

City of Leawood
Planning Commission Minutes
January 24, 2012
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, Jackson, Neff-Brain, Rohlf, Williams, Elkins, Strauss and Ramsey. Absent: Roberson.

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

Approval of the minutes from the November 22, 2011 and December 6, 2011 Planning Commission Meetings.

A motion to approve the minutes of the November 22, 2011 Planning Commission meeting was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

A motion to approve the minutes of the December 6, 2011 Planning Commission meeting was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

CONTINUED TO FEBRUARY 28, 2012 MEETING:

CASE 923-11 – PARKWAY PLAZA – PARKWAY PLAZA RETIREMENT HOMES – Request for approval of a Rezoning, Special Use Permit, Preliminary Site Plan and Preliminary Plat for an independent living, assisted living and skilled nursing facility, located north of 135th Street and west of Roe Ave. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 01-12 – IRONHORSE CENTER – BARE ESTHETICS MEDICAL SPA – Request for approval of a Final Sign Plan, located south of 151st St. and east of Nall Ave.

CASE 02-12 – PARK PLACE – MESTIZO ROOFTOP TENT – Request for approval of a Final Plan, located north of 117th St. and east of Nall Ave.

CASE 04-12 – ONE NINETEEN – FENG – Request for approval of a Final Plan for a Tenant Finish, located at the southeast corner of 119th Street and Roe Ave.

CASE 07-12 – PARKWAY PLAZA – REVISED SIGN CRITERIA – Request for approval of a Final Sign Plan, located north of 135th Street and west of Roe Ave.

CASE 06-12 – PARKWAY PLAZA – REECE & NICHOLS – Request for approval of a Final Sign Plan, located north of 135th Street and west of Roe Ave.

CASE 08-12 – PINE DEVELOPMENT – REVISED LANDSCAPE PLAN – Request for approval of a Revised Final Plan, located at 10200 State Line Road.

A motion to recommend approval of the Consent Agenda was made by Elkins; seconded by Williams. A motion to approve the minutes of the November 22, 2011 and December 6, 2011 Planning Commission meetings was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

NEW BUSINESS:

CASE 109-11 – RANCHMART NORTH – SLAB & PICKLE – Request for approval of a Final Plan, located north of 95th St. and east of Mission Road.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 109-11 – Request for approval of a Final Plan for a new restaurant known as Slab & Pickle, located in the former Leawood Post Office building at 3500 West 95th Street. The property is zoned SD-CR [Planned General Retail]. The proposed use, which is a restaurant, is permitted within this zoning district and does not require approval of a Special Use Permit or a rezoning. The applicant is seeking approval of a Final Plan, due to the fact that the proposed use, while permitted, represents a change in use from the previous use and because the proposed modifications to the site and the building's exterior. According to county land records, the property was developed in 1961. The existing building and some associated site elements are non-conforming with the requirements of the current Leawood Development Ordinance. The building is non-conforming with regard to the east and south setbacks. Today's ordinance requires a 125-foot building setback along the east property line and a 45-foot building setback along the south property line. The setbacks provided by the existing building are 50 feet from the east property line and 10 feet from the south. Various site elements are also non-conforming, including parking lot features and landscaping. The Final Plan proposed bringing most of these elements into compliance with the current ordinance; however, the applicant requested and obtained three variances from the Board of Zoning appeals at their meeting on December 21st. The variances pertained to the placement of street trees, to parking lot lighting uniformity ratio and to parking lot design standards. The variances are described in detail within the staff report. The Final Plan proposes a small expansion to the building on its west side to add a 133 sq. ft. vestibule at the entrance. This expansion is not limited by the fact that the building is non-conforming because the nonconformity is with regard to the east building setback and not the west. Pursuant to Section 16-4-8.2(b) of the Leawood Development Ordinance, expansions to non-conforming buildings are permitted, so long as the expansion does not increase the extent of the non-conformity. The proposed vestibule is located on the west side of the building and therefore does not further the extent of the non-conformity. The Final Plan also proposes other modifications to the site, including an outdoor patio on the northwest side of the building, alterations to the parking lot and a new trash enclosure on the north side of the building, as well as new ground-mounted mechanical units on the east side of the building. The patio is proposed to be constructed in the location of the existing loading dock on the north side of the building. This dock will be converted into a covered patio. This portion of the patio will be surrounded on the south, east and west by existing building walls and will be covered by the existing building roof. According to the plan, the patio will extend northward beyond the extent of the walls and roofline approximately 15 feet. The interior portion of the patio is proposed to contain a bar and include three televisions mounted to interior walls. The remainder of the patio will contain table seating. The applicant states that the patio will be used seasonally and during normal business hours and that no live music will be performed on the patio and that no music speakers will be used. The Final Plan also proposes modifying the parking area to the west of the building by reducing the width of the drive aisles, such that they are designed for the existing one-way traffic flow and to create more green space in

this area. The plan also proposes modifying the existing access point at 95th Street such that southbound drivers within the parking lot are directed back to the parking lot rather than on to 95th Street. The plans further propose additional landscaping, including perimeter landscaping along 95th Street, all of which complies with the requirements of the LDO, with the exception of the placement of street trees, for which a variance has been granted. The plans also propose new interior site and parking lot landscaping, including new trees within the parking lot. Along the east property line, the applicant is proposing to use existing landscaping, most of which is in the form of deciduous trees. The Final Plan proposes minimal modification to the building exterior. The primary material, which is brick, will remain in place. Aside from the proposed vestibule on the west elevation, the applicant also proposes new decorative wood shutters. On the east elevation, the applicant is proposing new rooftop vents and fans, which are associated with the proposed kitchen. The plans propose these features be painted a color that matches the building roof, which will remain in place as it exists. A photometric plan has been provided, which shows the foot candle measurement along the east property line as 0.1. The stipulation of approval of the variance pertaining to parking lot lighting uniformity ratio was that the city's codes enforcement staff measure the foot candle along the east property line and found it to be 0.0. The ordinance requires the foot candle measurement at the property line to be less than 0.5; therefore, the ordinance is being satisfied. One wall sign is proposed on the west elevation. It will read "Slab & Pickle" and measures 3 feet, 6 inches in height by 15 feet, 6 inches in width for a total area of 43 square feet, which is 4.8% of the building façade. This sign does comply with the requirements of the LDO.

Staff has received considerable public comment regarding the proposed use. A copy of all comments received prior to Friday, January 20th is included in the packet provided to you and is the same as the packet on the website. Comments received since that time have been emailed to the commissioners and are printed and placed on the dais. As reflected in the Staff Comments section, staff believes there are a number of ways to reduce the impact of the proposed use on surrounding properties. These include planting a continuous row of evergreen trees along the east property line to provide full, year-round screening. Staff also recommends that the proposed ground-mounted equipment east of the building be screened with a solid masonry wall instead of the proposed fence. In order to ensure the noise impact does not exceed the maximum allowed by city codes, staff recommends that the sound be measured prior to the issuance of the Temporary Certificate of Occupancy. If the sound generated exceeds that which is allowed, the applicant should be required to take measures to reduce it prior to the issuance of the Certificate of Occupancy. Staff also recommends that deliveries be limited to Monday through Saturday only and that the use of the patio be restricted to normal business hours, as well as not allowing music speaker systems to be installed and also no live performances on the patio. Staff is also recommending that the proposed televisions on the patio be screened so that they are not visible from offsite. Additionally, staff is recommending that the applicant provide further details regarding the proposed smoker filter in order to determine whether or not it reduces smoke and odor and, if so, to what extent. All of these recommendations are listed in the proposed stipulations. Before you on the dais is a cover memo provided by staff with proposed modifications to stipulations, along with all public correspondence received since last Friday. You have also received some information from the public, a copy of a presentation and communications with the header "City of Leawood." Staff is recommending approval of this Final Plan, subject to the stipulations referenced and is happy to answer any questions.

Chair Rohlf: I just want to make sure that any of the variances not set out in the Staff Report are being brought into compliance. Also, explain the setbacks because it's a non-conforming use, and there is no reason for them to go before the BZA on that particular issue, correct?

Mr. Rexwinkle: The use itself is a permitted use; they don't need a variance for the use.

Chair Rohlf: But they need one for the setbacks.

Mr. Rexwinkle: Yes; because the existing building is a non-conforming structure, they are allowed to reuse it with a permitted use, and they're allowed to expand it, as long as the expansion does not increase the nonconformity. They don't need a variance to allow it to continue to exist that way.

Comm. Williams: By ordinance, permitted use can go anywhere within the shopping center?

Mr. Rexwinkle: It can go anywhere within the area that is zoned SD-CR, which, in this case, includes the entire shopping center.

Comm. Williams: You touched on the issue of odor reduction, which is somewhat wide open. Do you have a target in mind? How can we establish an effective and measurable target?

Mr. Klein: We don't have a specific reduction level. We are looking for a report from the developer regarding that. In speaking with some of the other barbecue restaurants who use these filters, we have concluded that they do reduce the odor. Oklahoma Joe's uses these filters.

Comm. Williams: Are we talking a 50% reduction? 90%?

Mr. Coleman: I don't know that there is an odor scale, but we have investigated some of the barbecue restaurants. This is not a pit barbecue restaurant, like Gates, where they cook with the wood in a large pit. All but one of the major barbecue restaurants use cookers that are gas or electric, and the wood is basically for the smoke. If you were to put 200-300 pounds of meat in one of the cookers, you would use about two sticks of wood.

Comm. Williams: That is helpful. My concern was how to judge the reduction in a quantitative manner. I appreciate your explanation. On the noise issue, with this being so close to the residential neighborhood and all the condensing equipment on the east side, I certainly agree with your recommendation for masonry construction around this; but is there a way we can be proactive in measuring the potential for noise versus waiting until the construction is done? If they find themselves in a situation that is the best they can do, what does the city do at that point?

Mr. Klein: We can take a look at the specifications to see if the condensing units they propose give a noise level they produce. Really, the only true way to calculate everything together is to test them when they are running. If it is over 60 decibels, we will require a modification to reduce the noise through mufflers, additional screening or any other ways. That standard of 60 decibels at the property line would not be waived.

Comm. Williams: Would it be possible for an acoustical engineer to come in with the proper specs, begin to make some predictions of the noise level and then make design changes to the surround and not the equipment? I say that because a major issue is how close this building is to the adjacent neighbors. We have a use that will potentially create more traffic and more noise with the equipment.

Mr. Klein: I couldn't agree with you more that we want the noise abated, and maybe the applicant can address some ideas.

Comm. Williams: On all commercial projects, we have LDO requirements and stipulations on concealing rooftop equipment, yet, on this building, even though they are bringing in new equipment on the rooftop, there is no stipulation for concealing it. Is there a reason we are not requiring that?

Mr. Coleman: We have not required exhaust vents and other roof penetrations to be screened. We require mechanical units to be screened. I can point to any commercial building around here with unscreened vents, as it would not be feasible to screen them all.

Comm. Williams: I am less concerned about restroom vents as I am about smoker vents, which are much larger units. The fire marshal commented about the stack on the smoker vent being tall enough to meet code requirements, which could make it a bigger obstruction. Also, the fire marshal makes reference to a rooftop ladder for service purposes. Has that been discussed with the applicant?

Mr. Klein: The building department reviewed this and found that the vent height does meet the standard. They also did not feel the ladder would be necessary.

Comm. Williams: You referred to buffering along the property line. Is that mostly where the building itself was located, or does that extend along the parking lot as well?

Mr. Rexwinkle: It would extend the full length.

Comm. Williams: So they would have to add landscaping that is effective twelve months out of the year for screening purposes.

Mr. Rexwinkle: Correct.

Comm. Williams: You reference deliveries; does trash pickup fall in the same category?

Mr. Rexwinkle: I believe we would want it to fall in the same time frame as the deliveries, but I don't know when the trash pickup is scheduled.

Comm. Neff-Brain: What mechanicals are located there now? Is it on the east side, and, if more are being added, why? The post office had heating and air conditioning.

Mr. Rexwinkle: All the units they show on the plan are proposed. I'm not sure where the existing units are; the applicant may know.

Chair Rohlf: Is there anything else? Then we will hear from the applicant.

Applicant Presentation:

John Peterson, Polsinelli Shughart Law Firm appeared on behalf of the applicant and made the following comments:

Mr. Peterson: Also appearing with me this evening is Mr. Otto Westerfield, Director of Real Estate for Johnson County Management, LLC; Henry Klover with Klover Architects; Adam Gerber with Finkle Williams Architects and Scott O'Meara with Barbecue Ranchmart, LLC, working as a consultant. My presentation tonight will emphasize a couple points. The discussions, the due diligence and the review that have been conducted by your professional staff are extensive. The first item I would like to emphasize is that the process we are in is the process of seeking approval of a Final Plan that follows an approved Preliminary Plan for a retail operation and the underpinnings of that Preliminary Plan that are already codified under the ordinances of the City of Leawood is the zoning category for this building and shopping center. That zoning center allows the use of this building for a restaurant. We will be talking merely about building configurations, modifications and operational elements of the building to facilitate the use which is allowed under current ordinances in Leawood. Given the fact that this building has been around since 1961 and has witnessed a number of revisions to the LDO in regard to site design elements, we find ourselves in

impossible situations with the drive aisle, parking lot and the 60/40 as far as compliance. We have had very minor deviations in terms of laying out this plan, all of which were granted through the BZA, including street tree spacing, lighting for the parking lot and landscape enhancements.

We have reviewed the 27 stipulations, and we accept those as reasonable. I would like to talk specifically about a few that have been brought up this evening. In terms of noise, we have units that are generally in the same place as the previous units. In terms of cooling units for food, we are going from three to six, and we absolutely understand the noise standards for the city of 60 decibels at the property line. We understand we must require those who provide the equipment to guarantee it will not exceed that standard. We understand we have to do screening with masonry and that it will be monitored.

I want to talk a bit about the issue of odor. At the BZA, we had some members of the public who wished to discuss that, and though it was acknowledged that it wasn't particularly relevant, they were allowed the courtesy to discuss it. Again, we understand that is important. We take it seriously. Staff did a good job of articulating the type of mechanical equipment the restaurant will employ. We are very comfortable that odor will not be an issue with the operation of this restaurant. A staff said, this is not an outdoor barbecue pit with a smoker out back that uses wood as a source of heat. The tenant will use a cooker developed by a manufacturer known as Southern Pride, and the focus of the technology is to control emissions and produce good-tasting products. This is a gas-fired system; wood is a minor component to bring in flavor and not to generate heat. The emissions generated will go through a hood system in the kitchen, which is a filtering process required in all of Leawood. The cooking process has a re-circulating element, also. If we ever want to compare emissions or generation of objectionable odors, we may look to California because they are the worst. The type of equipment we are using is acceptable in the state of California, which allows nothing to be put in the atmosphere. Over and above that, there is a safety net in the hood system called a smog hog, which further reduces odor from the facility. We understand we will document all of this for the Governing Body. I know we do not have a foot candle reading to measure the odor, but I will throw out an anecdote. Oklahoma Joe's uses this same technology. Brobeck's uses this manufacturer's equipment, although it is not as enhanced as ours. I will tell you that you can walk through there during the prime cooking times and you can't smell the meat. Ours will have better capabilities than theirs.

We are pleased to work through these issues with staff. We understand that we have some very specific stipulations that we will adhere to. We'd be happy to answer any questions.

Comm. Neff-Brain: On weekends, you are planning to be open until midnight. Will the outdoor area be utilized until midnight?

Mr. Peterson: That is the plan.

Comm. Neff-Brain: Are you serving beer or alcoholic beverages outside?

Mr. Peterson: Yes.

Comm. Jackson: Would you put up a layout of the restaurant and show me the parameters of the patio and the distance to the closest homes?

Mr. Peterson: (*Places plan on the overhead.*) The restaurant area is here; the outdoor area is here, which, in essence, is the previous loading dock area with an extension to the north.

Comm. Jackson: How far is that to the property line to the east?

Mr. Peterson: I could have Henry measure that off, but I would guess that it is probably 75 feet.

Comm. Jackson: Something in the stipulations talked about where the TVs could be placed. Could you point out where that is?

Mr. Peterson: I don't know the final exact location, but what we acknowledge is the stipulation that TVs placed out there will only be visible to the patrons sitting at the tables or in the viewing area. There will be no visual impact from outside the patio.

Comm. Jackson: I'm confused about the patio. Is some of it inside the interior of the building as it sits today?

Mr. Peterson: (*Places plan on the overhead.*) If you ever went by in the morning with trucks delivering mail and setting up for daily activities, you would have seen a lot of activity back there. The patio is under the roof overhang. There is a step up, and the trucks were at the same level when they were unloading. That will be the patio area with a little extension into what is now the parking lot or drive aisle.

Comm. Jackson: The stipulation is requiring the TVs to be set within the inside part of the structure.

Mr. Peterson: Yes.

Comm. Ramsey: There is no requirement at this point to screen the open area. I'm looking at the diagram. At A1.01, it appears to me that the bulk of the patio is inside the walls, but then there is a portion of one table width that is outside. In the landscaping requirement, is there anything that requires that open area to be screened?

Mr. Rexwinkle: No, there are no specific requirements that patios have to be screened with landscaping. A 4-foot cedar plank fence is proposed that will match the doors and other parts of the building; beyond that would be the evergreen trees along the east property line.

Comm. Ramsey: There is nothing deadening the scent coming out of the patio into the open area.

Mr. Rexwinkle: There is nothing that would effectively do that, no.

Mr. Peterson: Again, acknowledge there is a fence there with a railing around the back of the building. We understand that the noise can only be 60 decibels at the property line.

Comm. Ramsey: I understand you understand that, but that doesn't mean that it isn't going to get noisy with a football game. That is my concern, and I would like to preempt that from the get-go.

Comm. Williams: When would trash pickup typically be done? Do you know yet?

Mr. Peterson: No, but we will work with staff to make sure the operation will be at an appropriate time, given the proximity to a residential neighborhood.

Comm. Williams: I think it might be appropriate to add a stipulation to include trash pickup. It has been an issue on other properties that are not as close to residential properties as this is.

Mr. Peterson: That is a good suggestion.

Mr. Rexwinkle: You could add that to Stipulation A that deals with deliveries.

Comm. Neff-Brain: Is it daily trash pickup for restaurants?

Mr. Peterson: I would be happy to check on that.

Chair Rohlf: Joe, did you put a memo on the dais about Stipulation 12 about the egress and that it is no longer necessary?

Mr. Rexwinkle: That is correct.

Chair Rohlf: Mr. Peterson, you acknowledge that as well?

Mr. Peterson: We do; we have reviewed the changes.

Comm. Pateidl: There has been representation that these cookers would generate roughly 200-225 pounds of meat and that fireplace logs would be used in terms of density smoke. Is that implying that the maximum capacity for this restaurant to prepare meat is one cycle of 225 pounds, or will it do five of those?

Mr. Peterson: I will check into that and provide the information later.

Chair Rohlf: This brings us to comments from the public. Typically, with a Final Plan, we do not have a Public Hearing, and this is not necessarily entitled such, but because you obviously have an interest in this and we have received a number of emails and letters regarding this, we will allow it. I would ask, is there anyone in the audience that is speaking on behalf of the residents with a planned presentation? Can you give me an approximate idea of how long the presentation is? Fifteen minutes; then we will start with the presentation, and hopefully, it will cover a lot of the citizen concerns. What we don't want to get into this evening is everyone coming forward with the same comments. I would like to show the same consideration to our other applicants on the agenda this evening to also be heard. Please keep in mind that we have received a number of emails, and we have had time to read all of those. With that, I would like to get started. We will start using a three-minute timer after the presentation. With that, I will open the portion of the meeting for public comment. I would also ask that we do not have people interrupting speakers or comments directed to the applicant or us out of order.

Public Comments:

Michael Zanders, 2802 West 93rd Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Zanders: Thank you for taking my thunder; you have exactly stipulated what I was going to suggest to you. I am president of Leawood Homes Association, which is an area consisting of 1,500 homes, bordered north on Somerset, east on State Line, south on 95th Street and west on Mission Road, including the neighbors immediately affected to the east. I have a few fellow board members joining me this evening. We are asking you to carefully consider your final decision for the use of this property. As you have suggested, there is an outpouring of interest surrounding this property, and the only thing we would ask as representatives of Leawood Homes Association is that you put yourselves in the neighbors' shoes, which I know you do on many occasions, as you are representing the citizens of Leawood in making sure we are the best little city in the Midwest. And as you said, Madame Rohlf, there are many people signed up to speak; however, in the spirit of time, I would like to defer those speakers to Seth Barry, who is a resident on Wenonga directly to the east, who will make a presentation on behalf of everyone signed up to speak. Thank you.

Seth Barry, 9419 Wenonga, Leawood, KS, appeared before the Planning Commission with a PowerPoint presentation and made the following comments:

Mr. Barry: Thank you for considering the public hearing from us; I know it is out of the norm. I would like to give you some of the concerns of the individuals and neighbors adjoining the old post office. We would like to express our concerns and give you a bit of flavor for the situation as we see it. The nearby residential homes were built in '58 and '59, well before the post office, which came in '61. The neighbors lived peacefully with the post office for the next 48 years. While the post office may have had mail trucks coming and going, it had operating hours of 8-5 Monday through Friday and Saturday 8-12, which everyone knows. It was not quite to the extent that the proposed restaurant and bar use that the applicant is bringing forward. During that time, Leawood has obviously grown, and additional ordinances and revisions to the LDO have come forward. That building was grandfathered in as a legal, non-conforming structure to the LDO in 2002, and the post office closed in September, 2009. While the applicant likes to point out that the 133 sq. ft. expansion is permissible because it does not violate the LDO and is a lawful, non-conforming structure, specifically stating that no reconstruction, enlargement or alteration to said structure shall occur that will increase their nonconformity, they are correct; we recognize that, on the west side, they are adding the vestibule. That does not increase that nonconformity or push it closer to the east property line. However, a more important piece for us is the sentence fragment in the LDO before that: ". . . may continue to exist, so long as they remain otherwise lawful." That is our concern. The use of the post office lasted until 2009. In the LDO, Section 16-4-8.2(C).2 – Use of Structures, one specific sentence stands out: "If any lawful, nonconforming use of a structure is discontinued for any reason for a period of 180 days, said structure shall only therefore be used in conformity with the terms of this ordinance." We see this structure as a legal, nonconforming structure. After the post office closed its doors in September of 2009, a 180-day grandfathered use clock started, and it expired in March of 2010. We feel that, because the use of a nonconforming structure is no longer lawful, per the LDO, Section 16-4-8.2(B) – Requirement that a nonconforming structure remain otherwise lawful – that the nonconforming structure is no longer lawful. We would ask that you enforce the LDO and reject this application.

There has also been concern about the use and change of use. In the packet that I provided, you will note two specific letters that are from the city to the applicant, mentioning that this is a change in use and that there is specifically a rationale for having a Preliminary Plan submitted. We have asked to see the Preliminary Plan and have not seen one for this. There is a significantly different proposed use in going with the barbecue restaurant and bar. Like I mentioned, going from 11:00 a.m. to 10:00 p.m. Sunday through Thursday and then Friday and Saturday, 11:00 a.m. to 12:00 a.m. is a significant change. There are no other barbecue restaurants in Leawood that have these late-night hours. Likewise, no other barbecue restaurant has both an indoor and outdoor bar. The bottom line here is this isn't so much a restaurant, in our eyes, as a bar. You heard Mr. Peterson talk a bit about the liquor use.

We have further concerns from us as far as inappropriate proposed use for this site. There is no other bar or restaurant in Leawood that has this short of a residential setback. Even if we compare that to Ranchmart restaurants, such as O'Neill's, we see that this 49-foot setback has almost an eight-fold difference. Let's look at barbecue restaurants. There are no other barbecue restaurants in Leawood with this short of a setback. Gates has a 400-foot setback from residential. Brobeck's Barbecue has a 1,000-foot setback. Even if we go outside of Leawood and look at Fiorella's Jack Stack on Metcalf, we find another 1,000-foot setback from residential. Why is it that we would allow this type of use so close to residential? There have been over 175 neighbors – citizens of Leawood – who have signed a petition adamantly opposed to this bar / barbecue restaurant use. Many of them are here. I would like for those who have signed to raise their hand or stand up. Do not make an exception to the rule in this case. Keep the current barbecue use setbacks consistent and reject this application.

They have also talked about a significantly increased footprint and that it only includes the vestibule. The loading dock does have a screen on the west side, but it appears that they are enclosing one more wall. In essence, you will have a three-sided room that does potentially add square footage. The patio extension also increases square footage. Why this hasn't triggered a Preliminary Plan and an Interact Meeting is a question that we would like answered. I would like to come back to the LDO, which states, "No lawful, nonconforming use of a structure shall be extended to occupy any land outside said structure." We

feel that, even if you could say that the restaurant were permitted inside the old post office, it should not be extended to include a patio. This increased footprint warranted a Preliminary Plan and an Interact Meeting. We have some significant concerns about the lack of process compliance in this application. Again, there was no Preliminary Plan, even after city planner, Joe Rexwinkle, asked for one on October 5th, 2011. The reason this is important is nothing to compare the Final Plan to. There is no Interact Meeting. For some of us, it was our first time actually observing something going on, and we didn't see a demolition permit. Where was the permit? Not only that, but then, as required by the LDO, they must send letters of notification. I seriously doubt that the applicant has the confirmation receipts for those notification letters because, out of the entire neighborhood, there are only three individuals that received one of those notifications for the BZA meeting. We would ask again that you enforce the laws of Leawood, the rules and ordinances and reject this application.

Finally, the piece that a lot of us are concerned about is the restaurant nuisances as have been brought up: the smoke, stench and odor, health and safety issues, trash, noise, hours and insufficient parking lot safety lighting. Let's start with the smoke. I find it interesting that the applicant steps up here and says there will not be much smoke put out from the smoker. The operator, through the Kansas City Star from the 16th of this month, says, "If you go to a barbecue restaurant and don't see a woodpile and smoke, there is a problem." That brings pause to the residents, when we hear a potential neighbor saying, "More smoke, the better," in essence. Many of these homes nearby have wood shake shingles. Burning wood with no screens to arrest to embers could cause something very similar to Shawnee this past weekend. Because there has been no significant smoke screen or scrubber determination, we think a continuance of this application is a necessary requirement. While there have been statements made at this meeting with regard to the improved and more sophisticated machinery, I would like to see it in writing before we move forward. To quote the owner of Brobecks, "No barbecue equipment is 100% smokeless." There are ways to measure the smoke and smell at the property line. It is called gas chromatography. It would be nice if you would include a requirement to take a sample before the restaurant gets going and then go back once they are going because there is a lot of concern about this specific issue. We also feel that storing wood onsite is not a good idea; it attracts animals and other pests. We would ask that the wood not be stored onsite.

Part of your remit is to also consider public health, safety and welfare. There has been no health department risk assessment in having this type of operation this close to residential. I think it would be informative to ask them their opinion because I see nothing in the proposed application that talks about the potential health risk issues. We know that from smoke, there can be fine particulates in the air that are detrimental to the lungs. There are two infants that live right across Wenonga. My wife and I have a baby on the way. Because of that, we are very concerned with this much potential smoke in the neighborhood. We also realize there is a potential for increased smell tolerance from long-term exposure to noxious odors. We think, because of this, there need to be some controls put on this.

Moving to trash and wood nuisances, there is the smell of the trash that concerns us because it attracts pests. More importantly, when we talk about Ranchmart and the compliance issue, I would enter these four pictures taken last night behind O'Neill's. (*Shows photos*) Here, we have dumpsters without lids and trash overflowing. Are we to assume that this will be expected at this new restaurant?

Finally, regarding the noise issue, we agree that this is an increase in the number of HVAC units, as well as the kitchen condensers. We are concerned that the 4-foot screen is not appropriate, especially given the limited setback. Not only that, but with the structure having a brick face, it will only reflect sound, something that probably isn't measured and reported in their manuals that they have for these. Likewise, the heavy duty kitchen exhaust fans, we think, have the potential to produce a lot of noise. We would ask that those be screened as well. Part of our concern with that outdoor patio is the bar, the TV and, most likely, speakers. It will not be completely quiet even without a music system. That extends out beyond the trash enclosure, and it needs to be screened because, right now, it is completely unscreened. We think there is a potential here for outdoor music and speakers. We would ask that the code enforcement officers be diligent and ensure this does not happen. We are also concerned that there are no late-night patio restrictions. This is a residential neighborhood. There are a number of elderly folks, a number of whom are here tonight, and

this property backs up to their rear windows. Do you really want neighbors calling and complaining about the noise that late at night? Again, please protect our health and welfare and reject this application.

In conclusion, in light of the LDO abandonment, the inappropriate proposed use, the lack of process compliance and the numerous nuisances, we would ask that you reject this application. I appreciate your time and consideration. I do have one more thing. We all do shop at Ranchmart; it is not that we are some foreign entity that comes in, shops there and leaves. We want to see Ranchmart succeed. We want to see something succeed in the old post office building; we just don't want it to occur at the cost of the residential neighborhood. Thank you.

Chair Rohlf: I would just like to make sure there is no one else out there with any additional comments, something that Mr. Barry did not include. I think it was a fairly thorough report, but I would like to make sure. We will hear from you, sir.

Kerry Patrick, 3408 West 93rd Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Patrick: I contacted various members of the Leawood city staff and the city attorney's office. I also contacted Councilman Osman because my information requests were largely not fulfilled. I can't have a prepared statement tonight because the information was not provided to me. One question I had was that I was told by the city attorney, Ms. Bennett, that when this land was incorporated into the City of Leawood from Overland Park, the incorporating resolution stated that the zoning regulations as they existed in Overland Park would be those followed in the Ranchmart North Shopping Center. This was done sometime in the 1960's. In the 1960's, we did not have liquor by the drink in Kansas. She indicated she would do more research on the subject and get back to me. If that is the case, with liquor by the drink being illegal, it would be impossible for a restaurant in the old post office to sell liquor. It is my understanding that they do intend to sell liquor.

Secondly, I ask staff to look at laws in the State of Kansas. There are 1,001 statutes dealing with cemeteries. I have practiced law in the state for 18 ½ years before I got tired of it and no longer practice. They admitted that no one had looked at the cemetery laws in the state of Kansas to see if they were selling liquor or if a retail establishment that close to a cemetery was permitted by state statute. I've not gotten an answer back on that. If you drive around northeast Johnson County, you will fail to see one commercial establishment that sells food 25 or so feet from any building, but more importantly, that close to a cemetery. That issue had not been studied or resolved.

Last, I was told that Gates Barbecue had been "grandfathered in" under a smoke ordinance. I asked to be sent a copy of that to see what the new smoke ordinance rules were for the City of Leawood and how they apply to a restaurant within 20 feet of residential housing. I did not receive from the city staff any such information. Admittedly, I stopped at the 135th Street Corridor, but I could not find a commercial restaurant in the city limit that is that close to any kind of single residential neighborhood. This would be a first as far as I know. I haven't measured everything in the city. These three important questions were asked, and I talked to Councilman Osman about them. He is aware that the information requests were not fulfilled. He has had some personal issues he has had to deal with, and I have told him to just contact them and get back to them, and they have yet to get back to me. Those are important questions.

It was mentioned that there are no uniform odor zoning ordinance in the City of Leawood because Ms. Bennett told me that Gates was grandfathered in. I wondered what it was grandfathered in to, and she indicated that someone underneath her would provide that information to me. That information has never been provided. If you look at the information that has been provided by the people who want to build the restaurant here, there is no discussion of that. I think before this is approved, we need to go back and look at that annexing ordinance and, secondly, have a continuance or a moratorium, so to speak, not for an unreasonable period of time, to establish an odor ordinance to then be taken up by the City Council on restaurants within 25-100 feet of single-family residences because as far as it was indicated to me by staff, there is none, other than the situation with Gates Barbecue at 105th and State Line Road. Thank you.

Glen Darrel, 8900 Pawnee Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Darrel: I am 100% for free enterprise. There have been thousands of dollars spent on both sides here of the aisle, including man hours and dollars. Would you please not ever accept another application for a restaurant in this location if, in fact, this fails? I think the message is there. IHOP was turned down, and now all these people have spent all this money and all this time, and is it going to be for naught? Thank you.

Chair Rohlf: Thank you. Mr. Peterson, is there anything you could add that is different from your original presentation?

Mr. Peterson: We really didn't get into the legal analysis of the nonconforming use and the premise upon which this application appears before you. I will simply say this because I'm sure you don't want me to go on in terms of my legal opinions: you have a very competent office of the city attorney and assistant city attorney, and I do not hesitate to say that, without a doubt, they would not bring you an application that they had not reviewed, duly considered and concluded that the legal underpinnings of the process, the form in which the request was presented to you is on sound legal footing. You do not need to rely on my opinion in that regard. Having said that, I will tell you that, in terms of those fundamentals, I concur wholeheartedly and feel quite confident that the analysis that has been made by your own legal staff is sound. These are issues that can be raised, and if I happen to be wrong and your city attorney and legal staff are wrong, it is our risk because we'll get down the road and find out we don't have the right to do it. This is not the appropriate forum to debate those matters. At least part of the neighborhood groups know it because I think everyone knows that they filed a lawsuit raising all of these issues in district court, and it will run its course. It does not concern us one iota. We are ready to move forward, seek your approval and begin to make investments in the City of Leawood. I would just ask you, with the utmost respect to the opinions generated for the purpose of this consideration, to discard those arguments because there is another forum for those to be considered. I am sure that process will move forward. I will emphasize that all of the potential ramifications have been discussed. Through the work of your staff and legal department, the historic standards are concisely addressed and set forth in those 27 stipulations. We acknowledge those and know we have to adhere to those. Some of those will require even more information presented to the Governing Body before we receive our building permits.

Regarding the cookers and how much meat can be cooked, it is done in 8-hour cycles. I have confirmed that there will be no more than two sticks of wood per 8-hour cycle. The number of these cycles will be determined by how busy the restaurant is. If business is good, they could be cooking 24/7. Given the fact that we know we are meeting the standard where odor will not have an impact on the neighborhood, it should not make a difference. It is doubtful it will happen all the time, but it could. With that, if there are no other questions, I will close and respectfully ask for you to recommend approval and move us to the Governing Body for their consideration.

Chair Rohlf: Does anyone have any other questions of the applicant or staff?

Comm. Williams: This is more for staff. IHOP was brought up in some of the conversations tonight. Could you fill us in briefly on what happened with IHOP?

Mr. Klein: This happened in 2009, I believe. The applicant made an application for an IHOP at the location. They were proposing to enclose the loading dock on the north side. That would require the building to increase in square footage by more than 5%. Per the LDO, that did require a Preliminary Plan because the Final Plan would not have been in substantial compliance with the Preliminary Plan. As part of the Preliminary Plan, they were required to notify within 200 feet of the property and also hold an Interact Meeting. The applicant did set up the Interact Meeting, and the following day, I received a phone call

indicating they would withdraw their application. I then asked for them to provide us a letter stating such, and they provided the letter. That is what I know.

Comm. Williams: They were just enclosing the dock?

Mr. Klein: They were enclosing the dock, and whenever the size of the building is increased by more than 5%, it does trigger the Preliminary Plan process. With regard to outdoor space and patios, they have never been considered to be an enclosure or enlargement of the building. We have a number of patios throughout the city, and none are considered to be an expansion.

Comm. Williams: But all of the examples you cite are not covered with a roof. A substantial portion of this outdoor patio is part of the building's enclosure with the roof cover.

Mr. Klein: We have never considered areas covered by the roof to be part of the structure unless they are enclosed on all the sides. That is true on office buildings and retail buildings as well.

Comm. Williams: We discussed the noise of the condensing units and the walls. Is the 4-foot height considered to be the standard approach for the 125-foot distance, or should we be asking for more than a 4-foot wall around these units?

Mr. Klein: We would want them screened to whatever their height is in order to create the sound barrier. We also are asking that it be accented with landscaping as well. Someone mentioned the city not taking any more applications for restaurants on this piece of property, and I want to make sure everyone understands that the city does not have the ability to pick and choose which applications it will take forward. The applicants have the ability to make the application; the city has the responsibility to take the applications forward and review them according to the ordinances of the city, and that is what we have tried to do. We would like to mitigate any kind of impacts with regard to this as well, and that is part of the reason we have the stipulations we do. We are certainly open to modifying those to try to further that goal.

Comm. Williams: A comment was raised regarding exhaust fans from the roof. I am assuming that is included in the 60 decibels at the property line.

Mr. Klein: It is, and again, that is a citywide standard. It is the same rule that is applied every other place. Just so everybody is aware, Article 2 says, "No use shall create noise in excess of that of normal daily traffic as measured at the lot lines of the premises. In no case shall the noise level exceed 60 decibels at repeated intervals for a sustained length of time measured at any point along the property line." This has been in effect since the ordinance was adopted in 2002, and it has been applied in several instances.

Comm. Williams: I am assuming that code enforcement officers work a typical 8-5 schedule, so would they be working in the evenings to measure sound levels?

Mr. Klein: Typically, they work 8-5; however, there have been more than a few occasions with an issue when they will stay late and measure where they are required to measure. They have been out with light meters to measure foot candles at night after working hours and to measure noise. They will perform whatever analysis they need to, and if it means staying after, they will.

Comm. Williams: With a good portion of this particular operation consisting of a bar in addition to the restaurant, does it change its approved use within the development?

Mr. Klein: No, and we have a lot of restaurants that serve alcohol. Mestizo's has an outdoor patio on top. The Bristol serves alcohol on its patio. I imagine Talk of the Town does, too. A comment was made that they

are not this close to a single-family residential, and they may be correct; however, the ordinance really does not address that situation. Prior to 2002, there was no residential setback; it was added with the current ordinance. Previously, there was just a requirement that allowed rezoning to SD-CR [Planned General Retail] with a 40-foot building setback and a 25-foot parking setback. With this current ordinance is when the residential setbacks came into effect.

Comm. Pateidl: I am inclined to agree with Mr. Peterson that this is not the forum for us to evaluate the legal questions that have been raised by the residents, but I am a bit concerned about the one allegation that the process for application and Interact Meetings related to this project were not carried out appropriately. That is a very important issue and is an allegation that, quite frankly, the planning department didn't do its job. What is your opinion with respect to that allegation?

Mr. Klein: The planning department has to evaluate each of these applications according to the ordinances of the City of Leawood and also some state statutes. It very clearly sets out when the public process is triggered and when it is not. We have to walk a fine line as far as treating the applicants equally. This does follow all the requirements of meeting a Final Site Plan, which does not require a Public Hearing or an Interact Meeting. Staff did what the ordinance called for. It is good to have a discussion; it behooves everybody. However, as far as following the ordinances and our requirement to have equal protection among all applicants and trying to treat them all equally according to the ordinances we have, the planning staff acted accordingly.

Comm. Pateidl: So your advice to this commission is that this final application is appropriate and that it has followed the guidelines as far as the LDO is concerned and that you disagree with their allegation with respect to process compliance.

Mr. Klein: Yes, this is the process we would have followed - regardless of where this was located - according to the ordinances.

Comm. Strauss: I would like a clarification from the assistant city attorney on the presentation that was made on the use of abandonment. They highlighted that, "If any lawful, nonconforming use of a structure is discontinued for any reason for a period of 180 days, said structure may only thereafter be used in conformity with the terms of the ordinance." Can you clarify that?

Ms. Shearer: Yes, that speaks to uses and not structures in and of themselves. For instance, a dry cleaner is not allowed in a business park, so if a dry cleaner is in a business park and goes out of business for more than 180 days, it may not reopen as a dry cleaner. In both cases of the post office and the restaurant, they are allowed uses in SD-CR. That rule would not apply in this case.

Comm. Ramsey: It is a zoning issue and not a business issue?

Ms. Shearer: It has to do with what businesses are allowed in the zoning districts. A restaurant is allowed in SD-CR.

Comm. Elkins: I have one question for Mr. Peterson. Given the level of the neighbors' opposition to your clients' proposed use of the property, why would your client want to go forward?

Mr. Peterson: I want to choose my words carefully here. I've been doing this for 25 years, and I know specific situations come forward, and they garner a lot of attention. I can only speak for myself, and I think the operator of the shopping center would agree that once the operation takes place, with the rules, regulations, specifications and oversight that continues through the operations, it is almost never anywhere near the negative impact that was perceived or suggested. Also, it is a wonderful community. I've been

around here since 1952. It is a great place where people like to have a nice place to dine and not crazy sports bars. They think it is a great market area. This will bring some vitality to the shopping center, and it works. Nobody is, in any way, trying to irritate the neighbors. We think that, once we get past this, we will show we are going to be good parts of the community. Some may hold a grudge because we are there and won't eat there. I think that is a risk they are willing to take from a business perspective. They factored all that in, and they are confident they can earn back a fair share of those who may be concerned now.

Chair Rohlf: Then this takes us up to our final discussion, leading to a motion.

Comm. Jackson: Mr. Peterson, I agree that usually, when there is a lot of community concern, it ends up that whatever is eventually built is appreciated by the community and it works out well, but generally, we see a little more give and take between what is going in and what was on the initial plan. For instance, I believe the Price Chopper at 135th and Mission had a very nice buffer zone between the Price Chopper and the single-family homes. Currently, the LDO has a 125-foot buffer. I think it is only 50 from the property line to the building and maybe 65 to the patio. That is really not enough for a single-family home. Even at Park Place, we have a mandatory 75 feet to residential, and those are multi-family homes. They are people who want to be in the vibrant area. I will not be supporting this.

Comm. Neff-Brain: I appreciate the concerns of the neighbors, but I feel that we would not be on sound legal ground if we defeated this proposal, and I don't want to expose the entire City of Leawood to the cost of a legal battle that, I personally feel, would come to defeat. I will be supporting the proposal.

Comm. Williams: There are a lot of issues, but I will try to keep this brief. I agree that this is not the forum to get into a legal analysis of all the comments that were raised tonight, as this is a planning body. I am hearing from staff that, in essence, our hands are tied in terms of this restaurant being allowed in this particular location. I guess my concern is that maybe, within the district, it is allowed, but I think we do have to take into account some good planning principles, which we have in the current LDO, and give some consideration to what is a good mix, particularly for something that is this close to a single-family residential neighborhood. If the applicant can, indeed, live up to the noise and smoke as they say they will, this could be a successful, good neighbor. Certainly, it would be an improvement over what is there currently in terms of a vacant property. But I do have a very strong concern that a restaurant this close to the residential property is not appropriate, as something else that is less an impact on the adjacent neighbors would be. I have heard comments about a professional building or something of that nature that has more of a daytime use with lower traffic. We may have our hands tied, but I can't necessarily support the application.

Comm. Jackson: Just because something strictly follows the LDO doesn't mean that we need to approve it. This project is increasing a lot of nighttime use, which will impact neighbors directly, and they're very close to this. There will be lights from cars, noise from the bar and noise from the cars until midnight. You have residents who don't have very deep backyards that back up to it. They want to be able to enjoy their backyards, and this will infringe on that. I don't think just because it does or does not strictly follow the LDO, we can't vote against it.

Comm. Strauss: In the comments that have been presented by the homeowners association, some good points have been raised that need to be investigated further, such as the smoke ordinance. I didn't think there was enough specificity in the stipulations on how that would be measured. Maybe that could be looked at in more detail. The cemetery nearby is an interesting point. In my mind, there are enough unresolved questions with this application that I need to think through.

Comm. Pateidl: I did take the time to drive by the site this afternoon. It is interesting that there are trees to the east of the location, but I also noted a berm that abuts the east boundary. Driving along the driveway, about all you can see to the south is the roofline of the houses. I think, given some of the measures for the

landscaping with berms and absorption of sound, there is some long-term merit to recommendations of the plan as far as that is concerned. However, having said that, it is very obvious that the residents of the area, as they should be, are ultra-concerned about the odor and noise generated by this facility. I find it disturbing that the applicant was not sensitive enough to come with specific engineering recommendations, selection of equipment and reports to provide this commission with relative confidence that they can achieve the requirements that the ordinance provides. Many of the 27 stipulations are because the application was incomplete in the first place, which is not good, either. I do believe that this commission has a responsibility to filter the applications, just as the applicant has the responsibility to filter the air. I don't believe that moving this on to the Governing Body with the ambiguity that Mr. Strauss alluded to and that is included in the different stipulations contained in this application would be appropriate. Therefore, I would perhaps suggest a continuance, and I will also say that, were there to be a greater level of confidence that both the noise and smoke measures were adequately taken care of, I, for one, would approve a restaurant application in this location, including this particular applicant, but not without some good, documented evidence.

Mr. Peterson: Staff directed us to have this information. I have information here to prepare to go to the Governing Body, and that is with no disrespect.

Chair Rohlf: I was going to follow up with legal on that. I think that's probably a good point. How much documentation are you requiring with these stipulations? I think there are a couple specifically talking about odor and noise. Would you be asking for complete documentation? What would they need to provide in addition to what we've seen tonight before the Governing Body heard this? Do we think there is a way to quantify any of this?

Mr. Klein: We expect them to come back with specific equipment they have proposed. Hopefully, specifications would be included with that. Additionally, we could check with other barbecue restaurants to see what their experiences were. Somebody mentioned gas spectrometers, and they measure parts per million. I don't know if that is appropriate or not. I agree that an objective standard is easier; it is just that I am not aware of anything at this time. We are looking for additional information from the applicant prior to the application being approved. That is why we were asking for it before the Governing Body meeting.

Comm. Rohlf: All right; does anyone else have comments?

Comm. Ramsey: I am concerned, as well, about the transitional aspects, but more importantly, I don't understand what good it does to pass this on to City Council if the information is not ready at this point because I share the same concerns everyone else does: what is the requirement, and in fairness to the applicant, to what standard are they going to be held accountable? Until we know that, how can we pass this? Council will ask the same question. Until this can be brought forward to us in terms of the staff being able to work with the applicant and determine what those requirements are and what the definitive proof is, I have trouble passing this on.

Chair Rohlf: On behalf of the applicant, Mr. Peterson, would a continuance allow you to bring the information to us in a way that would help answer some of these questions? Is there documentation out there that you think would help?

Mr. Peterson: I've got pages of specifications here that we are prepared to have reviewed by the city. We have to go through a process and have your recommendation and approval of the Governing Body to do business in the City of Leawood. I can stand up here and talk about how it's an allowed use, but I have to have a Final Plan and a Building Permit. I have to prove it. You have standards. Commissioner, you talked about give and take. I gave all. I've met every single standard under the code of the City of Leawood, per the opinion of your professional staff. You set the standard that must be met. Then we have a technical review of specifications of how they will get there that you, by adopting the stipulations as drafted by your

staff, say, "Yes, City Council, our recommendation is based on the time element and money taken to prove the specifications." You are not getting the wool pulled over your eyes; you are saying that it has to be proved. Your recommendation is only good if all that documentation is done. Time is money for us. To continue this would prevent the opportunity to continue developing the site and get open for business. These are the standards, and you would then trust the Governing Body to have the time and energy of us and your staff to prove it with specifications. I have reams of specifications here today. We got the Staff Report that said to have them ready for Governing Body. It seemed reasonable. It is very close to the same process as many other applications I have taken through this process. I understand you want to make sure we can do it and that we have to prove we can do it. What I'm saying is I would ask you to consider that we accept the challenge to meet the standards of the City of Leawood. The process proposed by your city staff is a sound one that is in conformance with your patterns and practices. I would respectfully ask that we follow that process. We can keep this moving and not belabor this. The neighbors will have an opportunity to be at Council. We will try to work on issues we hear today. We are not out here to make people mad; we are out here to bring a business to Leawood and do the best we can to show them we're going to be good neighbors. I would ask that the protections inherent in the Staff Report be considered and we move forward to the Governing Body. Thank you.

Chair Rohlf: From listening to the comments spoken by the commissioners who have spoken on this, it appears that, even though Mr. Peterson is probably correct in his interpretation of what our staff report says, we are headed to a motion to deny. I don't know if anyone is in a position to make that motion.

A motion to recommend denial of CASE 109-11 – RANCHMART NORTH – SLAB & PICKLE – Request for approval of a Final Plan, located north of 95th Street and east of Mission Road – was made by Jackson; seconded by Williams. Motion passed with a vote of 4-3. For: Pateidl, Jackson, Williams and Strauss. Opposed: Neff-Brain, Elkins and Ramsey.

CASE 09-12 – T-MOBILE ANTENNAS – Request for approval of a Special Use Permit for the continued use of existing wireless antennas on an existing communications tower, located at 9615 / 9617 Lee Boulevard.
PUBLIC HEARING

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 09-12 – T-Mobile Antennae – Request for approval of a Special Use Permit for the continued use of existing wireless antennas on an existing communications tower which is currently owned by the city and located on the premises of the old City Hall. A Special Use Permit was originally approved for the antennas in 2002 for a period of five years and renewed for an additional five years on November 19, 2007, subject to the stipulation that the antennas be replaced with flush-mounted antennas which comply with the ordinance. This was done, and the current antennas do comply with the requirements of the LDO. The current SUP expires on November 19, 2012. The applicant is seeking renewal of the SUP and has told the city it does not wish to extend its lease with the city beyond October 21, 2013. Consequently, staff is recommending that this SUP expire at that time. No modifications to the existing antennas or associated equipment are proposed, and staff is recommending approval, subject to the stipulations in the report.

Chair Rohlf: Did we determine who the other providers are on the pole?

Mr. Rexwinkle: The other provider is Verizon.

Applicant Presentation:

Justin Anderson, 9225 Indian Creek Parkway, Overland Park, KS, with SSC appeared on behalf of the applicant and made the following presentation:

Mr. Anderson: As you have heard from staff, this is simply a renewal for an SUP that has been in place for quite some time. It will expire next year in line with Verizon's monopole. The existing monopole and ground space are city owned. There are no changes before you; we are simply asking to extend this for an extra year.

Chair Rohlf: Questions for the applicant? Thank you. This case does require a Public Hearing. Is there anyone in the audience that would like to speak about this case?

PUBLIC HEARING:

Bob Witcher, 9624 Lee Boulevard, Leawood, KS, appeared before the Planning Commission and made the following presentation:

Mr. Witcher: I live across from the police and fire complex. I am speaking entirely for myself. I don't have any objection to the extension of the lease. I was present in 2002 when they wanted to move the tower and increase the height by 50 feet. I just want to make sure there are no modifications and no change. Since there are none, I have no issues at all.

As no one else was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Williams. Motion passed with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

Chair Rohlf: That takes us up to comments, followed by a motion.

A motion to recommend approval of CASE 09-12 – T-MOBILE ANTENNA – Request for approval of a Special Use Permit for the continued use of existing wireless antennas on an existing tower, located at 9615 / 9617 Lee Boulevard, with all Staff Stipulations – was made by Williams; seconded by Neff-Brain. Motion passed with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

CASE 11-12 – PARK PLACE – BUILDING M (AMC), PARKING GARAGE C & PARK PLACE 9TH PLAT – Request for approval of a Final Plat and Final Plan, located south of Town Center Drive and east of Nall Avenue.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is Case 11-12 – Request for approval of a Final Plat and Plan for Building M and Parking Garage C at Park Place. The site of the proposed building and garage is immediately southeast of the intersection of Town Center Drive and Nall Avenue. The Preliminary Plan associated with this request was approved by the Governing Body on January 3rd. The proposed Final Plan is similar in layout to the approved Preliminary Plan, with the proposed Building M located parallel to Town Center Drive and Garage C parallel to Nall Avenue. The floor area and height of the buildings remain the same, and the height of the garage remains the same; however, the number of parking spaces proposed within the garage has increased from 533 to 560. Additional modifications include the removal of a second delivery and service area south of the garage. This area has been replaced with a proposed trash enclosure. The Final Plan also shows that the storm water infiltration trench that serves the garage has been moved to the north side of the garage immediately south or at the base of a proposed retaining wall. In response to concerns expressed by staff at the time of Preliminary Site

Plan by the Planning Commission and Governing Body, the applicant has modified the courtyard to remove the seat wall surrounding the proposed tree in the center of the courtyard and has also provided differentiation to pavement texture and color. The elevations of the buildings have also been revised. As with the Preliminary Plan, the Final Plan proposes clear curtain wall glass as the primary exterior element on Building M but has replaced the proposed aluminum panels with painted ornamental perforated metal panels. The exterior of the garage has been modified significantly. The Final Plan proposes a mixture of Brazilian hardwood and green shaded glass elements as exterior materials. The landscaping is similar to that proposed with the Preliminary Plan with the double row of street trees and shrubs along both Nall Avenue and Town Center Drive. Given the change in grade between the Nall Avenue and Town Center Drive street levels and the site, the retaining walls proposed along the majority of both of these street frontages. Atop this retaining wall is proposed a 42-inch fence. The side of the fence facing the street will be lined with a row of shrubs that will help soften the appearance. In response to concerns raised at the time of Preliminary Plan, the applicant has also revised the Final Plan and has proposed a separation beside the sidewalk along Ash Street and has put the street trees between the sidewalk and street along the corridor. The infiltration trench proposed north of the garage will be lined with river cobble and will not be planted, given its location at the base of a retaining wall; it will be a shaded area. A rain garden is proposed north of Building M and will be planted with a variety of shrubs. The Final Plat proposes three lots in one tract. These lots surround each of the three proposed buildings, including the future hotel. The tract surrounds the proposed courtyard. The property lines set by the proposed plat result in building setbacks that are met with the proposed buildings. During Preliminary Plan consideration, staff raised a number of concerns regarding the number of proposed parking spaces in relation to the minimum required by ordinance. The ordinance requires either compliance with the minimum parking requirement set forth or an acceptance of a parking demand study. The applicant has contracted with a consultant who prepared the parking demand study. In response to this, the city contracted with a different consultant to analyze the applicant study and prepare an alternative analysis. A copy of both of these studies has been attached and included with your packet. One of the concerns raised by the city's consultant is the restaurant use generates greater parking demand than other retail uses. Staff shares in this concern and recommends that the minimum number of spaces required by ordinance be provided. Staff also remains concerned with the appearance of the proposed garage. Though the materials proposed now complement the building better than those previously proposed, staff's concern is that the materials are not blended across the extent of the façade, particularly on the west side, which faces the prominent intersection of Nall and Town Center Drive. Staff is also concerned that there is not a mixture on the north and south elevations, which are currently proposed to be entirely wood. Staff is recommending approval of this case, subject to the stipulations provided in the report, and I'm happy to answer any questions.

Chair Rohlf: I know you have outlined a couple of the things we are concerned about, and the applicant may have additional information on the parking. It seems to me we had one on the traffic flow into the garage on the Nall side.

Mr. Ley: The applicant modified the plan, and they are proposing to convert 115th Terrace, which is currently a right-in, right-out to Nall, to a right-in only. There is no exiting traffic from Park Place to Nall. Then they are going to have a right-in, right-out into the parking garage.

Chair Rohlf: You feel that is satisfactory?

Mr. Ley: Yes, we had our traffic consultants review it, and they felt it was an acceptable solution.

Chair Rohlf: Does anyone else have questions for staff?

Comm. Williams: On the parking garage materials, in our last meeting, you raised questions on the durability of the aluminum members that they were showing at the time. That was painted aluminum. You have no concerns with the wood that is being proposed here, even though it is Brazilian hardwood?

Mr. Rexwinkle: Staff has not expressed any concerns over the durability of that material.

Comm. Williams: Have there been discussions about the changes that may take place with the finish of the wood over time? If so, is that an acceptable change? Wood is not going to stay the same.

Mr. Rexwinkle: I have not been party to any discussion like that. It might be a good question to ask the applicant.

Comm. Williams: Though the hotel is not part of this application, from a Preliminary Plot Plan perspective, what was the anticipated or allowed height for the hotel, relative to the garage?

Mr. Rexwinkle: It would be taller than the garage. I believe it is eight levels.

Comm. Williams: If and when the hotel goes in, we can expect a substantial part of the south elevation on that garage to be limited public view.

Mr. Rexwinkle: That is true.

Comm. Pateidl: The one question I have deals with minimum parking requirements and the continuance of development inside Park Place. I don't see this commission coming off with the minimum requirement that has been established. What do you see as alternatives to add additional parking elsewhere as this development continues, or is this our only opportunity to address that situation? Is it now, or is it never?

Mr. Rexwinkle: Basically, as far as the parking that is available right now, this is the best opportunity for this particular location. In speaking with the developer and also what was approved, Parking Garage B, which is located along 117th Street, does have the ability to have some additional levels added to it. Beyond that, the only other parking that has the opportunity to be provided is with future commercial development within the development. There are not many buildings currently shown on the master plan for commercial development; there are only a few left. Beyond that, there would need to be a change to the master plan. At this point, this parking garage is probably the primary part that could be added. The only other one I see that is feasible right now is Parking Garage B, with the exception of maybe some additional parking around a couple of the future commercial buildings.

Comm. Pateidl: To accommodate the 159 spaces they are short, would it require one or two additional floors to this parking garage?

Mr. Klein: It would require at least 1 ½, so if they are doing full levels at a time, then probably 2. Each covers about 100 parking spaces.

Comm. Pateidl: A building of that height would not be in conflict with any of our ordinances?

Mr. Klein: No, the MX-D district has a maximum height limit of 90 feet. It doesn't distinguish if it's a hotel or a parking garage. Obviously, we would probably want the parking garages to be lower than that.

Comm. Neff-Brain: Continuing on that line of thinking, there is additional commercial to go in, but there aren't additional parking garages to go in, are there?

Mr. Klein: That is correct. When I was referring to that, it was Building F2 and J that have a little additional parking, and those were primarily for the tenants of the building. Also, there may be opportunity for some parallel parking spaces in front or something to that effect, but nothing substantial.

Comm. Neff-Brain: I would strongly recommend that we require this to go higher. I was there Saturday night, and I was on the top level of the newest parking garage. That was 6:45 in the evening. There is not enough parking, at least at peak times.

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

Applicant Presentation:

Jeffery Alpert, Park Place Developers, 11551 Ash Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Alpert: With me this evening are my partner Melanie Mann; from 360 Architects: Erica Moody, Trevor Hoiland and Evan Fox; Judd Claussen from PEI Engineering; Glen Kurtz from Lanier Parking Solutions, who did our parking study. Chris Dring is here with Young & Dring Landscaping. Gary Schuberth is here with OPUS Design Build. With Caymus Real Estate Advisors, we have Rich Muller. From AMC, we have William Slusher, the architect in charge for this project and Mark McDonald, who is the VP of Development for AMC. We'd like to have Trevor Hoiland walk you through the application for the building and parking garage with a particular focus on the exteriors. You saw an early version at our last meeting, and there were valuable comments that we heard. We like to believe that we have responded accordingly. Then, I will come back and talk about the only stipulation that deserves significant discussion, which is the issue of the parking.

Trevor Hoiland, 360 Architects, appeared before the Planning Commission with a computer presentation and made the following comments:

Mr. Hoiland: We were fortunate enough to get your feedback at the preliminary review, which helped us redefine where we went with the parking garage. What I would like to show you is a presentation similar to what was presented back at Preliminary as well as what was submitted for our Final Plan. (*Shows computer presentation*) It starts with the street view that we discussed last time and what really drove the design of the building and tied it to Park Place as it moves from the roundabout to the east of the hotel toward Building M. Obviously, we are not showing any hotel on the site now. This flies around slowly in a loop around both the building and the garage. For the building façade, we made modifications to the panels on the garage. There was discussion about aluminum siding, and we provided more input and definition as to what that panel really is. Then the glazing is exactly what we showed at Preliminary on the office building. You can see the double rows of trees on the north side. The painted aluminum tubes on the garage were not quite as liked as the building, so we looked at tying the garage and the office building more together. Originally, we wanted the garage to stand alone and be the third piece between the hotel and the office building. We have the detail of all the terraces as well as the front entry of the Brazilian hardwood. We looked at using that material as well as glass, which matches the rest of the building. On the west façade, you'll see three different tones of glass that are on the finish boards we submitted. You will see the hardwood we are proposing on the parking garage itself as well as the building. That wood is a very stable wood. It doesn't twist, warp or absorb moisture. As a matter of fact, it is so hard and dense that you have to use diamond carbide blades to cut it and pre-drill it. The finish we have on the wood for the building as well as for the garage is an oiled finish, which is on the sample. The wood, if it's not oiled periodically, will silver out like a teakwood will into a nice silver patina. It depends on what side the sun is shining on the most. We put more glass on the west side to help with that situation. We kept the wood to create an entry off Nall for vehicular entry. The north and south sides of the garage are all wood and are 25% open to allow fresh air to move through the garage with the vertical wood slats. The south façade will be fairly hidden from view once the hotel is in place, as was mentioned. The north façade really is a backdrop on that corner of Nall and Town

Center Drive. There are seven white pines planted in front of that, and they tend to grow pretty wide and vertical as well. We wanted that to be more of a backdrop, which is similar to where we were originally when we showed you our preliminary design on the garage. On the courtyard side that faces the courtyard of the parking garage, we re-introduced the glazing that we have on the west side. That is where we have our vertical circulation, stair towers and elevators. We wanted to add some color into the auto court of the backdrop with the colored glass. In the wintertime when the tree loses its leaves, the colors will still be there. We felt it was still important to blend the garage with the landscape. I think that concludes my discussion on the building and the garage.

Chair Rohlf: One of the staff comments is to add some additional glass on the north and south elevations. What do you think about that?

Mr. Hoiland: We really kept the facades somewhat different around the garage. We liked the notion of the north and south ends being wood bookends that hold the garage together. We had more of the glazing on the west side, like I mentioned, to allow more daylight and color into the garage. The glazing on the east side is more of a focal point to make reference to the entry and the backdrop for AMC as well. That is why we left the north and south ends as bookends: to create zones along that long façade, instead of making it wrap all the way around that long garage.

Chair Rohlf: Do you have experience with this hardwood on other buildings here?

Mr. Hoiland: Not in Leawood, but I don't know if any of you are familiar with Heartland Community Church in Olathe. It was the old Rhodes Furniture Store. It uses the same hardwood on the outside. The façade that faces west was oiled this fall, so it has gone through two seasons. They wanted to keep it consistent with the wood inside the building. This wood is used downtown on one of the River Market condos as well just behind the River Market. I feel confident, if the intent is to keep it the brownish tone, oiling it periodically will keep the luster that it has.

Chair Rohlf: If you don't oil it –

Mr. Holland: It will silver out like a beautiful teakwood.

Chair Rohlf: But it doesn't split?

Mr. Hoiland: No.

Comm. Neff-Brain: Is there any problem with wood rot or anything like that?

Mr. Hoiland: No, this wood could be underwater; it is that dense.

Comm. Jackson: How about staff's comments to adding a little more distinction to the West Elevation?

Mr. Hoiland: One of the things that we discussed as a design team was bringing some of the wood and integrating it with the glass on the west side. There is a portion on the entry that moves north to the bookend. We are not opposed to introducing more wood and breaking down the long façade of glass. I think we have purposely tried to hold the garage as low as we can, so that has a nice pedestrian feel as you're walking along Nall with the double rows of maples as well.

Comm. Jackson: Do you have any sort of rendition along Nall, showing that whole stretch of Park Place?

Mr. Hoiland: Yes, I'm glad you mentioned that. (*Shows photo*) This is a photograph of the west side of Nall with Garage A, and you can see a portion of the hotel as well. The void is where the hotel would reside. You can see how it has the entry that is defined, much like this has an entry that is defined. Then we have the vertical rhythm of the façade that this is also picking up that rhythm and color change as well. As this is office building, it actually bookends as the office wraps around that portion of the garage, which is one of the reasons we like the idea of the north end being different and really being the one material that does hold that façade.

Comm. Williams: On the glass, the drawings reference laminated glass; I am assuming that is for safety. Is the coloring in the glass through the laminate, or is the glass itself colored?

Mr. Hoiland: The color is in the laminate.

Comm. Williams: Based on the samples you showed us, those are still transparent glass versus opaque. The opaque would be the white glass that is on the existing parking garage.

Mr. Hoiland: Yes.

Comm. Williams: How is the glass attached to the parking garage?

Mr. Hoiland: It is fastened intermediately from the spandrel from one floor to the next. We have 10 feet floor-to-floor, so the glass panels are 10 feet high. We also have a 42-inch high spandrel guardrail from the garage side. The opening is basically 4 feet from the top of the spandrel to the bottom of the beam of the floor above it. You have 2-3 opportunities to fasten the glass about 4 inches or so off the face of that concrete, giving a little bit of depth.

Comm. Williams: Are the fasteners going through the glass?

Mr. Hoiland: Yes, it is just a glass edge.

Comm. Williams: So it is not in a frame. And the glass itself is regular glass with the laminate in it, so the glass itself would be subject to breakage; it just wouldn't fall apart.

Mr. Hoiland: It is like a windshield; if it were damaged, it would hold together like a windshield.

Comm. Williams: And how do you handle the edges of all these glass pieces?

Mr. Hoiland: They are polished glass edges like you would see on a glass tabletop that has a mitered edge to that.

Comm. Williams: In the long run, you think that is more durable than going with the aluminum painted tubes you were showing the last time?

Mr. Hoiland: I don't know if I would say that, but I would say it is definitely an appropriate material for the parking garage.

Comm. Williams: Back to the wood, I think it is an interesting idea in concept. This is probably more of a question for Mr. Alpert or whoever will maintain this. If you're talking about oiling this every two years, it is a lot of wood and a lot of upkeep for a parking garage. My experience has been that parking garages have been the last thing that get upkeep.

Mr. Hoiland: The location that the design team anticipates getting the most sun exposure really is this entry piece on the west where the trees stop to allow cars to come in. The north side is not going to catch a lot of sun. AMC's building will shade the entire east face, and then the south face will be masked by the hotel. We have tried to keep it focused, but we did like the natural aspect of it on Nall.

Comm. Williams: How does the wood fasten to the garage? Is it the same as the glass?

Mr. Hoiland: They are very similar, yes.

Comm. Williams: Then switching to the building for just a moment, you had the Brazilian hardwood at various places in similar size, shape and proportion of material?

Mr. Hoiland: It is vertical and very similar, but it is not spaced with an air opening. The parking garage is 6 inches on center.

Comm. Williams: What is the size of the wood members on the garage?

Mr. Hoiland: They are 3-inch members.

Comm. Williams: How far apart are they going to be, then?

Mr. Hoiland: I believe they are 6-8 inches apart. Where you see larger openings, we take one or two out. If you were to grid the entire façade with these 3-inch wood vertical slats, you start pulling them out to create more openings and break down the scale of that.

Comm. Williams: The glass on the building is a silk screen. Is that on the inside of the glass? I'm assuming they are insulated glass panels.

Mr. Hoiland: They are insulated glass panels with a 1-inch assembly. You have the outside surface that hits the rain and weather that is called Surface 1. Then you have the backside of that as Surface 2 as air space. Surface 3 and 4 are the interior. Surface 2 is the surface where the screen printing is on the glass, much like it is on that sample. With that being on the first layer of glass, it allows to reduce the amount of sun or heat gain that the building captures even within that air space. That is rejected at the first pane of glass. The primary reason for using the silk screen on the glass is to help reduce the amount of heat gain and load that the building would then have to make up through its air conditioning system.

Comm. Williams: Is this actually a silk screening process?

Mr. Hoiland: There are two types of processes. One is truly a silk screen where they make a large silk screen and screed it with the paint. The other is digital printing. It depends on the manufacturer.

Comm. Williams: It retains its initial color with sun exposure?

Mr. Hoiland: Yes.

Comm. Williams: Describe the metal panels. Are they perforated panels?

Mr. Hoiland: They are ¼ inch sheets of metal that then have a custom pattern lasered out or, again, depending on the manufacturer, punched out. The panels are then painted. (*Shows sample*) This is a sample from another project we are doing that is a very similar process and actually a similar color. This is part of a dogwood tree cut out with a perforated pattern over it for the Marriot hotel downtown. This panel

then is part of the rain screen assembly just like the wood is, so it gets mechanically fastened either through concealed fasteners, which is what we are proposing, or something that could be expressed.

Comm. Williams: If it's part of the rain screen, then, what is the material behind it, and then is that exposed?

Mr. Hoiland: The material behind it is a black rubber membrane that serves as a waterproofing barrier. What you really see is a shadow. We don't have any patterns that are this large; they are ½ - 1 inch slots that you saw on the drawings.

Comm. Williams: You went with the painted metal over the aluminum to avoid the conflict of material definition and use with the LDO?

Mr. Hoiland: Yes.

Comm. Williams: But you could achieve the same thing in aluminum or steel?

Mr. Hoiland: Aluminum or steel.

Comm. Strauss: My questions are more just comments. I wish that, as you approach Town Center Drive and Nall, which is a pretty prominent intersection, you saw the AMC building rather than the parking garage. The AMC building is the beautiful part, so I was a little concerned that the first impression of Park Place is the parking garage and the row of parking garages along Nall. I realize the site is pretty constrained. Maybe another person can talk about the truck movements. I see the template of how the delivery truck gets in there, but it looks pretty tight. I don't know how often delivery trucks are anticipated. Is that there to serve the hotel, also?

Mr. Hoiland: I'll let Judd Claussen speak to that.

Judd Claussen, Phelps Engineering, 1270 N. Winchester, Olathe, KS, appeared before the Planning Commission and made the following comments:

Mr. Claussen: What you see there on that exhibit is for the largest truck that would come to the site, and it is an occasional vehicle to get to AMC. It would be basically the same as an over-the-road semi with a 53-foot long trailer. That would need to back in the site. We have provided room on the Site Plan on Ash Street there for a turn lane where it could reside until someone could come out and help it back in. It is a difficult maneuver, but with the software we have to model it, we are confident that it can make it with some help. The other maneuvers that we have shown you on that exhibit are for Leawood's fire ladder truck, a regular garbage truck and a smaller pump truck for restaurant deliveries and that kind of thing. All of those are able to pull in cab-first and come around the site. We just wanted to prove the large truck that would come only occasionally could still get in.

Comm. Strauss: So the smaller delivery trucks would go in cab-first and then back out.

Mr. Claussen: Right.

Comm. Strauss: Is that delivery area to serve AMC and the hotel?

Mr. Claussen: I believe it is just the AMC building. We don't really have specifics on how the hotel would work at this point.

Comm. Strauss: I know the hotel isn't part of the plan, but you have to think through how goods are going to be dropped off at the hotel now to figure out the layout.

Mr. Claussen: At the Preliminary stage, we looked at some opportunities between the hotel and the south side of the parking garage. As the hotel plans eventually are developed, it will obviously need to be addressed.

Chair Rohlf: Did we have any other questions on the architect's presentation?

Comm. Elkins: Mr. Claussen, on the West Elevation of the parking garage, am I correct in understanding that it is 342 feet from one end to the other?

Mr. Hoiland: Yes.

Comm. Elkins: So we're talking a little bit longer than a football field from one end of that to the other. That will be the façade that faces Nall.

Mr. Hoiland: Yes.

Chair Rohlf: I think we're finished with your part. Mr. Alpert, is there anything else?

Mr. Alpert: Unless you have any other specific questions, it completes the presentation. At this point, I'd like to address the stipulations.

Comm. Williams: I have a question before you get into stipulations. It goes to the maintenance of the wood on the parking garage. The architect made reference to oiling this thing every two years, depending on exposure and weather to keep it more the brown color. Is it your intent to maintain it as the brown color or to let it silver out with time?

Mr. Alpert: What we're probably talking about is somewhere between. We don't want it to go completely silver, but we probably will want to let it slightly weather before we start locking a particular color in. I think the plan is, as Trevor said, to monitor the facades. Obviously, over different periods, it will weather different levels at different periods of time based on sun exposure. I think we just want to monitor that. We don't want it to totally silver out.

Comm. Williams: I'll let the technical issue go to your architect, but it has been my experience that on woods such as these and finishes on the exterior, you can't just let them go to a point and expect them to maintain at that point. You put a coating on it; it will weather anyway. Then to change that color, you have to come back with treatment cleaners. It will be either/or and will run through cycles. It will start out brown, and then maybe you let it go five years when it silvers out to a point, clean it and start over versus being able to let it go for three years, pick that as your stopping point and expect it to stay at that point.

Mr. Alpert: It would be an ongoing maintenance program.

Comm. Williams: My concern with this is that it is an ongoing maintenance program, even far more than the painted wall surfaces you have on your buildings throughout the development. I'm trying to get a read on your commitment for the maintenance on this so it doesn't end up totally silvering out and changing the entire color on this, unless the city is good with it just going grey and looking like weathered wood. It's an interesting concept; I just don't want to see it degrade down the road.

Mr. Alpert: We are committed to the appropriate maintenance program to maintain the look.

Comm. Strauss: I have a question to address the Carl Walker parking study. Do you have any comments on their nine responses?

Chair Rohlf: I think he's going to get to that in the stipulations. Before we start that, why don't we make a motion to continue the meeting?

A motion to extend the meeting 30 minutes until 9:30 was made by Williams; seconded by Elkins. Motion passed with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

Mr. Alpert: Thank you. Before I get into the parking, let me make a couple brief comments about Stipulations 4 and 5, which do address the garage façade. For the reasons Trevor mentioned, we would like to gain the approval of the garage the way we've presented it. We are, however, willing to accept the two stipulations and make adjustments based on the comments we hear from you tonight in advance of taking this to the Governing Body. Hopefully, we will get some good feedback from all of you on that subject.

With regard to the parking, I thought what we might do is ask Glen Kurtz with Lanier Parking Solutions, who did our parking study, to come up and make a few comments. Then I will follow with a few comments of my own.

Glen Kurtz, 399 Sydney St., Atlanta, GA, with Lanier Parking Solutions, appeared before the Planning Commission and made the following comments:

Mr. Kurtz: We are a parking management company and consulting firm out of Atlanta, Georgia. Lanier Parking Solutions manages operations in 52 cities from Miami to Phoenix and up in Minneapolis. We have about 200 operations, of which at least a dozen are mixed-use developments. Those include Kansas City Live, the Plaza, West Avenue in Houston, City Center in Phoenix and Atlantic Station in Atlanta. The unique part of these mixed-use developments is the shared nature of the parking, which I think is really critical to understand in these types of developments. What that means is the parking becomes more efficient in that multiple uses can share the same spaces, depending on when their parking demand occurs, whether it is time of day, week or month. For example, an office building is obviously busy from 7:00 in the morning until 6:00 at night. We can actually achieve greater efficiencies of the parking in this type of operation. That also includes the hotel that will be there. There is a really great mix of uses that are going on here. Every single mixed-use development is different based on their mix of uses and what is going on. What we have found is that this development is actually working very efficiently. We have done studies to identify the current conditions of the development. The goal, moving forward, is to identify how many parking spaces we need for the future uses and how that plays in with the existing uses that are on there. For example, AMC is a large commercial building. The majority of the 560 spaces will be used during the day, but at nights and on weekends, you'll have another 500 spaces to use for your restaurants. We have conducted a study that looked at that. Initially, we did not have specific parameters from the city. We conducted that study on our own. The city, through their consultant, came back with several responses. We welcome those responses because they give some clarity. What we need to do is take those responses and factor that in to the study to then identify what the actual future demand is, which I don't think has been done at this point; we have just kind of defaulted back to the zoning requirements. We have looked at the current conditions, and that was one of the recommendations. My intent tonight was not to go through each one of them but just to give you a sense of why we need to incorporate those in. We did a study three days before Christmas, which tends to be the peak of these types of developments, especially with a retail and restaurant component. We found that, based on the present square footage, land use and parking demand that we're at around 2.05 spaces per 1,000 square feet actual usage, which is telling us that the mixed-use nature of the development is actually working. Then our study actually recommended something around 2.75, and then the zoning is around 3. We really need to incorporate that information into the study by the city's consultants. One of the

other recommendations in the study was to use 1.25 spaces per hotel room. The zoning now requires we use the square footage of the hotels, which then loses some of the shared nature of that hotel. We want to work on that. The development is wonderful in that everything is walking distance. You just pointed out that, from one end to the other is 100 yards at most, which means you can actually get from deck to deck. Additionally, if one deck is close to capacity, it doesn't mean the other deck is also. That is our role as the parking manager of the site: to make sure we get the most efficiency out of the parking spaces there now so there is not a reality of not enough parking spaces because that would be detrimental to the development, but also that there is not a perception that there are not parking spaces. That is a real factor that can occur in mixed-use and retail developments, and it can be just as damaging as the reality.

Mr. Alpert: I'd like to add a little information. I know there are questions about the hotel and what that is going to look like. We don't have a deal yet, but we are going down the road with a hotel developer. It is important that you know that we have made an agreement, as part of our lease with AMC that the hotel will not be more than six stories. We have laid it out, and we are looking at approximately 125-130 rooms maximum for the hotel. It is intended to be a limited-service hotel, much like the aLoft, so there will be no full-service restaurant, only one small meeting room and then rooms and suites. That is the component we are likely to have on that site in terms of the hotel.

The stipulation as it stands right now reads, "Parking Garage C shall be modified prior to building permit to ensure that the LDO's requirement of 3-3.5 parking spaces per 1,000 shall be met for the overall Park Place Development." Since we are focused on this specific site, the AMC building and the future hotel, we want to maintain a level of parking that serves that particular cluster of buildings. I know there is a lot of talk about the LDO. There is a specific provision in the LDO that developers are not to build more parking than they need. Obviously, we don't want to over-flush the project with parking. We want every space we need but not any more than we need. That is where Lanier comes in. I don't know if you picked up on it, but they don't do parking studies theoretically. Lanier manages the parking activity at Park Place. Their personnel are onsite day and evening, weekdays and weekends, monitoring the parking in our garages and our valet program. They are constantly making sure that the people are parking where they are supposed to park and we have parking we need. They take ongoing counts of parking. This is an issue we are very sensitive to. Using the MX-D parking requirement, the hotel requirement is significantly higher than the same standalone hotel requirement in the LDO. This really doesn't make sense, especially when the concept of shared parking is considered. I can show you a graph that shows the parking requirement for the hotel under the MX-D zoning right here. It is 3 spaces per 1,000. It would be approximately 225 spaces. If you go to the standalone hotel requirement, which is 1 space per room, 1 space per employee and 1 space for every four seats of meeting rooms, the requirement would be 170 spaces. That is 55 fewer spaces than the hotel requirement based on the LDO. Then, if you go to the ULI recommendation for hotels, which is 1.25 spaces per room and that accounts for employees and overhead use, you would only have 156 required spaces. To reiterate Glen's point, hotels are perfect for shared parking in a mixed-use district like ours because their requirement peak is really from 8:00 p.m. to 6:00 a.m., which is nearly the exact opposite of our retail and our restaurant. Imposing the MX-D requirement, in our opinion, would result in significantly more parking spaces being provided than would ever be used and would be counter to the spirit of the LDO and its feeling about over-parking a project. In a shared environment, using a full hotel requirement would also result in significantly more parking spaces being provided than would be used. We had a meeting with staff today to address this specific issue, and there was discussion that a different stipulation could possibly be inserted in place of the one that was written. The way it would read is that, "Prior to Governing Body consideration, the applicant shall provide a more detailed study which demonstrates adequate parking is provided." Understanding a little more about what staff is looking for and having the benefit of the Walker comments on our parking study, we feel we can provide more information and do more analysis and get to a number that is satisfactory prior to our presentation before the Governing Body.

Comm. Ramsey: What is it you really want?

Mr. Alpert: I am requesting we replace the language in Stipulation No. 7 with the language I just read. This doesn't restrict us to addressing our parking need through just an increase in spaces in Parking Garage C but gives us the opportunity to suggest other alternatives. I think Mark mentioned that we did design Parking Garage B on 117th Street to accept two more levels if necessary. We think there are potentially even other options we could bring to you to address the problem. What we don't want to do, bearing in mind that the cost of these structure parking spaces is about 4-5 times the cost of the surface space, is overreact and build a bunch of excess parking that we don't need, the project really can't afford and is even counter to one of the parking requirements in the LDO.

Comm. Ramsey: I understand where you are coming from, and I wouldn't want to over-build, either, but like Jane, I, too, was in your project on Saturday night, and I was circling and circling and circling. The one parking garage off Nall had long lines of cars stacked up inside. No one could turn around because there were at least 8-10 cars in a row, looking for a parking space. You're a victim of your own success.

Mr. Alpert: And certainly, if you have a problem, this would be more desirable than having an empty parking garage. But having said that, it is certainly not in our best interest to have people become irritated with parking because then they won't come back. It was one of our peak times when you both were at the project, and once Parking Garage C is built, there will be about 450-500 empty spaces in that garage that currently don't exist. The pressure now will be relieved when that garage gets built.

Comm. Neff-Brain: How about when you get the other three office buildings built at the east end of the project? Will Parking Garage B be sufficient to handle all that daytime traffic?

Mr. Alpert: We believe that it will be. One of the things that Lanier is instrumental in is shifting certain uses based on actual performance. For example, we can relocate where retail employees park based on need. We have ways to shift certain office employees. If we have excess capacity in Garage A on Nall and we're getting to the point where we're at capacity in B on 117th Street, we can shift certain users to those other garages. Bear in mind, we are a brand new project that is still learning how it's being used. That is why we have somebody like Lanier onsite to suggest the necessary adjustments and make sure we get the best utilization for our parking.

Comm. Pateidl: You are proposing a change in the stipulation to enhance the study for presentation to the Governing Body. You had discussion with staff. My question is of staff. Are you comfortable with that kind of a change that there is a resolution that can be reached, or are we just kicking this can down the road?

Mr. Coleman: We are very concerned about the parking, as everybody is. Our Walker consultants pointed out that there is not enough detail and analysis of the parking over the entire development and this particular site specifically and its uses for us to be comfortable with the reduction in the LDO. There is a provision in the LDO that allows the study to make that deviation; we are just not comfortable with it right now because we saw that the Lanier study wasn't detailed enough, and we hired Walker to look at it. They raised a number of questions about how the numbers were arrived at and how it was handled. We're not comfortable with it right now. Should they go back and have a much more detailed study that could be concurred with, we might be supportive of a reduction. Currently, we are not. If they can provide that study prior to Governing Body, we can look at it and let Governing Body know if we are good with it or not.

Comm. Pateidl: At this point, would it be more appropriate for the commission to leave the stipulation as it exists and allow the Governing Body to deviate from the recommendation from the commission?

Mr. Coleman: That's up to you. If we get the study and it is fine, they would have to have 2/3 vote to override your recommendation; whereas, if you change the stipulation now, they wouldn't.

Comm. Pateidl: Noting that this is a very important piece of this overall development, why was this study not completed before now?

Mr. Coleman: I would defer to Mr. Alpert, but I think it probably has to do with the time frame that they are trying to meet for the AMC project. We are just trying to do our due diligence to make sure this key component of the project fits and is supported.

Mr. Alpert: Our initial parking study was done by Walker way back when we got our original zoning. We've been following that guide through the process. Just as Mr. Kurtz was talking about different projects they manage through the country, we have a lot of connections to people who are running these projects as well. We do know there are a number of instances where there has been too much parking built in some of these projects. It is so detrimental to the economics that you want to be overly cautious. We have been monitoring the actual performance of the parking, which we feel is far superior to any theoretical determinations. The Walker report, we got late Friday night, so we barely had a chance to digest it. We are happy to provide more information. The more accurate we can be about this, the happier we are because we don't want one fewer space than we need.

Comm. Neff-Brain: I am very comfortable with the new appearance of the parking structure. I think it looks great and ties in well with the building. I am less comfortable with letting the project pass through until this parking is resolved. I feel, as the Planning Commission, one of our critical roles is to make sure the parking is planned adequately. I know time is a constraint, but if we discussed and you knew that we liked the appearance and the only obstruction was the amount of parking, is it enough to go forward until we get the results of this study?

Mr. Alpert: Anything that would keep us from getting to the Governing Body next month would create a significant hardship, and that is why we are requesting to have the 3-4 week period from tonight and when we would be going to the Governing Body to develop the additional information and trust that staff will carefully monitor what we're doing and be appropriately critical, and then the Governing Body would as well.

Chair Rohlf: Do you have anything else in your presentation, Mr. Alpert?

Mr. Alpert: No, we are perfectly happy to accept the other stipulations.

Chair Rohlf: Thank you. Before we get into additional discussions on the plans, what about the revision to No. 7?

Comm. Williams: In light of the comment that, if we leave it as is and it goes to the Governing Body, they need the super majority to override it, maybe by changing the language as Mr. Alpert proposed, it gives the city some latitude. We know there is a problem; it has been expressed in our comments tonight. They can do the further study in preparation for Governing Body and let Governing Body to have the flexibility to either stick with the LDO as staff is proposing or make the adjustments that may be a result of the final study.

Comm. Pateidl: To be clear, you are saying to leave the stipulation?

Comm. Williams: No, revise it per Mr. Alpert's comments, and again, I say that so that it gives the Governing Body some flexibility to either accept their numbers or go ahead with staff's numbers.

Comm. Pateidl: My only objection to the modification of the stipulation is that I am not clearly convinced that a study is going to come forth to an adequate degree that would make me change my mind. Because of the importance of parking, my preference is to send a clear message to the Governing Body that we have a concern on this; we do not want to delay the application; we do want it to move forward, but absent of their

being convinced of modifying the minimum requirement, it would be our recommendation that we at least meet the minimum requirement as proposed by the planning department.

Comm. Williams: I completely agree with you that parking is an important issue. Again, my suggestion on taking the modified stipulation is just to give City Council a little more flexibility on how they vote on it.

Comm. Pateidl: They do have the flexibility. The super majority is an additional burden, but I think that, too, sends a message as to the importance of this matter.

Comm. Ramsey: I would support the revised stipulation. I concur with the issues on the parking and how important it is, but I think it is also important to keep this project moving forward. I wholeheartedly believe that it is in the developer's best interest to make sure there is adequate parking on that site. He will have a lot of other people besides us mad at him if they are not able to park there.

Comm. Strauss: I would also like to say that, in the updated parking study, I would hope that the parking consultant would use the existing data from the existing development. I think you started your points by saying, "Every single mixed-use development is different." We have an actual case study here, and in your notes, you said you use ULI data. I would hope you would utilize the data of the existing mixed-use development and identify what your parking needs are on expanded mixed-use development.

Chair Rohlf: As far as the stipulation?

Comm. Strauss: I could support revising it so we still have the precaution of the Governing Body being able to make a decision while still letting the developer move forward.

Chair Rohlf: Is there a consensus that the revised language would work? All right, we do need to extend the meeting.

A motion to extend the meeting 30 additional minutes to 10:00 was made by Williams; seconded by Elkins. Motion passed with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

Chair Rohlf: If we are comfortable with No. 7 being revised, we would need further comments about the Final Plan, including the other stipulations on the elevations of the garage.

Comm. Williams: On Stipulation No. 4, describe your intent of the design change. Do you want the ramp to disappear?

Mr. Coleman: If you look at the Nall elevation and compare it to the courtyard side, it appears, at least from the renderings, that the structure of the parking garage is screened more in the courtyard than it is on the Nall side. Our intent was to see a bit more screening or break-up in that long façade on the Nall side versus the courtyard side.

Comm. Williams: Is that a result that the courtyard side is not ramped?

Mr. Coleman: No, it is a result that the courtyard side uses the wood, which is spaced very close together, and the Nall side uses primarily glass, which is spaced much farther apart.

Comm. Williams: The floor plans of the garage show the west side having ramps.

Mr. Coleman: If you look at the elevations, you will see large spaces between the glass, and if you look at the courtyard side, you will see very little space between the materials.

Comm. Williams: So you want less space between the panels?

Mr. Coleman: Yes, and as the architect for the project indicated, they are willing to look at putting some additional wood on the Nall side.

Comm. Ramsey: You are not so much wanting wood there as space.

Mr. Coleman: Not so much; I would leave that up to the designers. You see larger gaps. We talk about four-sided architecture, and there just seems to be a distinct difference between the courtyard side and the Nall side.

Comm. Ramsey: I don't have an issue with the gapping; I was more concerned if we're trying to eliminate the ramp.

Mr. Coleman: No, I think they have to have the ramps because of the layout on the site.

Comm. Williams: That addresses No. 4. Regarding No. 5, the architect made reference to the wood on the ends without the glass forming bookends. Are you comfortable enough, especially on the south end, which, at some point in the near future –

Mr. Coleman: I am comfortable with the north and south ends.

Comm. Williams: So we could delete No. 5?

Mr. Coleman: I wouldn't be opposed to that, no.

Comm. Williams: My last question goes to the issue of the coloring of the wood and weathering.

Mr. Coleman: We would take the façade as it is originally constructed and designed. That would be the level to which any applicant is held. It is either going to remain natural and allowed to go grey, or it will be maintained with an oil finish to retain the color. That would be the position of the city.

Comm. Williams: In that respect, since the documents being reviewed tonight talk about it being an oil finish, it will be the standard, so we wouldn't need a stipulation to address it for clarification?

Mr. Coleman: I don't think so; just make it clear that the oil stain is the finish on the wood, and we would treat that similar to paint on the side of a house; if the paint is peeling, we will be after you to paint it.

Comm. Neff-Brain: I think it really looks nice in the brown, so I would support maintaining the oiled finish, and I really like the grain contrast. It is a good-looking parking garage.

Comm. Elkins: I think we, as a community, owe a great debt of gratitude to Ms. Mann and Mr. Alpert for what they have created in Leawood. Through their creativity, they have essentially given our community a downtown that we haven't had in the 62 years we have been a community. It really gives me and my family a sense of community and of city that we really haven't ever had before. I commend both of them for what they have given to us and the real resource here. Having said that, I have to confess to a great deal of disappointment here. Park Place is an amazing resource and an amazing place to experience. As we have worked with the developers on a step-by-step basis, each step along the way has seemed to be positive

and a great addition to what has become a whole. As you walk through the development, it is a great feeling. What we are going to approve tonight is really the last element of a plan that makes Park Place a walled city. If you think about what Nall will look like going from north to south, you have a football length of a parking garage here. It will have green glass and wood and will be punctuated by a hotel, but it is almost like a medieval walled city. Then we have another length that is nearly another football field that is the existing parking garage, punctuated by another hotel. Then we have a drawbridge or a gateway that goes between the AMC Theatre into Park Place and then the monolith that is the backside of AMC and what used to be Galyans that goes all the way from Park Place Drive to 119th Street. We have built a wall for the boundary of Leawood that goes from 119th Street to Town Center Drive and beyond. Then you turn the corner, and there is yet another parking garage and a third parking garage being built. We have surrounded Park Place with a wall of parking garages. I know, at this point, there is not really much we can do about it, but I express my disappointment in that because, while it is certainly not as institutional as its neighbor to the west, in many ways, conceptually, it is the same thing; a series of parking garages that wall off the community we have built in Park Place. In retrospect, I wish there was some sort of planning we could have done that would have not caused Leawood to turn its back on Overland Park by creating a wall. I guess some folks say walls and fences make good neighbors, and I suppose we will find that out in the long run. Again, I just feel compelled to express the disappointment because we have a real jewel in Leawood that has become a walled city, much like a medieval city with vibrancy and a wall to protect it from the outside. In our day and age, I guess we need that wall to park cars. I share Commissioner Pateidl's concern that we have to have adequate parking; I just wish that there could have been another instance of creativity that Ms. Mann and Mr. Alpert could have found to avoid that. Again, a wonderful resource with a bit of a disappointing outcome when it comes to parking. Thank you.

Chair Rohlf: Does anyone have any other comments about the Final Plan? If not, I think we are ready for a motion, including a revision to Stipulation No. 7.

A motion to recommend approval of CASE 11-12 – PARK PLACE – BUILDING M (AMC), PARKING GARAGE C AND PARK PLACE 9TH PLAT – Request for approval of a Final Plat and Final Plan, located south of Town Center Drive and east of Nall Avenue – with the following changes to staff stipulations:

- Delete No. 5 in its entirety
- Revise the current No. 7 to read, "Prior to Governing Body consideration, the applicant shall provide a more detailed study which demonstrates adequate parking is provided."
- All other stipulations remain as they are for a total of 28 stipulations

was made by Williams; seconded by Strauss. Motion passed with a vote of 6-1. For: Pateidl, Jackson, Neff-Brain, Williams, Strauss and Ramsey. Opposed: Elkins.

CASE 13-12 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS, PERTAINING TO TENANTS AND SUBTENANTS.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 12-12 – Leawood Development Ordinance amendment to Article 9 regarding definitions. This is in conjunction with the following case as well, which is an amendment to the Leawood Development Ordinance Sign Criteria with a deviation to allow subtenant signage. That is the reason for these definitions as well. We have had a number of work sessions in which we've discussed providing a deviation to the LDO that would permit a subtenant sign on a primary tenant, provided that it met certain criteria. I would like to cover the definitions and then go over criteria. Currently, the subtenant signage is not allowed in the City of Leawood, as we

discussed before. Therefore, the intent of this amendment is to allow subtenant signage in certain cases. With regard to Article 9, we would like to add four additional definitions:

1. Primary Tenant: "In the case of a single-tenant building, any tenant occupying 50% or more of the floor area of the building, and in the case of a multi-tenant building, any tenant occupying at least 25,000 square feet of floor area or 50% or more of the total building floor area, whichever is less."
2. Subtenant: "Any entity that leases space from or has a business relationship with the primary tenant and has a presence within the tenant space but does not have its own public entrance separate from the primary tenant." We had conversations about this in the work session, and we changed it to "entity" to eliminate confusion with Webster's definition of "tenant."
3. Single-Tenant Building: "Any single building designed and constructed for and containing only one tenant."
4. Multiple-Tenant Building: "Any building designated and constructed for two or more tenants, each with a separate public exterior entrance."

Staff is recommending modifications to Article 9 to allow these definitions into the ordinance. This does require a Public Hearing. If you would like, I can cover the next LDO amendment in the following case. The primary goal with this whole amendment for both of these is to allow subtenant signage in the City of Leawood. It would be added to the Deviation section in 16-4-6.3 of the LDO with the following criteria:

1. It would allow one single subtenant sign as it is currently written here, provided that the total area of the primary tenant would be a minimum of 25,000 square feet. This would limit which tenants would be allowed to have a subtenant sign. That would primarily be the grocery stores within the multi-tenant buildings in some of the developments we've seen and also some single-tenant buildings, such as AMC, Dick's and even Crate & Barrel.
2. The subtenant would be necessary to identify a subtenant that had a presence within the tenant space but does not have a separate entrance. That is to define what we want the subtenant to be.
3. A subtenant would be limited to the name or the logo only. We discussed this as well. Originally, we were proposing the name only, and we decided to allow the logo also.
4. All permanent signage on the tenant façade shall be a maximum of 5% or 200 square feet, whichever is less. The intent is to keep all the signage together. Both the primary tenant and the subtenant would have to fall within the 5% or 200 square foot maximum all added together.
5. The maximum letter height of the subtenant shall be 75% of the maximum letter height of the primary tenant. The reason for that is so there would be some distinguishing characteristic between the subtenant's name and the primary tenant.

Staff is recommending approval of both applications, and I'll be happy to answer any questions.

Chair Rohlf: Questions for staff on either one of these?

Comm. Pateidl: Under Case 114-10, your first change in the definitions in Item 1, "In the commercial district, should private sign standards have been approved as part of the Final Development Plan, then deviations as listed above may be approved, provided that the maximum of all wall, canopy and window signs shall be 5% of the total area of the façade." Under Item 3(D), "All permanent signage on the primary tenant's façade shall be a maximum of 5% of the façade or 200 square feet, whichever is less." Under one definition, we are saying it is on the façade, the canopy, the windows, and the walls. The other, we're talking about the façade. Are we consistent in this language? To me, it is confusing.

Mr. Klein: You have raised a good point. The intent was that all signage, as is stated in the original, would be what we would want. 3(D) may need to be modified to reflect that.

Comm. Pateidl: Is 3(D) redundant, then? Could we strike it out since it is clarified under Item 1?

Mr. Klein: Yes, that is a good point.

Chair Rohlf: So we would want to do that?

Mr. Klein: Joe made a good point. In 3(D), we did include the 200 square feet as a parameter as well, which isn't contained in the one above. We could modify it to include it.

Chair Rohlf: Whatever makes it easier for someone to interpret.

Mr. Klein: Mr. Pateidl raises a good point, and listing it in No. 1 would be best.

Chair Rohlf: And then we will modify 3(D). Is there anything else on either one of these?

PUBLIC HEARING FOR CASE 13-12 – LDO ARTICLE 9 – DEFINITIONS

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Williams. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

PUBLIC HEARING FOR CASE 114-10 – LDO AMENDMENT, SECTION 16-4-6.3 – SIGN REGULATIONS, OFFICE, COMMERCIAL AND INDUSTRIAL SIGNAGE IN PLANNED DISTRICTS.

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Williams. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

Chair Rohlf: That takes us up to discussion and a motion. Would you prefer motions for each?

Ms. Shearer: Yes.

A motion to recommend approval of CASE 13-12 – LEAWOOD DEVELOPMENT ORDINANCE – Amendment to Article 9 – Definitions – Pertaining to tenants and subtenants – with all five staff stipulations – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

A motion to recommend approval of CASE 114-10 – LEAWOOD DEVELOPMENT ORDINANCE – Amendment to Section 16-4-6.3, Sign Regulations: Office, Commercial and Industrial Signage in Planned Districts, pertaining to subtenant signage with the modification to Item 16-4-6.3 (B) 1 to add, "or 200 square feet, whichever is less," and then strike 3(D) – was made by Williams; seconded by Neff-Brain. Motion approved with a unanimous vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Williams, Elkins, Strauss and Ramsey.

MEETING ADJOURNED.