

**City of Leawood  
Planning Commission Minutes  
May 22, 2012  
Dinner Session – 5:30 p.m.  
Meeting - 6:00 p.m.  
Work Session to Follow – Main Conference Room  
Leawood City Hall Council Chambers  
4800 Town Center Drive  
Leawood, KS 66211  
913.339.6700 x 160**

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

**APPROVAL OF THE AGENDA:**

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

**APPROVAL OF MINUTES:**

Approval of the minutes from the April 24, 2012 Planning Commission meeting.

**A motion to approve the minutes of the April 24, 2012 Planning Commission meeting was made by Neff-Brain; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Neff-Brain and Elkins.**

**CONTINUED TO JUNE 26, 2012 MEETING:**

CASE 119-11 – LEAWOOD DEVELOPMENT ORDINANCE – SECTION 16-4-9, FENCES AND WALLS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to fences constructed on top of a deck. **PUBLIC HEARING**

CASE 33-12 – LEAWOOD SOUTH COUNTRY CLUB – MAINTENANCE BUILDING – SPRINT WIRELESS – Request for approval of a Special Use Permit for wireless communication antenna use and associated equipment, located south of 123<sup>rd</sup> Street and east of Mission Road. **PUBLIC HEARING**

CASE 57-12 – PALO VERDE – LOT 2 – iMODULES – Request for approval of a Final Sign Plan, located at the northeast corner of Nall Avenue and 151<sup>st</sup> Street.

**CONSENT AGENDA:**

CASE 53-12 – NALL VALLEY SHOPS – XL MARTIAL ARTS – Request for approval of a Final Sign Plan, located at the northeast corner of Nall Avenue and 151<sup>st</sup> Street

CASE 55-12 – MARKET SQUARE – WIPE AND RESTORE COMPUTER REPAIR – Request for approval of a Final Sign Plan, located at the northwest corner of 135<sup>th</sup> Street and Pawnee Street.

CASE 59-12 – BI-STATE – CENTENNIAL PARK – EVEN TALAN HOMES – Request for approval of a Final Sign Plan, located at 1920 W. 143<sup>rd</sup> Street.

CASE 63-12 – IRONHORSE CENTRE – REVISED SIGN CRITERIA – Request for approval of a Revised Final Plan, located at the southeast corner of 151<sup>st</sup> Street and Nall Avenue.

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

**NEW BUSINESS:**

CASE 35-12 – HALLBROOK COUNTRY CLUB – Request for approval of a Preliminary Plan, located north of 114<sup>th</sup> Street and west of Overbrook Road. **PUBLIC HEARING**

Comm. Neff-Brain: I have a question for legal staff. I am a resident of Hallbrook, and I am a member of the Hallbrook Country Club. Should I hear this case?

Ms. Shearer: This is always a tricky question. I would tend to say yes.

**Staff Presentation:**

City Planner Justin Peterson made the following presentation:

Mr. Peterson: Members of the Planning Commission, this is Case 35-12 – Request for approval of a Preliminary Plan for Hallbrook Country Club. The applicant is requesting Preliminary Plan approval for both a 3,460 square foot addition to the existing fitness and pool building and improvements to the existing bathhouse. The applicant appeared before the Board of Zoning Appeals on April 25, 2012 and received a variance to the building setback from residential, resulting in a 16-foot encroachment into the 125-foot setback. This application proposes the following modifications to the existing and pool buildings:

- adding 3,460 square feet to the southwest corner of the existing building
- relocating existing ground-mounted HVAC equipment to the roof and screened with a parapet wall
- enclosing the existing screened-in dining at the pool, adding a new roof, outdoor dining area to the existing pool deck
- placing a dome (copper in color) on the entry tower
- adding new shade trellises to match the existing pool trellises.

The proposed modifications to the existing bathhouse include:

- adding new roof dormers and windows for natural light
- adding a new attached outdoor shade trellis

All these proposed additions will match the materials of the existing structures. Additional landscaping is proposed to be provided adjacent to the residential on the southwest corner of the site. The landscaping along the property line will consist of a series of trees and shrubs for increased screening. Staff recommends approval of Case 35-12 following the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

**Applicant Presentation:**

Brick Owens, NSPJ Architects, 3515 West 75<sup>th</sup> Street, Prairie Village, KS, appeared before the Planning Commission and made the following comments:

Mr. Owens: I am representing Hallbrook Country Club this evening. My partner in design is Clint Evans, the project architect. Kevin Donovan is the COO of Hallbrook Country Club, and Bill Graham is on the board of the Hallbrook Country Club. All are here to answer any questions you might have. We have been working on this for 6-7 months. We had interact meetings with our neighbors and have created a plan that meets the goals of our client as far as expanding the fitness facility and reorganizing the dining facilities within the existing building. We are excited that we have a positive Staff Report; they have been very thorough. Our building structure and materials will be the same as the existing building. It is also one story and expands to the west. We are in agreement with all the stipulations, and I am here to answer any questions you might have.

Chairman Williams: Do you have a plan, and could you walk us through it?

Mr. Owens: (*Refers to plans*) The property itself is at 112<sup>th</sup> Street. The double entry is on 112<sup>th</sup> Street coming off State Line, and it feeds across Overbrook into the Hallbrook Country Club campus, as it were. There are two buildings: the golf clubhouse and the main dining room or what we call the Country Club Building, per se. Between it is a parking lot and the project we are currently working on, which is the tennis building right here. It has the pool and fitness center, also. Also part of the project is renovation to the bathhouse. The addition happens between the Championship Court, which is a sunken court that has grandstands and an amphitheatre character to it. We are building a 5-foot stone wall behind here and essentially building up to the existing building that we have there now. We are also adding a cover over an outdoor pool patio, snack bar and outdoor dining. We are also proposing renovation of the bathhouse, a new entry on the east side here and then renovation of the interior bath facility. We are also adding a shade structure on the south side. Part of this along our streetscape on the tennis entry into the front of our building, we are proposing an open trellis shade structure for tennis viewing. We will also add a tennis outdoor lounge and another open trellis structure for courts 5 and 6.

Chairman Williams: Thank you

### **Public Hearing**

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

Comm. Roberson: I have a couple questions for staff. Can you refresh my memory as to why a public art impact fee would be required when it is a private club?

Mr. Klein: We require the public art impact fee for any type of addition. I believe the only ones that are exempt are sanctuaries on churches. For instance, even Church of the Resurrection came in for additions other than the sanctuary, we also charged the public art impact fee.

Comm. Roberson: You indicate that they can actually put their own art piece up?

Mr. Klein: No, we have actually had a lot of people ask us that. The public art impact fee is for art to go someplace that the city determines in a public area.

Chairman Williams: Any other questions? Then I would ask for a motion.

**A motion to recommend approval of CASE 35-12 – HALLBROOK COUNTRY CLUB – Request for approval of a Preliminary Plan, located north of 114<sup>th</sup> Street and west of State Line Road – with all 15 staff stipulations – was made by Roberson; seconded by Pateidl. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Neff-Brain and Elkins.**

CASE 43-12 – IRONHORSE CENTRE – BUILDING 8 – LITTLE SUNSHINE DAYCARE – Request for approval of a Special Use Permit, Preliminary Plan and Final Plan, located south of 151<sup>st</sup> Street and east of Nall Avenue. **PUBLIC HEARING**

### **Staff Presentation:**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Mr. Chair and members of the Planning Commission, this is Case 43-12 – Request for approval of a Special Use Permit, Preliminary Plan and Final Plan for Little Sunshine Daycare at Ironhorse Centre. The daycare is proposed for Building 8, which is located at the northeast corner of the development adjacent to 151<sup>st</sup> Street. The daycare is proposed to provide care for up to 90 children ages six weeks to six years of age, Monday through Friday from 6:00 a.m. to 6:00 p.m. This type of daycare is permitted by the Leawood Development Ordinance, subject to a Special Use Permit. The use is proposed for an existing building with a drive-through lane on the west side of the building, a landscaped yard north of the building and a parking lot to the south of the building. The applicant proposes retaining the drive-through for use as a drop-off lane and locating the playground on the eastern portion of the parking lot. The playground will be accessible directly from the building and is proposed to include a 15-foot tall playhouse structure. The playground is proposed to consist of a layer of synthetic grass above a layer of rubber and sand. The rubber and grass layers will be placed upon the existing asphalt parking lot. For aesthetic and safety reasons, the playground is proposed to be curved and fenced with a 4-foot tall wrought iron fence which matches the fences used elsewhere in the development. Given that the playground is specific to the proposed use, staff is recommending a stipulation which requires it to be removed within 60 days of the use vacating the building. While the playground results in the elimination of eight parking spaces, the Ironhorse Centre development is subject to a shared parking agreement, and the total remaining spaces in the development will fall in the required range. A total of three signs are permitted, all of which are proposed to be wall signs. Each sign is proposed to read “Little Sunshine’s Playhouse and Preschool,” which is the trademark name of the business. The two wall signs located on the north and south building elevations are proposed to be identical and measure 3 feet, 4 inches in height by 4 feet, 2 inches in width for a total sign area of 17.2 square feet. The lettering and logo on these signs are proposed to be illuminated with white LED. The wall sign proposed for the west elevation will measure 2 feet in height by 5 feet, 2 inches in width for a total sign area of 10.33 square feet. It is proposed to be illuminated in the same manner as the other two signs. In this case, a total of three signs are permitted per the approved criteria for Ironhorse Centre because the criteria permit one wall sign per exposed façade. The plan proposes the installation of a green fabric sunbrella awning over each window on the north, south and east elevations. No other changes to the building elevations are proposed. The applicant has held an Interact Meeting, and the summary of the meeting is attached, along with one letter received by a member of the public. Aside from the proposed playground, no other modifications to the site are proposed with this plan. Staff is recommending approval, subject to the stipulations in the report.

Chairman Williams: You make reference to a proposed 4-foot tall fence around the playground. The ordinance permits a 3-foot and not a 4-foot. Are they proposing a 4-foot fence?

Mr. Rexwinkle: They are asking for a 4-foot fence, and the comment refers to the original request for the front, and the ordinance does not permit fences taller than 3 feet in the front yard. That was part of the reason they moved it to the parking lot area.

Comm. Jackson: Do they have to have a Special Use Permit for the drive-through in addition to the one for the daycare?

Mr. Rexwinkle: They just need the Special Use Permit for the daycare.

Comm. Jackson: So they’re grandfathered in under the old Special Use that must have been passed some time ago for the drive-through?

Mr. Klein: They got a Special Use Permit for the drive-through associated with the restaurant; however, there is no mention that a Special Use Permit is required for the daycare. The daycare itself requires the SUP, though.

Comm. Jackson: I thought all drive-throughs needed a Special Use Permit.

Mr. Klein: It depends; for instance, a bank in an office district requires an SUP; a bank in the SD-CR does not. It depends on what is listed in the Table of Uses.

Comm. Neff-Brain: Do you drive through to drop off your children? How does that work?

Mr. Rexwinkle: The tenant has a program that the applicant should be able to explain.

### **Applicant Presentation**

Brandon Brensing, Merrill Development (Original Ironhorse Developer), 6501 W. 138<sup>th</sup> Terrace, #1012, Overland Park, KS, 66223, appeared before the Planning Commission and made the following comments:

Mr. Brensing: I have Chris McIntyre, VP with Merrill, with me tonight as well as Jason Meyer with Meyer Consulting and Jeff DeGasperi with DeGasperi and Associates. They can also answer any questions you might have. Regarding the drive-through, we will not be handing people through the window. The operator has a system called the Red Carpet Service for a fee. A schoolteacher comes out into the parking lot, gets the children out of the car and brings them inside. It is monitored, so there will be no issues with backing up and such. We're excited about the offer to come into town. It is a great use. We are excited that the building will be fully occupied. It has definitely been hard for the last couple years, so it is great to have someone coming in a Class A nature.

Chairman Williams: Do you have issues with any of the stipulations?

Mr. Brensing: We are fully compliant with the stipulations.

Comm. Jackson: There are a lot of issues in public schools these days with drop-off lanes and cars continuing to run while they're in those lanes. Do you require the parents to shut the car off?

Mr. Brensing: I don't know. In the staff comments we gave back, the applicant actually detailed out how that process worked, and that was not something we discussed.

Comm. Jackson: I don't know if it would be appropriate to put in a stipulation about that?

Mr. Brensing: The operator is not here to answer that question, and this is her service.

Comm. Jackson: Would it be appropriate to put in a stipulation to ensure cars are shut off while waiting in those lanes?

Jason Meyer, Meyer Consulting, 3692 W. 179<sup>th</sup> Terrace, Stilwell, KS, 66085, appeared before the Planning Commission and made the following comments:

Mr. Meyer: This is not like a school drop-off where the cars wait a long time. In my estimation of how it works, a teacher will come out and take care of it. The line will move fairly quickly. It is not like the cars will wait a long time as they would at the schools.

Comm. Jackson: Do people come in at different times?

Mr. Brensing: At peak times, it would be 90 students. It varies between the different age groups because some age groups will be involved in schools, and other ages will be there throughout the day. It is hard to predict the actual stacking.

Comm. Jackson: Thank you.

## **PUBLIC HEARING**

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

Chairman Williams: This takes us up to discussion.

Comm. Jackson: I would like to ensure that cars are not out there running for very long. Is it appropriate to put in a stipulation and have a policy on that?

Mr. Klein: We don't really have anything within the Leawood Development Ordinance itself. Part of the concern would be how to monitor that, as it would have to be someone reporting it or an officer driving by at the time. Then duration of the idling would be a consideration.

Chairman Williams: Are there any other comments? Then could I get a motion?

**A motion to recommend approval of CASE 43-12 – IRONHORSE CENTRE – BUILDING 8 – LITTLE SUNSHINE DAYCARE – Request for approval of a Special Use Permit, Preliminary Plan and Final Plan – located south of 151<sup>st</sup> Street and east of Nall Avenue – with all seven staff stipulations – was made by Roberson; seconded by Neff-Brain. Motion approved with a vote of 4-1. For: Pateidl, Roberson, Neff-Brain and Elkins. Opposed: Jackson**

CASE 58-12 – GRACE GARDENS – Request for approval of a Special Use Permit to allow an assisted living facility under new ownership – located at the southeast corner of 143<sup>rd</sup> and Nall. **PUBLIC HEARING**

### **Staff Presentation**

City Planner Justin Rexwinkle made the following presentation:

Mr. Rexwinkle: Chair and members of the Planning Commission, this is Case 58-12 – Request for approval of a Special Use Permit for the continued operation of an existing assisted living facility, which is only changing ownership. Per the Leawood Development Ordinance, a Special Use Permit shall allow the specified use by the applicant only and shall not run with the land and is not transferrable. Since the facility is being sold to a new owner, that new owner must apply for and be approved for a new Special Use Permit. No modifications are being proposed to the building or use of the building. All existing features and operations of the building will remain the same. Staff is supportive of this Special Use Permit and recommends the Planning Commission approve Case 58-12, subject to the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

### **Applicant Presentation**

Peter Hartweger, Spencer Fane, 14323 South Caenen, Olathe, KS, 66062, appeared before the Planning Commission and made the following comments:

Mr. Hartweger: I represent the folks that intend to buy Grace Gardens. I have Don Flack with me, who is the chair of Baptist Senior Ministries, which owns Grace Gardens currently. Norm Wilcox is the current manager of the property and one of the potential owners of the property. Dr. Sandy Peterson is also one of the potential owners of Grace Gardens. As staff said, there will be no changes, but we have to get a Special Use Permit because of the change in ownership.

Chairman Williams: Any questions for the applicant?

## **PUBLIC HEARING**

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

Chairman Williams: If there is no discussion, I would ask for a motion.

**A motion to recommend approval of CASE 58-12 – GRACE GARDENS – Request for approval of a Special Use Permit to allow an assisted living facility under new ownership – located at the southeast corner of 143<sup>rd</sup> and Nall – with all four staff stipulations – was made by Roberson; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Neff-Brain and Elkins.**

CASE 61-12 – TOWN CENTER PLAZA – HOULIHAN'S PATIO – Request for approval of a Revised Final Plan for a Tenant Finish – located at 4824 W. 119<sup>th</sup> Street.

### **Staff Presentation**

City Planner Justin Peterson made the following presentation:

Mr. Peterson: Chair and members of the Planning Commission, this is Case 61-12 – Request for approval of a Revised Final Plan for a Tenant Finish for Houlihan's within the Town Center Plaza development. The applicant is proposing to install two new 40-inch LED televisions on the patios, which are on the south elevation of the building and are on either side of the main entrance. One TV will be located on the inside corner of each patio and placed at a height of 8 feet and facing outward toward the patio area. The location of the TVs will make them visible from outside the patio area. Drapes are also proposed along the outside of the patio. These will be burgundy in color and will be used for decoration only. Staff recommends the Planning Commission approve Case 61-12, subject to the stipulations outlined in the Staff Report, and I'd be happy to answer any questions.

Comm. Pateidl: If I understand it, the true scope of work to be done is to install two televisions and drapes, is this really necessary?

Mr. Coleman: The reason it came to you is the issue of addressing outdoor televisions and patios.

Comm. Roberson: The televisions face the street; there is no public impact whatsoever.

Mr. Coleman: It could be; it depends. It will have outdoor sound and visual implications, so I thought it ought to come to the Planning Commission. In the future, if you don't want the outdoor televisions to come to you, I can address it administratively.

Comm. Jackson: I think it's very dependent on the case. I can certainly see situations where we would want to vote on those things.

Comm. Neff-Brain: In a situation like this with the apartments or the nursing home across the street, will there be any noise impact on those residential individuals?

Mr. Coleman: I don't think so. (*inaudible comments*)

Comm. Roberson: Why is a building permit required for two TVs and a couple drapes?

Mr. Coleman: It would be the electrical connections they put for outlet boxes; they need an electrical permit.

Comm. Neff-Brain: I think there is enough noise pollution in the area with keeping TVs inside. I don't understand why we have to put them on the outside.

Mr. Coleman: That has been the trend for a lot of these restaurants to create the outdoor spaces with fireplaces. The Bristol had one come in, as did Talk of the Town. The televisions are the reason it came to you.

Chairman Williams: Just like any other patio we have discussed in the past, they are subject to the noise ordinance at the property line, which is along 119<sup>th</sup> Street, which isn't exactly quiet anyway.

Mr. Coleman: It is only here because of the outdoor entertainment / television aspect.

Comm. Pateidl: I would like to follow up to a comment that Richard made. Do we really want to see these? In anticipation from something like the Bristol, knowing where they're located and Talk of the Town and its location, I really don't see an impact on any type of residential or interference with the noise already at those corners. In the interest of facilitating this whole prospect and expediting the activities on behalf of the commercial citizens of the community, I would prefer to see discretion used and have them only brought to us in the event that you have some impact on residential locations.

Mr. Coleman: We can do that. If the establishment is near residential, we will bring it to you; if it is in a commercial area, we will not.

Comm. Roberson: Makes sense to me.

Chairman Williams: It does, indeed; however, we do have this case before us tonight, so let's proceed. Any other questions of staff?

Comm. Elkins: Because I'm in a contrary mood tonight, I guess, I would express a different view with respect to these cases coming before us because I don't think you make that judgment strictly on the basis that it's a commercial area. For instance, if one of the outdoor areas at Park Place would want to come in and put TVs in their outdoor area that adjoins onto that green space, I would have serious concerns about the noise that comes up there. I'm not so concerned in this instance, and I am certainly going to be supporting this application because that noise is going out to 119<sup>th</sup> Street, and I also think 810 Zone also has a television in an outdoor context there. The point is I don't think you can arbitrarily draw that line between a commercial and non-commercial area as far as impact on residential or not. It has to do with the ambiance and character of even certain commercial areas. Frankly, even if we've given the direction to the commercial area and we want him to use his discretion, the first time he uses his discretion not to bring it to us, one or the other of us will probably have a concern about it. It puts him in a difficult situation. I would defer to the other commissioners, but I wanted to make the observation.

### **Applicant Presentation**

Kurt Thuenemann, Houlihan's, 8121 Fontana St., Prairie Village, KS, appeared before the Planning Commission and made the following comments:

Mr. Thuenemann: Thank you for hearing this petition tonight. To address your concern regarding the sound from the TV, we actually don't play any sound on the TVs, even inside our restaurants. It's a legal issue.

Some restaurants will, but we do not. We do have speakers out there and have had speakers since we opened the restaurant in 1986, I believe.

Comm. Neff-Brain: So you'll just have music.

Mr. Thuenemann: Exactly.

Chairman Williams: Do you have any reservations about the stipulations?

Mr. Thuenemann: I do not.

Chairman Williams: That brings us to further discussion and possibly a motion.

Comm. Roberson: Are we going to allow Mr. Coleman to have discretion? That seems to be the issue right at the moment.

Chairman Williams: I think the issue at the moment is the case before us. I understand the concern, but I think that's an issue for another time.

Comm. Roberson: I think now is the perfect time.

Comm. Neff-Brain: It has to be on the agenda, doesn't it?

Ms. Shearer: You all need to vote on the case.

Comm. Roberson: We intend to vote on the case.

Ms. Shearer: I agree with Ms. Neff-Brain.

Chairman Williams: We can get it on the agenda at a future date and maybe sooner than later. Any other comments?

**A motion to recommend approval of CASE 61-12 – TOWN CENTER PLAZA – HOULIHAN'S PATIO – Request for approval of a Revised Final Plan for a Tenant Finish – located at 4824 W. 119<sup>th</sup> Street – with all three stipulations – was made by Jackson; seconded by Neff-Brain. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Neff-Brain and Elkins.**

*MEETING ADJOURNED.*