

City of Leawood
Planning Commission Minutes
August 23, 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: Roberson, Jackson, Rohlf, Williams, Elkins, Strauss and Ramsey.
Absent: Pateidl and Neff-Brain.

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Jackson; seconded by Ramsey. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

APPROVAL OF MINUTES:

Approval of the minutes from the July 26, 2011 Planning Commission Meeting and August 9, 2011 Planning Commission work session.

A motion to approve the minutes of the July 26, 2011 Planning Commission meeting was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

A motion to approve the minutes of the August 9, 2011 Planning Commission Work Session Minutes was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

CONTINUED TO SEPTEMBER 27, 2011 MEETING:

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**

CONSENT AGENDA:

CASE 24-11 – CORNERSTONE – SEVENTY SEVEN SOUTH – Request for a Final Sign Plan, located at 5041 W. 135th Street.

CASE 80-11 – PARK PLACE GENERALI USA – Request for approval of a Final Sign Plan, located at 11625 Rosewood.

A motion to recommend approval of the Consent Agenda was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

NEW BUSINESS:

CASE 44-11 – SOMERSET SHOPS – VINTAGE MARKET – Request for approval of a Final Plan for a Tenant Finish, located at 7930 Lee Boulevard.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 44-11 – Request for approval of a Final Plan for Vintage Market, located at Somerset Shops at the southwest corner of Somerset Drive and Lee Boulevard. The tenant space currently has three signs, including a cabinet sign on both the north and the east elevations and an awning sign on the northeast elevation. With this plan, the applicant proposes replacing the existing awning sign with a smaller sign to comply with the Leawood Development Ordinance. The applicant will also remove the existing cabinet sign on the east elevation. The sign face will be removed from the existing cabinet sign on the north elevation and replaced with a new sign face identifying the new tenant. The awning sign will consist of white screen-printed letters on the black awning and will measure 11.6 square feet for a total sign area of 4.9 of the northeast elevation. The sign face within the existing cabinet sign on the north elevation will be replaced with a black acrylic sign face with white letters. The sign measures 60 square feet or 7.4% of the area of the façade. The cabinet sign on the north elevation is considered a non-conforming sign, according to the Leawood Development Ordinance. Section 16-4-6.8 of the ordinance allows alterations to non-conforming signs as long as the alterations do not exceed 50% of the value of the current sign. All aspects of this sign will remain in place except for the sign face. Consequently, staff considers the proposal an alteration to an existing non-conforming sign. In addition, the sign contractor has confirmed that the value of the alteration is approximately 25% of the value of the existing sign. Therefore, staff finds that the proposed alteration to the existing cabinet sign complies with Section 16-4-6.8 of the ordinance and recommends approval of this Final Plan, subject to the stipulations in the report.

Chair Rohlf: Questions for staff? Then we will hear from the applicant.

Applicant Presentation:

Applicant was not present.

Chair Rohlf: What type of business is the Vintage Market?

Mr. Klein: As far as I understand, it is vintage goods.

Chair Rohlf: Is it furniture?

Mr. Rexwinkle: It is general retail sales with small furniture, I believe.

Chair Rohlf: Has it been there for a while?

Mr. Rexwinkle: It has been there since early this year.

Comm. Roberson: Stores come and go in that spot.

Chair Rohlf: Does anyone have concerns about this particular application? Then let's hear a motion.

A motion to recommend approval of CASE 44-11 – SOMERSET SHOPS – VINATAGE MARKET – Request for approval of a Final Plan for a Tenant Finish, located at 7930 Lee Boulevard with all staff stipulations – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

CASE 82-11 – TOWN CENTER PLAZA – 3HOUSE BOUTIQUE – Request for approval of a Final Sign Plan – located at 4824 W. 119th Street.

Staff Presentation:

City planner Justin Peterson made the following presentation:

Mr. Peterson: Madame Chair and members of the Planning Commission, this is Case 82-11 – Request for approval of a Final Sign Plan for 3House Boutique, located at 4824 W. 119th Street in Town Center Plaza. The applicant wishes to add one wall sign, one blade sign and one awning sign. The wall sign is proposed to be 2 feet by 12 feet for a total sign area of 24 square feet or 4.8% of the storefront area and will be constructed of individual channel letters internally illuminated with white LED lighting. The letters will have 5-inch aluminum returns painted black enamel, and the faces will have 3M dual-color film applied to the sign, flush-mounted to the façade. The frame for the blade sign itself currently exists and measures 15 inches by 29 inches. The applicant is proposing to change the face of the blade sign to advertise for the tenant. The text will measure 5 inches by 24 inches. The sign will be double-sided, non-illuminated and applied with 3M black vinyl film to the existing white aluminum panel. The awning sign currently exists, and the lettering is screen-printed on it in white and measures 18 inches in height. In staff's opinion, the size of the lettering on the awning is not in scale with the proposed wall sign and should be reduced. Staff recommends a maximum of 12 inches and centered on the fascia. Staff recommends approval of this application, subject to the stipulations in the report. I'll be happy to answer any questions.

Chair Rohlf: You said the lettering on the awning is already in existence?

Mr. Peterson: Yes.

Chair Rohlf: Is this a particular style of lettering? It looks like a blend of a couple styles.

Comm. Jackson: The "3" is a backwards "E."

Chair Rohlf: That's clever. And you're recommending that the lettering be sized proportionally.

Mr. Klein: Yes, and staff's opinion is the wall sign above serves as advertising for the business. Town Center Plaza does have awning signs; however, they are intended to be geared toward pedestrian traffic. Staff's opinion is that it appears that they have two primary signs.

Chair Rohlf: Other questions for staff?

Comm. Roberson: Did we approve the wall sign?

Mr. Klein: It is actually part of this application.

Comm. Jackson: Do you have a picture of the buildings surrounding it so we can compare the sign sizes?

Mr. Klein: I'm afraid we don't.

Chair Rohlf: What is next to it?

Mr. Klein: The Children's Place is next to it.

Chair Rohlf: Any other questions for staff? Then we will hear from the applicant.

Applicant Presentation:

Mary McCarthy, 612 East 71st Terrace, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Ms. McCarthy: I just wanted to note that, although I respect the notion of wanting one primary sign and one smaller sign, the letters are actually the same height as the awning sign of our neighbors. They have more letters, so it looks smaller.

Chair Rohlf: What is the name of the store?

Ms. McCarthy: One is The Children's Place, and the other is Jackie and Jill, I believe.

Chair Rohlf: You believe the height of the lettering is the same as your height?

Ms. McCarthy: Yes, and it was approved through Town Center. We have been open since mid-July, and we had it installed the first of July.

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

Comm. Strauss: I would like to know the purpose of the wall sign versus the awning sign.

Ms. McCarthy: The wall sign is for the cars that are past or on the other side of the parking lot. It is not as visible as if a person is up close. The awning sign is for the parking lot on the closer side.

Comm. Roberson: Do all three signs meet the sign criteria?

Mr. Klein: Yes, there are sign criteria addressed with Town Center Plaza's sign criteria. The awning signs really aren't addressed as far as height.

Chair Rohlf: Nothing in the ordinance talks about lettering on awnings?

Mr. Klein: That is correct; it only addresses number of signs.

Chair Rohlf: Does anyone have any other questions? Thank you. It comes down to a discussion on what we think looks a bit more proportional.

Comm. Ramsey: Mark, have we changed the requirements since the previous awning sign went in at The Children's Place?

Mr. Klein: I would have to check to see when The Children's Place went in. Town Center Plaza has been in existence, I believe, since the end of the '90's. A lot of that signage actually went up without coming through Planning Commission and City Council; it simply received administrative approval. Now, everything goes through Planning Commission and City Council.

Comm. Ramsey: What I'm getting at is that we've got two different sizes, but I don't know that it is that big of a deal.

Chair Rohlf: I don't know if it is the photography or the fact that there are only six letters, but for some reason, all three of these look unusually large.

Mr. Klein: It probably has to do with the fact that the name is fairly short and that the letters are all capital.

Chair Rohlf: It just looks a little overdone to me with the size of the windows and the door. I tend to agree with staff here that it is a bit big. All three look big to me.

Comm. Roberson: Aren't you supposed to get permission before you put up a sign?

Mr. Klein: Yes, I imagine the applicant went into business and probably went through Town Center Plaza.

Chair Rohlf: Does anyone else have a thought on the size?

Comm. Jackson: It does look out of proportion, and I think it is because they are all capital letters.

Chair Rohlf: Staff is recommending 12-inch letters, and these are 18 inches high?

Comm. Williams: I am sympathetic to staff's concerns, but I think also, if The Children's Place on the adjacent awning is the same size lettering as what we have here, it would be fine to keep this proportional to what is already on neighboring signs. I am less concerned about the relationship between the awning signage and the wall signage. It could look better if it were smaller, but I'm not sure it warrants the removal and replacement. I believe if it were six inches lower, it would look out of place relative to neighboring signs. I could be more definitive if I had pictures of the neighboring signs.

Chair Rohlf: Are the awnings all the same? Do they have guidelines for those?

Mr. Klein: They do not. The Leawood Development Ordinance allows two signs. Blade signs are typically not counted in that number. I can try to find the Sign Plan for The Children's Place.

Comm. Roberson: What I would like to see is a storefront picture to see how everything fits. I think the bigger question here is the fact that it was put up without permission, more than anything else, and we could have avoided this whole thing if it had been done properly.

Comm. Ramsey: I wholeheartedly concur with that thought. Our options are to approve or deny. Do any of you feel that it would be helpful to table it until the next session and be able to go by and see what it really looks like?

Comm. Roberson: I think that is an excellent suggestion.

Chair Rohlf: Unless you could get your hands on any helpful visuals, Mark.

Mr. Klein: I probably could get the adjacent sign permit, but I don't think I could get a picture quickly. If this is continued, we could take pictures and give you time to drive by.

Chair Rohlf: We may get some stores coming and going. We probably need to take a look again.

Comm. Strauss: My problem isn't so much the size as that it seems redundant. Mark, you said there is a sign limit of two signs, and I see one in the window and the pedestrian sign. I am concerned because four signs for the size of this storefront seem like a lot.

Mr. Klein: Regarding the window signage, the LDO allows a maximum of 5% of the window area to be signs. This could actually be in violation, and we can talk with the applicant regarding that. With regard to the blade sign, it is standard for the development. Town Center Plaza has approached us as far as redoing their sign criteria, and this is something you might see in the next few months. We also have a concern about the wall sign, the awning sign and, in some cases, a transom sign below. That center does have

quite a few of those signs, and when approached about it, they stated that the intent of the awning sign was for pedestrians as opposed to identifying the business from a distance. Staff's position is that they should serve two different functions.

Comm. Williams: Regarding the window sign, this is not a permanent window sign as much as it is a temporary sign behind the glass, much like all the other retailers at Town Center Plaza. It is not even in our purview.

Mr. Klein: Yes, we are looking to avoid clutter in the window area, and that is something that we typically deal with administratively.

Chair Rohlf: I think we would all feel more comfortable seeing some representative signs and awnings from the area.

A motion to continue CASE 82-11 – TOWN CENTER PLAZA – 3HOUSE BOUTIQUE – Request for approval of a Final Sign Plan – located at 4824 W. 119th Street – to the September 27, 2011 Planning Commission meeting was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

CASE 83-11 – PLAZA POINTE – REVISED DESIGN GUIDELINES – Request for approval of a Revised Final Plan – located at the southwest corner of Roe Avenue and 135th Street.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 83-11 – Request for approval of a Revised Final Plan to modify the Design Guidelines for the Plaza Pointe development to allow the currently approved synthetic slate known as Fire Free in the color of green to be replaced with a DaVinci Valore' synthetic slate in the color of dark green. When this development originally came in, it was approved with four different roofs: a standing-seam metal roof in green and one in beige and a synthetic slate Fire Free roof in green and one in dark grey. The dark grey synthetic slate never got used; however, the green synthetic slate was used extensively throughout the development. It became apparent that the product wasn't holding up and was fading quickly. We became aware of a couple class action lawsuits against the company, and they actually stopped making the material. Some of the buildings hadn't gone up in the development at that point. As those buildings came in, they started making requests to have other types of material used in its place. They came through the process on an individual basis. The most recent application was for DaVinci in beige on the Cross First Bank. This product has been used in the development in a different color. As the roofs are failing, the applicants need to replace them. Staff supports this application so that the development can maintain some consistency.

Chair Rohlf: We have seen the DaVinci product quite a bit.

Mr. Klein: You have. The DaVinci product has probably been around since 2003 within Leawood.

Chair Rohlf: Any questions for staff? Then we will hear from the applicant.

Applicant Presentation:

Zach Batson, 11406 Grant, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Batson: I am the manager of the Plaza Pointe Development Association, which represents all fifteen owners and their respective interest within the development. To add a bit to what Mark said, this problem has been exacerbated because of the recent hail storms. A significant number of owners now need to do a complete roof replacement, which has led to a number of owners crying for a direction, so we proposed this tile. As Mark said, the bank used the tile and it looks good. As a result, we have queried our owners, and they all have indicated this is an acceptable tile to them. I don't think you'll find anybody who is coming in and asking for a variance from what we select tonight. We think that will be helpful going forward. If you have questions on the specifics of this tile, our roofing contractor is here.

Chair Rohlf: Will all the roofs be replaced on all the buildings?

Mr. Batson: They will be replaced in time, but we are not asking for a complete replacement. At present, three buildings are seeking full roof replacements to my knowledge.

Chair Rohlf: I would like to ask the roofing contractor about the basic difference in the product and what happened to the other.

Ken Eichelberger, Pyramid Roofing, appeared before the Planning Commission and made the following comments:

Mr. Eichelberger: The difference is the Fire Free out there is a cement tile, and this is a composite shingle. Part of the problem we had was the tile shattered during the hail storm. Because it is no longer available, replacing one or two tiles is not a viable option.

Chair Rohlf: You have had experience with this?

Mr. Eichelberger: Yes, ma'am.

Chair Rohlf: And so far, so good?

Mr. Eichelberger: Yes, ma'am.

Comm. Ramsey: Does that mean it is actually hail-proof?

Mr. Eichelberger: I can't speak to hail-proof, but it is more resistant than what is up there right now.

Chair Rohlf: This will be a tear-out of the entire roof?

Mr. Eichelberger: Yes, we will tear it off down to the deck.

Mr. Batson: We believe that it is more resilient than what is out there. Even if it were not, having a standard with a manufacturer in business is what we need more than anything. It is possible for us to replace single tiles if they do shatter. Presently, we are not able to procure a single tile to replace those that broke.

Chair Rohlf: Is the Fire Free anywhere else in Leawood?

Mr. Klein: No, that was actually the only place we had it. I remember when it originally came in, it actually did look impressive. It was almost like a ceramic tile that was fairly thick. We were very surprised that it failed. It has been a while since it stopped being made, and we have since done away with our sample.

Chair Rohlf: Does anyone else have questions for the applicant? Thank you. Unless anyone has any further comments, I would ask for a motion.

A motion to recommend approval of Case 83-11 – PLAZA POINTE – REVISED DESIGN GUIDELINES – Request for approval of a Revised Final Plan – located at the southwest corner of Roe Avenue and 135th Street with all staff stipulations – was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

CASE 84-11 – CINGULAR WIRELESS d/b/a – AT&T MOBILITY – CELLULAR TOWER – Request for approval of a Special Use Permit for a cellular tower and associated equipment and screening, located south of I-435 and east of Mission Road.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 84-11 – Request for renewal of a Special Use Permit for an existing cellular tower and associated equipment and screening for AT&T d/b/a of Cingular Wireless, located south of I-435 and east of Mission Road. This tower was originally approved in its current form back in 2003. It was approved originally at 100 feet and was later approved for a 30-foot extension on top of that, which is why it is at its current height. Right now, there are six existing antennas on the tower. Plus, the application you will see right after this one is for an SUP for AT&T for the three existing antennas and a new application for a fourth. This application is for renewal of the SUP on this particular tower. A compound currently goes around it that is 8 feet high and 75 by 75 feet. Staff looked at the landscaping around it and has found trees that need to be replaced. The applicant has been made aware of that. Staff is recommending approval of this application with the stipulations in the Staff Report, and I will be happy to answer any questions.

Chair Rohlf: Currently, all of the SUPs have run on this tower.

Mr. Klein: Yes, the tower and the three existing AT&T antennas were actually approved at the same time. They all needed to be renewed. Sprint has been notified that they need to come back in and renew their SUP as well.

Chair Rohlf: Does anyone have questions for staff?

Comm. Roberson: Could you explain the flange bolt replacement in No. 4?

Mr. Klein: They have to provide structural verification. They have provided us with a report with regard to the structural integrity of the pole. I passed that along to the building department to take a look at it. They indicated it still needs modifications, so I kept the stipulation in there to make sure we have everything we need. Basically, the building department wants to make sure the pole is still structurally sound, including this particular bolt that goes in there. The applicant may be able to describe more about what that bolt does.

Comm. Jackson: Where are the trees missing?

Mr. Klein: There are a number of them, primarily on the south, east and west. When I was out there, I saw four stumps along the access road on the south and also some missing on the sides.

Comm. Jackson: Are those all evergreen trees?

Mr. Klein: Not all of them, but a good many of them were.

Chair Rohlf: Any other questions from staff? Then we will hear from the applicant.

Applicant Presentation:

Curtis Holland, Polsinelli Shughart, 6201 College Blvd, Ste. 500, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Holland: This first application is with respect to the communication tower and the renewal or extension of the SUP. I don't have anything to add to what staff said except with regard to the trees. My understanding is some of those trees died this year with the intense heat. There are plans to replant trees in the fall, which is when trees should be planted. We do intend to take care of those missing trees.

Chair Rohlf: Do you share responsibility for the landscaping on these poles?

Mr. Holland: The landscaping is the responsibility of the owner of the communication tower structure, which is Cingular in this case. The other antennas, such as Sprint, would be tenants. They don't have any responsibility with regard to landscaping or the compound itself. They are responsible only for their ground equipment and antennas.

Chair Rohlf: Does Cingular contract with a landscaping company?

Mr. Holland: They take care of their own. Really, there are trees everywhere. If you recall, this was the park entrance. We negotiated with the city, who wanted more trees. Some of those have just died over time, and we are going to get those replaced.

Chair Rohlf: You have someone within the company that handles that with the landscaping?

Mr. Holland: Yes, they have contracts with folks to do that type of work. It will get done.

Chair Rohlf: I missed the last meeting when the cellular tower at 135th was discussed, and I gather there were landscaping issues at that site.

Mr. Holland: It is a similar issue but a different entity that is responsible in that particular case. Cingular has nothing to do with the other one, although this present application and the following one for addition of antennas are both part of the project that Cingular is undertaking in the city, which is to add 4G wireless antennas to these existing structures. In the case at 135th, they were just a tenant, like Sprint is to this case, and don't have responsibility there. They do have responsibility here.

Chair Rohlf: Are there any other questions for the applicant?

Comm. Elkins: Mr. Holland, I want to make sure I'm tracking this correctly. The case that is before us is for a Special Use Permit for both the tower and the existing antenna, correct?

Mr. Holland: To clarify, there are two SUP applications before you. This first one is for the tower by itself, which also includes the compound of the masonry wall and also the landscaping. That is all part of the tower SUP. Separately, the carriers, including Cingular, have an SUP for their antennas that are attached to the tower. The next application is to renew the SUP for the existing antennas and to add another set of antennas for their 4G network. Then there are some other users, including T-Mobile and Sprint, who have their own SUPs for their own towers. We are separating the antennas from the tower.

Comm. Elkins: Thank you for the clarification. This case is strictly for the tower and associated infrastructure.

Mr. Holland: Yes, and it wouldn't make sense to have the antennas heard first because if you don't approve the tower, there is no sense asking about the antennas.

Chair Rohlf: Ms. Shearer, it seems like, a year or two ago, we established the fact that we had to hear these two separately.

Ms. Shearer: It has to do with some changes we made to the LDO, but yes, there is a reason we hear them separately.

Mr. Holland: It has to do with separate ownerships.

Chair Rohlf: So when Sprint comes back, they would just be coming for an SUP for their antenna.

Mr. Holland: Yes, and then they also have ground equipment within the compound. That would permit them to continue to use that facility.

Chair Rohlf: All the SUPs are specific to whatever carrier is applying for them.

Comm. Elkins: I note that there is no time limitation in the specifics of the case here. My recollection is that SUPs have a five-year limit. Am I missing it?

Comm. Roberson: It is in there.

Ms. Shearer: Per the LDO, it is twenty years unless otherwise specified. Usually with wireless communications towers and antennas, we specify five years.

Comm. Elkins: It is in Stipulation No. 1, so thank you.

Chair Rohlf: Anything else for the applicant?

Comm. Ramsey: Is there a time limit for completing the landscaping replacement?

Mr. Klein: That is handled administratively, so Neighborhood Services has been made aware of it. What they do is issue a courtesy notice that gives them ten days to respond. From that point, if they don't take care of it, it goes into the court system. It is more efficient than if we had a stipulation here.

Mr. Holland: Our intent is to resolve it as soon as we can.

Comm. Ramsey: I thought you would. I was just curious if we normally put a time limit on the re-landscaping of any applicant.

Mr. Klein: There are times when we might do that. In this case, we just have a more efficient avenue available.

Chair Rohlf: 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 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

Chair Rohlf: That takes us up to further discussion or comments. If there are none, I would ask for a motion.

A motion to recommend approval of CASE 84-11 – CINGULAR WIRELESS c/b/a AT&T MOBILITY – CELLULAR TOWER – Request for renewal of a Special Use Permit for a cellular tower and associated equipment and screening, with five staff stipulations – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

CASE 85-11 – CINGULAR WIRELESS d/b/a AT&T MOBILITY WIRELESS ANTENNAS – Request for approval of a Special Use Permit for wireless communication antennas and associated equipment on an existing tower, located south of I-435 and east of Mission Road.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 85-11 – Cingular Wireless d/b/a AT&T Mobility Wireless Antenna. The applicant is seeking approval of a Special Use Permit for three existing antennas and the installation of a new set of flush-mounted antennas along with associated equipment for AT&T Mobility on an existing monopole, located south of I-435 and east of Mission Road. The newly proposed antenna and associated equipment will provide 4G service, which AT&T Mobility currently does not provide at this location. The three antennas on the pole are located at 126 feet, 99 feet and 92 feet. The new antenna will be at 84 feet. All of the antennas are flush-mounted, as required by the Leawood Development Ordinance. I included a picture of the cell tower and antennas so you can see the flush mounting, with the exception of the Nextel platform. Staff is recommending approval of this application, and I will be happy to answer any questions.

Chair Rohlf: Questions for staff? Then we will hear from the applicant.

Applicant Presentation:

Curtis Holland, Polsinelli Shughart, 6201 College Blvd, Ste. 500, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Holland: I don't have a lot to add to what Mark has indicated. We have been before you on previous matters with regard to Cingular's development of a 4G, high-speed wireless data network in Leawood. We would like to add our antennas to this particular pole. There are some existing flush-mounted antennas there, as Mark indicated. We would ask for those to be allowed to continue under a Special Use Permit. We can talk more about 4G if you would like. I would stand to take any questions.

Chair Rohlf: Mr. Holland, I know you have done this for a long time, and I really am not familiar with how it all works. It surprises me that, with the 4G, we are still seeing this same type of hardware with antennas. Is that just a function of it all?

Mr. Holland: Are you asking about the dimension and size of the antennas?

Chair Rohlf: Yes, it looks the same, and I would think we would start seeing a direction change and maybe something smaller.

Mr. Holland: I am no expert in the technology, but what I do see is that the antenna sizes themselves are not necessarily decreasing and, in some cases, may be getting slightly larger and deeper. We are not getting to a point yet with small antennas for these kinds of services. I cannot tell you why. If you're wondering why we need three or four sets, it goes back to your ordinances that require us to flush-mount everything; whereas, in a typical cell site, you would have a platform with three or four antennas on each face.

Chair Rohlf: What does Overland Park require? I would like to see the difference because it seems to me that we are going to probably start getting more tower requests, too, in addition to antennas.

Mr. Holland: In Overland Park, it depends on where you are.

Chair Rohlf: Can you tell me a site that would be a good representation of a platform installation?

Mr. Holland: The site at 135th and Nall that we talked about earlier has four standard platforms that have multiple antennas on each platform. That is an example of a standard platform. By and large, most antennas are mounted on a standard platform. Because your ordinance requires them to be flush-mounted, they have to be stacked. It depends on what you prefer for a visual. It does cause a negative impact to the carriers and subsequently to the consumers as far as building and designing their network, but it is a balance between that and what your community would like.

Comm. Elkins: It does not appear that the proposed AT&T antenna at the 44-foot level is flush-mounted.

Mr. Holland: I see what you are saying now. That is an existing set of antennas. The arrow is pointing more to a space on the tower, so you would have another set of antennas going where the arrow is pointing just beneath the two that are stacked above it that would be nearly identical to that.

Comm. Elkins: To the point you were making about a comparison of what our ordinance requires, is this an example of the type of deck you were talking about in terms of a pre-existing structure?

Mr. Holland: This is an intermediate version. It is what they call a low-profile mount with T arms that stick out from the tower. It doesn't have the cage under the bottom. A standard platform is quite a bit more substantial than this. This particular set of antennas was granted a waiver, if you will. When it was approved, you still had the flush-mounting requirement. I believe these were Nextel antennas, and they argued that they cannot flush-mount their antennas because of the way their service functions. Today, I don't know if it is different, but you are correct that this probably would not count as a flush-mount and may need to be evaluated when they come in for an extension of the SUP. Frankly, it has been there forever, so I don't know if you would want to change it.

Chair Rohlf: Do we have other existing towers that will require these types of antennas to be added in Leawood?

Mr. Holland: There is a tower up north at 96th and Lee at your Police and Fire Station where Verizon is working on their 4G network and therefore want to add to that structure. You saw Clearwire come through earlier building a WiFi network, and now AT&T is coming through and developing and building a 4G network, as is Verizon. Depending on where you are in what city, they are a little behind each other.

Chair Rohlf: These additions will be put on your existing towers.

Mr. Holland: I wouldn't say all towers, but it will be determined on where they need their antennas. It is like everything else: it all costs money, and they will build their network where they will get the highest return on

investment, which means dense population areas will see them earlier on; more sparsely populated areas will follow later.

Chair Rohlf: Is there a true distinction between 3G and 4G from a technology standpoint, or is it a marketing thing?

Mr. Holland: I have a 3G phone. The version before this was a 2G phone, and now we'll have a 4G. All smart phones are 3G at this moment. The difference is about ten times the speed, from what I have been told.

Chair Rohlf: So the data is the same; the speed is what is different.

Mr. Holland: Yes, we are apparently impatient and like it instantaneously.

Chair Rohlf: So there could be a 5G and so on.

Mr. Holland: It will get bigger, and there is more data being pushed through the wireless pipeline. You are getting more and more data coming across the wireless networks. It is just a struggle to keep up with it. As time goes, there is more and more demand. I heard a statistic the other day that, by 2015, there will be 26 times more data demand than we have today. These guys can't keep up with it, and they are continually investing in and upgrading their networks, so we will continually be back here. Leawood is difficult for building a network because you need tall tower structures, for the most part. New technologies are coming, but by and large, we are still operating under the standard formatting we have been building networks for years. That probably will not change.

Chair Rohlf: That is surprising to me with the demand.

Mr. Holland: I would tell you the best and the brightest are working on these solutions, and it is not easy to transmit the data and voice and build these networks. Everyone talks about using satellite, and it is just not physically possible to build a network like that now. I can't tell you what it will be like in 50-100 years, but it's going to change. People are constantly using wireless services for data, and it is a challenge to provide that with the speed and quality that the consumers are demanding.

Comm. Elkins: The bad news is that your battery life on 4G is about half what it is on 3G.

Mr. Holland: It will be faster, more fun and great, but we'll just want more.

Chair Rohlf: Any other questions?

PUBLIC HEARING

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

Chair Rohlf: This takes us up to comments and a motion.

Comm. Jackson: I would like to put on the record a reminder for this commission, staff and the community that while federal law doesn't allow us to take the health considerations into effect when we vote on these things, those health effects are still in question. As we get more antennas and more electromagnetic radiation, there is a questionable effect on the human body.

A motion to recommend approval of CASE 85-11 – CINGULAR WIRELESS d/b/a AT&T MOBILITY WIRELESS ANTENNAS – Request for approval of a Special Use Permit for wireless communication antennas and associated equipment on an existing tower, located south of I-435 and east of Mission Road with all staff stipulations – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Roberson, Jackson, Williams, Elkins, Strauss and Ramsey.

MEETING ADJOURNED.