that these restrooms are actually farther from the residences than the existing restrooms, further demonstrating that these are less intrusive than the existing restrooms. It also seems to me that the plan in 2001 was in existence before a majority of the homes were there. It has been recommended by us and approved by the City Council. There will be an amphitheater there unless the city decides not to build it. For all of these reasons, I will be supporting recommendation to City Council to approve this modification as it stands, with the expression of the reservation of the need for the city to assist us in comprehensively planning in the same fashion we would expect a private developer to do.

Comm. Jackson: We certainly appreciate the citizens' concerns, and we thank you for your attendance and comments. It is always important to have an active and engaged citizenry. Part of what the Planning Commission is to do is to determine planning for the city. This has been in the plans for quite some time. Unfortunately, developers probably do not always make note of everything that has been planned by cities. As far as the restroom, I like the contemporary design of it. It doesn't fit with the rest of the park, which suggests there are some other ideas as to what that should look like on there. It would be my hope that any further changes are considered certainly with citizens in mind. Yes, things have changed since that area was developed. It is important to keep citizens informed and to take their concerns to heart by Governing Body. At this point, I will vote in favor of the restrooms, but it would be my hope that the city does continue to meet with the citizen groups and that City Council considers their concerns when they have their meeting.

Chair Rohlf: Anyone else? I think we are finished. I would ask for a motion, please.

A motion to recommend approval of CASE 17-11 – IRONWOODS PARK – Request for a Final Site Plan for a new restroom building located approximately at 146th Street and Mission Road to include the three stipulations included in the Staff Report – was made by Elkins; seconded by Jackson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

CASE 25-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – GENERAL REGULATIONS FOR SCREENING AND LANDSCAPING – Request for approval of an amendment to Section 16-4-7.6 of the Leawood Development Ordinance pertaining to screening and landscaping surrounding trash enclosures. PUBLIC HEARING

Staff Presentation

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 25-11 – Request for approval of an amendment to Section 16-4-7.6 of the Leawood Development Ordinance. This amendment pertains

to screening of trash dumpsters and other utility and service features. As it is currently written, the ordinance requires that these features be screened with a fence or a wall and that the fence or wall be screened with landscaping that will completely cover the fence or wall within two years of planting. This requirement was discussed at our meeting on January 25th, and staff advised at that time that the requirement was too restrictive. Since that time, staff has prepared revised language that omits any requirement for a specific plant species and clearly distinguishes between the requirements for the screened wall and fencing from that of the landscape requirements. The amendment also omits the requirement that landscaping completely cover the screen wall or fence. The revised language is attached to the Staff Memo in its entirety. We recommend approval of this amendment.

Chair Rohlf: Questions for staff? Are we being consistent with this particular type of screening and what we've done in the past with the utility boxes and transformers?

Mr. Rexwinkle: The utility box and transformer screening is in a different section, and that requires full screening of those facilities. This section is a catch-all section for other types of ground-mounted features, including trash dumpsters. We talked about those last month, and they need to be enclosed with a wall or fence. This requirement is in addition to the wall or fence. This is consistent with all of our other general landscaping requirements in terms of the ratios of one item of landscaping for every 75 linear feet. This is to ensure there is no subjectivity as to whether or not it is meeting the criteria.

Chair Rohlf: Would anything that is current need to be modified?

Mr. Rexwinkle: There are probably a number of dumpsters that don't comply with this since it was adopted in 2001. Any dumpster constructed prior to that time would probably not comply. The existing dumpsters at Church of the Nativity were constructed prior to that time. These would all be considered non-conforming, and at the time of expansion or change, they would be required to come into compliance.

Chair Rohlf: Does anyone else have questions for staff? I know we did discuss this at the previous meeting on this particular plan.

Comm. Elkins: I am still struggling a little bit here. Can you, in short form, describe the difference between what was required under the old ordinance and what is intended we achieve with the revision?

Mr. Rexwinkle: The old ordinance specified the type of landscaping that was required. We felt that was too specific because there are a number of different features this ordinance is meant to regulate. We omitted that specification and just said that could be a mixture of shrubs, grasses and ornamental trees. We also wanted to separate out the requirements for screening walls and landscaping so they would read more clearly. We also omitted the requirement that the landscaping that is planted must fully screen those walls; now it is more of a spacing requirement so that there is a consistent screen rather than a full vertical screen.

Comm. Elkins: The idea behind the landscaping is to soften the impact of the screening structure, correct?

Mr. Rexwinkle: That is correct.

Comm. Elkins: Under the ordinance as it stands today and what we're being asked to recommend tonight, there is still a requirement for a screening structure in addition to landscaping for these kinds of improvements to a landowner's property. That is different than what we require of the utility companies for their various facilities, which is strictly landscape screening.

Mr. Rexwinkle: Correct.

Chair Rohlf: Any other questions for staff? 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 Jackson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

Chair Rohlf: This takes us up to discussion on these changes to the ordinance. If no one has any additional comments, I would ask for a motion.

A motion to recommend approval of CASE 25-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – GENERAL REGULATIONS FOR SCREENING AND LANDSCAPING – Request for approval of an amendment to Section 16-4-7.6 of the LDO, pertaining to screening landscaping surrounding trash enclosures – was made by Roberson; seconded by Ramsey.

Comm. Elkins: I would like to add a comment before we vote. I am still troubled a little bit by the requirement of a screening structure. If we change the ordinance in this fashion, we do not permit a situation in which landscaping alone would be adequate to meet the ordinance of a screening requirement. It troubles me a bit that utilities can avoid screening their “eyesores” with a structure, but private citizens are required to use a structure. Thank you.

Motion approved with a unanimous vote of 4-1. For: Pateidl, Roberson, Jackson, and Ramsey. Opposed: Elkins.

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 Planning Commission, this is Case 02-11 – Request for approval of Revised Final Plan for the expansion of two existing dumpster enclosures at 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, which will fully screen the dumpsters. The plans propose a mixture of shrubs surrounding each enclosure. The amount and type of landscaping provided comply with the requirements of the amended ordinance. Staff recommends approval of Case 02-11, subject to the stipulations in the Staff Report.

Chair Rohlf: To clarify, what has changed from when the plan was before us the last time?

Mr. Rexwinkle: They essentially added landscaping to the plan in order to satisfy the amendment you just recommended. Everything else is the same. They verified the height of the dumpster screen walls.

Comm. Ramsey: As I recall, last time, they did not have the landscape plan for the dumpster. Now, it is complete.

Chair Rohlf: Does anyone else have questions for staff?

Applicant Presentation:

Shawn McGrath, Bell/Knott & Associates Architects, 12730 State Line Road, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. McGrath: I have Dan Koenig with the Church of the Nativity with me also if you have any questions for the church directly. We have just updated the plan per the proposed amended ordinance. We have added landscaping around the northern dumpster screen and have identified the dumpster heights clearly on all drawings. Otherwise, it is basically the same as last time. I've noticed that the stipulations have been reduced down to three, and we are fine with those as they currently are.

Chair Rohlf: From my review of the Staff Report and plans, it appears that these are no longer visible.

Mr. McGrath: They weren't visible before because of the dumpster walls. The walls around the dumpsters are made up of masonry and stucco, and now we have added landscaping to soften the look. It is three feet high around the perimeter of the dumpster screens.

Mr. Rexwinkle: The purpose of the plan was to expand both of the existing dumpsters. That is what triggered the requirement to come into compliance with the landscaping, which is where we were last month.

Chair Rohlf: When you say, "To expand the dumpster," are you talking about the enclosures?

Mr. Rexwinkle: Yes.

Mr. McGrath: The dumpsters are currently taller than the dumpster screens; we are just taking the screens into compliance with the ordinance.

Chair Rohlf: Thank you. Does anyone else have questions for the applicant? We will move on to our final discussion and hopefully a motion.

A motion to recommend approval of CASE 02-11 – CHURCH OF THE NATIVITY – DUMPSTER ENCLOSURES – Request for approval of a Revised Final Plan, located at 3800 W. 119th Street, with three stipulations – was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

Comm. Roberson: I would like to say one thing. I will agree with Commissioner Elkins in certain areas, but quite frankly, I think the unequal enforcement or the lack of enforcement of screening needs to be addressed by the city. I will just use One Nineteen as an example of the utility boxes that are totally unscreened and have been since the place was built. Quite frankly, I think if we're going to require screening, we ought to do it on an equal basis and not selectively. I would like to add that if you are going to require screening, inspect them and make sure they're done. It does not appear that we are enforcing it.

Mr. Coleman: Some of the developments pre-date the ordinance. I will look at One Nineteen and the plan approval. We are still working with some of the other property owners on screening those utilities. We do have an annual program of pulling plans for 2-3 dozen businesses and reviewing their landscaping plans for compliance with what was approved at the time they went through plan approval. We have made progress on that. The center directly north of the new Capitol Federal building at 133rd and State Line is one we recently checked, and they added substantial landscaping to that shopping center. I will report back to you on One Nineteen and let you know.

CASE 16-11 – PARK PLACE – GORDON BIRSCH – Request approval of a Final Plan for a tenant finish located at 11652 Ash Street.

Staff Presentation

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 16-11 – Park Place – Gordon Biersch. The applicant is Jim Bray with Bray Architecture and is requesting approval of a Final Plan for a Tenant Finish. Gordon Biersch is proposed for the existing Building D of Park Place. The main entrance will be located on the east side with outdoor patio dining on both the east and north sides of the building. The storefront will consist of brick to match what is currently being used and gold and black cement plaster and horizontal bands. Textured glass is proposed, along with typical clear glass windows for the window system. The existing stucco on the upper portion of Building D is proposed to be painted tan and burgundy. A brick base is proposed for the columns to match the existing base that wraps around the building. The outdoor dining patio will contain seating for approximately 75 people with a variety of seating options. The patio will include a bar that opens up from the interior, electric infrared heaters, ceiling fans, umbrellas and lights. A steel face over a wood canopy is proposed on the north side to extend over the patio seating to provide protection from the elements. A stone fireplace 5 foot 6 inches in height is proposed on the north side of the patio. The entire patio will be enclosed with a black steel railing. The Site Plan proposes construction of a crosswalk to the north of Building D that will provide a connection from the east sidewalk to the rest of the development. This crosswalk will match existing crosswalks throughout the development. A ten-foot pedestrian path will be maintained along the east side of the building, and two ramp connections are proposed: one on the west and one on the south to ensure ADA requirements are met. Two wall signs are proposed, including one on the south elevation and one on the east elevation. Both signs are identical and read, "Gordon Biersch Brewery Restaurant." The signs are made of an aluminum panel painted black with halo-illuminated single-channel white and yellow letters. Both signs measure 4 feet in height and 20 feet in width for a total area of 80 square feet. The sign on the south elevation is about 2.6% of the façade, and the sign on the east is about 4.3%. A blade sign is proposed on the east elevation. Staff recommends the wall signs be revised to be centered within the brick areas on the storefronts rather than protruding outside the architectural elements of the building. Staff recommends approval of this application with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chair Rohlf: I know this is the former Morton's building. Are there significant changes to this building?

Mrs. DeBoer: A lot of it is the horizontal bands and then the window system. They are also painting existing stucco, but most of the upper portion of the building is going to remain the same.

Chair Rohlf: Was there an outdoor patio with Morton's?

Mr. Rexwinkle: Since the Morton's plan was approved, this Planning Commission did approve a Revised Final Plan for this building. It was simply called Building D. Park Place wanted to complete construction of the building. Melissa highlighted the variations between the two plans. What you see before you is what was approved with Building D.

Chair Rohlf: Any other questions for staff?

Comm. Roberson: Why would you like the sign to be centered on the brick?

Mrs. DeBoer: Right now, it is protruding to the corner, and it doesn't seem to fit with Park Place development. All of the signs are centered and don't protrude outside the architectural elements of the building.

Mr. Coleman: Also, the signs cover up pre-cast medallions that are inset into the brick.

Comm. Roberson: So you want them to show the decorative elements.

Mr. Coleman: That is part of it. (*Shows photograph of the sign area*) The sign would cover up the medallions, go across the corner of the architectural element and project out. I understand that maybe that is a graphic device or meant to be edgy, but it is something we have not approved.

Comm. Jackson: Is it within the ordinance?

Mr. Coleman: It does not fit into all the criteria of the Sign Ordinance.

Comm. Jackson: Where is it missing in the ordinance?

Mr. Coleman: It talks about fitting into the architecture because it covers up the decorative elements and goes over the corner element.

Comm. Pateidl: The signage as proposed is "Gordon Biersch Brewery Restaurant." Given the terms of our LDO that the product or products of a particular vendor are not to be included in a sign, I would like to know the exact corporate name for this entity.

Mrs. DeBoer: This is their legal name in its entirety.

Comm. Pateidl: They are incorporated as Gordon Biersch Brewery Restaurant?

Mrs. DeBoer: I believe that is correct; we can confirm with the applicant.

Applicant Presentation

Jeffrey Alpert, Park Place Village, LLC, 11551 Ash Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Alpert: I appreciate the opportunity to present Gordon Biersch Restaurant to you for consideration. We're very excited to have Gordon Biersch as a part of Park Place. They will enter a prominent and strategic location, and it was very important to have a very well-known, quality restaurant go into that space. We believe Gordon Biersch fits that bill. They are a national company with what we believe to be a very high-quality product. There is a wide range of quality levels within this particular concept. We have tried a lot of them, and we feel this is the best fit. With me this evening is my partner, Melanie Mann, John Leonard, who is the director of development for Gordon Biersch and then Jim Bray of Bray Architecture.

John Leonard, 102 Laurel Lane, Lookout Mountain, Tennessee, appeared before the Planning Commission and made the following comments:

Mr. Leonard: I am VP of development for Gordon Biersch, and Gordon Biersch Brewery Restaurant Group is our corporate name. As Jeff outlined, we are a brewery restaurant, but our focus is made-from-scratch menus. You may be familiar with our location in the Power and Light District. We are excited about being part of Park Place. Jim Bray can walk everybody through our design.

Jim Bray, 1300-C Yellow Pine, Boulder, Colorado, appeared before the Planning Commission and made the following comments:

Mr. Bray: The architecture of the Gordon Biersch name is very consistent with the menu and the beer. We try to portray clear and crisp all the way through the brand. The architecture we brought to this building tries to reflect that. We've maintained or respected the existing shell and have actually pulled back several feet into the storefront to recess the store to allow for a wrap-around patio. We find that it is very important to have an indoor-outdoor interface to create an animated atmosphere for the streetscape. We find this to be our most successful form of advertisement. That being said, we have done two patio areas of interest on either side of the main entrance, which is facing out to the east. To the north, we have a beer garden, which is animating toward the porte-cochere of the hotel. That is where our roll-up doors are and where we have banquette seats. We are adding a planter there as well. Then we have a dining patio to the south that wraps around the corner, which is the corner in question here where we have the wrapping sign. The sign wraps very much like our patio does, and we felt it was very important for this architecture that the sign become an element and not a tacked-on sign in the middle of the parapet. We felt that one sign wrapping the corner has the same area as two signs placed in the middle of the parapet would reduce the amount of clutter and emphasize the gateway of that center. It also reinforces the patio image that is there. (*Placing a display on the overhead*)

Comm. Ramsey: While they're doing that, what you're proposing on the sign is they move it in and down to allow the architectural accents to show?

Mr. Coleman: That was the idea, yes.

Mr. Bray: We find these pre-cast elements very attractive. They don't necessarily portray our brand. I think the real intent of those elements was to be on an empty shell. There was a building with no tenant in mind, so it needed something to carry the corner. We are here now and want to identify it for us. That is where the sign wants to go, regardless of whether it wraps the corner or not. We will unfortunately cover them up. We discussed if we would want to relocate these or add portions of them, but we found that if we did that, we would affect the building in other ways. We found it more important that we solve our signage problem as an architectural element.

Comm. Ramsey: Richard, is the issue the extending beyond the architectural line, or is it hiding of the architectural accents?

Mr. Coleman: In this case, I felt it was more hiding the architectural elements.

Comm. Ramsey: You're not objecting to extending it out?

Mr. Coleman: As part of the architecture of the medallions and the corner piece, it looks like it will have to project out from the building to get around the quoin. That was part of the concern. We are fine with the sign itself.

Mr. Bray: What I'm hearing is new for us. We came with the impression that we were interrupting the architectural element by allowing our sign to wrap around the corner. Now I am hearing it is more important that we are covering up these architectural medallions. My response is that the architecture is simple and straightforward. This is where the sign needs to go. I think it is more important for the signage than the static architectural relief elements that were put in there. If this was a historic building, I would have a different discussion, but this building was built as an empty shell, and these elements were placed there to provide a minor amount of articulation to the architecture in lieu of a tenant being there.

Chair Rohlf: Is this somewhat of a standard sign for you?

Mr. Bray: Every situation we have is unique. We have a design team that has been working together for 15-20 years. I really don't have a sign that is exactly like this. This was a unique solution. We have other solutions on corners with a sign on either side, but we found that this location needed a unique solution.

Chair Rohlf: How many restaurants do you have?

Mr. Bray: We have a little over thirty.

Chair Rohlf: So there is probably not a corporate identity to your buildings?

Mr. Bray: We think of it as elements we find success with, and we build upon those elements. Those elements are dynamic, so we never go into one location saying we are going to do the same exact thing. We apply elements we have found successful in similar circumstances. We avoid things that were not successful. There are several elements that are not new. The beer garden with a nice tree, fireplace and soft seating has been very successful.

Chair Rohlf: Any further questions?

Comm. Pateidl: The consideration given by the Planning Department and some of the shaking heads up here among the commissioners revolve around the thought that Park Place as a community is sharing some architectural sameness to some degree and difference in others, but it is around a centralized theme. The signage that you're proposing is certainly a diversion from what has been done in the past and away from that centralized theme. Maybe you've covered this, but other than the sign telling you that it needs to be there, do you have another way to explain why it needs to be there? What functional purpose does that extension provide?

Mr. Bray: It is because it is a piece of corner architecture. I think that is unique to this site, as opposed to farther north with a storefront that is 40 feet wide with a door in the center where no other solution presents itself other than centering the sign above the door or within that storefront. We are in a much more dynamic location on the corner, which is the gateway into the center. We need to be able to position ourselves to be visible to the car that pulls off the main street. We need to be visible to the pedestrian coming out of the movie theater, and we also need to be visible to those moving up and down our pedestrian development from the hotel and other places. The solution farther to the north is not necessarily applicable to us. If you look at California Pizza Kitchen, you will see they have oriented their building in a more dynamic manner in the fact that their architecture is rounded and orients out, as opposed to our situation, in which we were given a piece of architecture that we could not change. We could not address the corner solution with our architecture, so we have done that through our signage and have made the sign into an architectural element that begins to address and wrap that corner. Does that answer your question?

Comm. Pateidl: It gives me reason. It doesn't satisfy my desires, but that is beside the point. Based on what you are saying, I assume you are not in agreement with that stipulation as far as this application is concerned.

Mr. Bray: I think I just heard previously that the stipulation about centering the sign in regards to interrupting an architectural element is not necessarily what we just agreed on. Now, it is a question of covering some medallions.

Comm. Pateidl: I heard your discussion; I can't say I heard an agreement.

Mr. Bray: I am in disagreement with that item and also No. 1, which I believe has already been paid by the developer upon completion of the shell as well.

Chair Rohlf: Mr. Alpert, what do you think about the design element of the sign? How do you think it fits in?

Mr. Alpert: Part of our design philosophy was to start with something that had a historic nature to it, something that looked like it has been there for a considerable period of time, and then to re-adapt the existing architecture to accommodate contemporary uses. We have a number of storefronts that have contemporary facades that fit in underneath what would be a much more traditional type of architecture. I think the characterization that Mr. Bray made regarding those medallions is absolutely the case. When we built the shell, we had no tenant, and we had to do something with those facades to give them a reasonable amount of interest. We always knew there would be signage for a tenant, and it would have to go somewhere in that location. That is the logical place to put signage. To move it either up or down to allow the medallions to continue to show throws it off. It would be much more uncomfortable to me to have the signage not centered vertically just to have them show. We feel fine about it. I think the extension past the edge is not significant; I believe it is just the width of the box, which is 8-10 inches. We are fine with it.

Chair Rohlf: Chances are, with the size of this façade and the signage that would be on this building, regardless of what it was, it would cover up those medallions anyway, wouldn't it?

Mr. Alpert: Yes, unless you put the sign above or below them. I think that would look like a mistake. If you accept that, it becomes an issue of centering the sign in each of those spaces or going with what they have designed, which was extending them to meet at the corner.

Comm. Ramsey: So you feel this all works with the Park Place motif and theme?

Mr. Alpert: Absolutely.

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

Comm. Jackson: I would like to ask staff if we need to double check Stipulation No. 1. If it has been paid and is in the stipulation, it just goes away, correct?

Mr. Coleman: Yes, that is correct. I don't believe we have found a record of it.

Mr. Alpert: Typically, we are required to pay that fee when we get the shell permit. We've done it, I believe, with almost every other building. We are not trying to be relieved of our responsibility; we just don't want to pay it twice.

Chair Rohlf: Once approval is given, what is the timetable for this restaurant?

Mr. Bray: Right now, we are slated for a September 26th, 2011 opening.

Comm. Elkins: If the applicant complies with the stipulation and centers this sign, isn't that going to cover the medallions we're concerned about?

Mr. Coleman: Yes, it would.

Comm. Elkins: My concern is the stipulation doesn't address the concern. In looking at the elevations we have here, I still see an architectural accent of some sort that is just immediately to the right of the sign. Is that one of the medallions?

Mr. Coleman: It is part of the medallions. There are three larger medallions in the middle and two small medallions on each side of it. This is one of the leftover medallions.

Comm. Elkins: I think it's unfortunate because I really like the medallions and unique. It seems like we either cover them all up or save them all. If there is anything I am concerned about here, it is the fact that there is one left. I agree with Mr. Alpert that we don't want this thing to look like a mistake. If we end up with a sign too far to the top or bottom, it will look like a mistake. I am sorry we can't save them.

Chair Rohlf: It will come down to what you like with the signs.

Comm. Ramsey: Where are we on the sign provision?

Mr. Coleman: You have the authority to approve the sign as it is or make changes to relocate it.

Comm. Ramsey: What is it you are recommending because we are all over the place here?

Chair Rohlf: It is up to us now, Mr. Ramsey.

Mr. Coleman: We had a concern about the sign covering up the medallions and interfering with the architecture.

Chair Rohlf: Does anyone else have a question? If there are no other comments, the motion-maker would need to address Stipulation No. 3.

Comm. Jackson: I am going to remove No. 3 altogether. If it was a historical building, I think it would be important to leave those in there, but obviously that is not the case.

A motion to recommend approval of CASE 16-11 – PARK PLACE – GORDON BIERSCHE – Request for approval of a Final Plan for a Tenant Finish, located at 11652 Ash Street, removing Stipulation No. 3 and leaving seven stipulations – was made by Jackson; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

CASE 18-11 – RANCMART NORTH – US BANK – Request for approval of a Final Sign Plan, located at 3700 West 95th Street.

Staff Presentation

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 18-11 – Request for approval of a Final Sign Plan for a new wall sign on the existing Price Chopper storefront for US Bank at Ranchmart North. This sign is proposed to measure 2 feet 8 inches by 10 feet 5 5/8 inches for a total area of 27.9 square feet, which equates to just less than half of 1% of the area of the façade. The sign is proposed to be constructed of internally illuminated individual channel letters painted white. The proposed sign would be the seventh wall sign on the Price Chopper storefront. According to Section 16-4-6.13 of the LDO, a maximum of two signs per tenant is allowed. US Bank is not considered a separate tenant by staff because you have to access it by going through Price Chopper tenant space and because it does not have a separate storefront and entrance. Due to these reasons, staff is recommending denial of this case.

Comm. Elkins: Am I right in believing that the issue we face here is the same issue we talked about effectively a few meetings ago with respect to the IMAX Theater?

Mr. Rexwinkle: From the tenant perspective, yes.

Comm. Elkins: There is not a separate entrance, and that is what triggers the availability of new sign space.

Mr. Rexwinkle: If there weren't already seven Price Chopper signs, the tenant issue would be moot; they could have a bank sign because they are allowed two signs per tenant storefront.

Comm. Roberson: The Price Chopper at 135th and Mission has a bank, and it has the name on the outside.

Mr. Rexwinkle: There was a plan approved, and there was no issue with that because the tenant storefront just had one Price Chopper sign. This is an older development that came through under a previous ordinance that allowed multiple signs, just like the HyVee on State Line.

Chair Rohlf: If it were to come in today, what would be allowed?

Mr. Rexwinkle: They could put two signs, but neither of them could advertise specific products.

Chair Rohlf: So they could put a sign for Price Chopper and US Bank; it is the fact that there are so many existing signs already.

Mr. Rexwinkle: Correct.

Comm. Pateidl: If they remove "Deli" and replaced it with "US Bank," would that be acceptable?

Mr. Rexwinkle: At this point, they would have to remove six of the seven signs because today's ordinance only allows two signs per tenant storefront.

Comm. Elkins: The picture I'm looking at has "Cosentino's Price Chopper" and a representation of what the US Bank sign would look like. Then on the right, it looks like there is a letter missing from "Bakery." Is that really the state of affairs of the signs?

Mr. Rexwinkle: That is a shadow.

Comm. Pateidl: Who is the landlord to US Bank? Is it a sub-lease from Price Chopper, or is it Ranchmart?

Mr. Coleman: That is a good question, and we don't really know the answer. Price Chopper leases from Ranchmart, and I would assume they needed approval from the landlord to have another tenant in their building.

Comm. Pateidl: My point is if Ranchmart is the landlord on this, the issue of the entrance and storefront begs the question of a mall arrangement to where you have a common entrance with storefronts on the inside. Would that impact our sign regulations and make a difference in this application?

Mr. Coleman: They could put a sign on the inside. It is not under our regulations.

Comm. Pateidl: If it were more of a mall situation, would they be allowed to put a sign on the outside?

Mr. Coleman: Yes, they would be allowed if it were a mall.

Comm. Pateidl: Would it be worthwhile to continue this case until we know who the landlord is and whether there is a means of application that is appropriate?

Mr. Coleman: Not this particular application because it currently violates the LDO with the number of signs on the building. My recommendation would be to take action on this tonight, and we can work with the parties involved to find out. If they so choose, they can come back with another application that meets the current LDO.

Chair Rohlf: Which would mean taking off all the other signs.

Mr. Coleman: Yes.

Chair Rohlf: Do we have an applicant?

Applicant Presentation

Dan Motush, Acme Sign, 1313 Vernon, North Kansas City, MO, 64116, appeared before the Planning Commission and made the following comments:

Mr. Motush: To address the leasing, I am not positive who is the landlord, but this is about the seventh location of a US Bank within a Price Chopper that I've been involved in. I believe the lease is with Price Chopper, but I'm not 100% positive. As I mentioned, I have been doing many of these around the area. This is the only place I've run across that doesn't address sub-tenants specifically. For example, Kansas City, Lee's Summit, Shawnee and Overland Park all restrict the number of signs that tenants are allowed, but each also recognizes the relationship that companies have been forming with spaces being sub-let to various tenants. For those tenants to be successful, they need some sort of identification to the public to let them know there are different services than your typical Price Chopper. I don't know if you have the power to do it, but I believe the ordinance should be reviewed in this regard. I understand that process of review and update has begun, so perhaps this is a point of conversation.

Chair Rohlf: In the instances with the other signs, is it ever at the cost of any existing signs? Do they ever have to remove them, pursuant to those ordinances?

Mr. Motush: None that I have dealt with have had to remove any signs, but I will admit that this is a special case and that all the other locations have met the sign limits. For example, Lee's Summit allows one sign per elevation. In this case, the Price Chopper letters were able to remain, and the second sign with "US Bank" was allowed on the front façade.

Chair Rohlf: In your other Price Chopper, do they have all these additional signs on the stores?

Mr. Motush: There is a Sun Fresh Market in Kansas City, MO on North Oak that has all the different products. Kansas City, MO limits to three signs per elevation. In addition to that, up to three sub-tenants are allowed their own signs up to a certain amount of square footage.

Chair Rohlf: Does anyone else have questions? It is unfortunate, but I think with the parameters of our LDO, there is not much we can do about this presentation. I appreciate that you came and made a presentation. Thank you. Does anyone have any comments? I think some of the applicant's points are valid. We have been beginning to see some of these sub-tenant situations, and we may be seeing more of these. I don't know if it would be worth taking a look at this in some point in the future. In this case, I think Price Chopper has enough signage for this building. Perhaps if they were willing to remove those and come into compliance, we could take a look. Otherwise, I don't see a way around it.

Comm. Pateidl: The only thing I would like to add for the record is the point of addressing our ordinance for a sub-tenant is timely. Perhaps part of it is the economy, but within the last two meetings with the applications for IMAX and US Bank, the practical purpose of having those signs on the building begins to outweigh the restrictions of the current ordinances we have. I would urge the Planning Department to give some thoughts and research into ordinances along that line.

Comm. Elkins: I would like to clarify what we can or can't do. In a circumstance like this, it seems that it is outside what is permitted by the LDO. If we just decided to give US Bank a sign, do we have the authority to do that? If not, why have this gentleman make a presentation? The sign issue is one we need to address, and it is appropriate for applicants to come before us, but if we can't do it anyway, why do we take time to discuss it?

Mr. Coleman: The applicant has a right to make the application before the Planning Commission. We can tell them that we're not going to recommend approval and that it is in violation of the LDO, but if they choose to go forward without changing the application, they have the right.

Comm. Elkins: That's a good answer. They have the right to a hearing even if we are bound to say no.

Ms. Shearer: The only deviations you can grant to the LDO are the ones listed in the LDO, and there is no deviation applicable in this situation. There is also redress through the Board of Zoning Appeals. They can give exceptions listed in the LDO and grant variances if they meet the five criteria for the variance to anything in the LDO.

Comm. Elkins: Is there an obligation for them to come to us first?

Ms. Shearer: No, but we are looking at this issue as a staff. I think in the next few months, we will try to bring forward some type of amendment.

Comm. Elkins: I was just curious. There may be times we would like to make an exception, but if we don't have that option, there is not much we can do.

Comm. Ramsey: If you go too far, we're into sign pollution, and I'm not suggesting Cosentino's has sign pollution. Nevertheless, the idea is to not clutter the building with so many signs it overwhelms the senses and nothing comes through.

Comm. Roberson: In this situation, I have to agree that putting the sign of US Bank on the outside of Price Chopper makes infinite sense because otherwise, you're not going to know there is a bank on the inside of that store. You would expect a deli or a bakery or whatever else in there. Those, to me, are irrelevant signs or sign pollution.

Chair Rohlf: I would agree.

Comm. Roberson: In this case, I feel US Bank deserves a sign.

Comm. Ramsey: The same thing applied to IMAX, I think.

Comm. Roberson: I couldn't agree more.

Comm. Ramsey: I think it's a unique enough service that even though it is a product name, not everyone would know there is an IMAX projector in there.

Ms. Shearer: I will say that trying to codify sign regulations is one of our biggest challenges. It is difficult to regulate sign pollution while still allowing things we would like to see in Leawood. Every time we think we have it down, we find the one situation that does not permit what we want or permits something we don't want. We are cognizant of this and will work together to revise these issues. In the meantime, we have what we have to work with, and the rule of two signs per building holds us up here.

Comm. Roberson: In this situation, do we vote to deny, or do we ask them to withdraw?

Ms. Shearer: Procedurally, the application is before you, so I would vote.

A motion to recommend denial of CASE 18-11 – RANCHMART – US BANK – Request for approval of a Final Sign Plan, located at the northeast corner of 95th Street and Mission Road – was made by Roberson; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Elkins and Ramsey.

MEETING ADJOURNED.