

**City of Leawood
Planning Commission Minutes
June 26, 2012
Meeting - 6:00 p.m.
Dinner Session – 5:30 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160**

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

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Elkins; seconded by Roberson.

Mr. Klein: There have been changes with regard to Case 137-11 and 40-12. These could be pulled from the Consent Agenda if you would like to discuss them.

Motion to approve the amended agenda approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

APPROVAL OF MINUTES:

Approval of the minutes from the May 22, 2012 Planning Commission meeting and the June 12, 2012 Planning Commission work session.

A motion to approve the minutes of the May 22, 2012 Planning Commission meeting was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

A motion to approve the minutes from the June 12, 2012 Planning Commission work session was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CONSENT AGENDA:

CASE 38-12 – ONE NINETEEN – LULU LEMON – SIGN - Request for approval of a Revised Final Sign Plan, located south of 119th Street and east of Roe Avenue.

CASE 60-12 – HALLBROOK OFFICE CENTER – Request for approval of a Final Sign Plan, located north of 112th Street and west of State Line Road.

CASE 65-12 – PARK PLACE – THE RESIDENCES – SPACE F-04 – Request for approval of a Final Plan for a tenant finish, located south of Town Center Drive and east of Nall Avenue.

CASE 69-12 – PARK PLACE – ARCHER PARK – Request for approval of a Revised Final Plan, located south of Town Center Drive and east of Nall Avenue.

CASE 71-12 – SOMERSET SHOPS – Request for approval of a Final Plan and Final Plat, located at the southwest corner of Somerset Drive and Lee Boulevard.

CASE 73-12 – PARKWAY PLAZA – VISION PROFESSIONALS OF LEAWOOD – Request for approval of a Final Sign Plan, located north of 135th Street and west of Roe Avenue.

CASE 74-12 – HALLBROOK COUNTRY CLUB – Request for approval of a Final Plan, located north of 114th Street and west of State Line Road.

CASE 76-12 – TOWN CENTER PLAZA – ALLEN EDMONDS – Request for approval of a Final Sign Plan, located north of 119th Street and east of Nall Avenue.

CASE 81-12 – 89th & STATE LINE - BMO HARRIS BANK – SIGNS – Request for approval of a Final Sign Plan, located north of 89th Street and east of State Line Road.

CASE 82-12 – LEAWOOD COMMONS – BMO HARRIS BANK – SIGNS – Request for approval of a Final Sign Plan, located north of Town Center Drive and east of Nall Avenue.

A motion to approve the amended Consent Agenda was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

NEW BUSINESS:

CASE 137-11 – MISSION FARMS – REVISED SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located south of 105th Street and east of Mission Road.

Staff Presentation:

City Planner Justin Peterson made the following presentation:

Mr. Peterson: Madame Chair and members of the Planning Commission, this is Case 137-11 – Mission Farms Revised Sign Criteria. The applicant is requesting approval of Revised Sign Criteria to allow for additional signage types within the Mission Farms Development. The applicant is proposing to remove tenant arcade signage. None of this type of signage is within this development currently, and staff is supportive of this modification. The applicant is also proposing to revise Section 3, replacing “Tenant Arcade Signage” with “Wall Blade Signs.” These will be allowed only for first-floor tenants, and they will be in lieu of mounting a wall façade sign. They will have a maximum letter height of 12 inches for small shops and 18 inches for large shops with a maximum area of 4 feet tall and 3 feet wide and illumination limited to either internal or spotlights. The signage will be centered on the façade between columns and will not extend above the cast stone trim between the first and second floors. Staff feels the maximum letter height of 12 inches should be permitted for all tenants within this signage type and is not supportive of the 18 inches for large tenants. The applicant is proposing to modify the existing sign criteria within Section 5 as well to change the interpretation of the signage type to signage located adjacent to the entry door in the lobby. A plaque will be permitted, identifying the business and their location within the building. The maximum size of the signage type will be 20 inches by 30 inches, and staff is supportive of this modification. The applicant is also proposing to add Section 6 to the existing criteria for office building project development signs in Buildings E and F only. Development signage will be allowed on the south façade of these buildings. The signs would read, “Mission Farms” and would be installed on the brick façade of the building between the first and second floors above the lobby entrances. Signage would be limited to backlit white or internally illuminated letters with a maximum letter height of 18 inches. Staff is supportive of this modification. Staff recommends the Planning Commission approve Case 137-11, subject to the stipulations in the Staff Report. I’d be happy to answer any questions.

Chair Rohlf: Have they brought forward the changes that you recommended on these letter heights, or is this the same as it was before with the deletion of the comment in Section 3?

Mr. Peterson: It should be the same as before.

Chair Rohlf: You were supportive of this Revised Sign Criteria except for the 18-inch letter heights?

Mr. Peterson: Yes, there is a stipulation that they remove it.

Chair Rohlf: Thank you. And is staff supportive of this request for change?

Mr. Peterson: Yes, we are supportive of that.

Applicant Presentation:

Andrew Way with Colliers International appeared and made the following comments:

Mr. Way: We are actually in agreement with the changes, and we can answer any questions.

Chair Rohlf: One of the reasons we pulled it off the Consent Agenda is so that we are consistent going forward with what is in the Sign Criteria for Mission Farms, and we have a case right behind it. Unless we have other comments on this case, I would ask for a motion to approve it.

A motion to recommend approval of Case 137-11 – MISSION FARMS – REVISED SIGN CRITERIA – Request for approval of a Revised Sign Criteria, located at Mission Road and 105th Street with revisions presented at the meeting and with four staff stipulations – was made by Williams; seconded by Strauss. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 40-12 – MISSION FARMS – DEVELOPMENT SIGN – Request for approval of a Final Sign Plan, located south of 105th Street and east of Mission Road.

Staff Presentation:

City Planner Justin Peterson made the following presentation:

Mr. Peterson: We have no additional comments beyond what is in the report.

Applicant Presentation:

Andrew Way with Colliers International appeared before the Planning Commission and made the following comments:

Mr. Way: I have nothing further to add.

A motion to recommend approval of CASE 40-12 – MISSION FARMS – DEVELOPMENT SIGN – Request for approval of a Final Sign Plan, located south of 105th Street and east of Mission Road with all three staff stipulations – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

NEW BUSINESS:

CASE 33-12 – LEAWOOD SOUTH COUNTRY CLUB – MAINTENANCE BUILDING – SPRINT WIRELESS – Request for approval of a Special Use Permit for wireless communication antennae use and associated equipment, located south of 123rd Street and east of Mission Road. **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 33-12 – Request for approval of a Special Use Permit for wireless communication antennas and associated equipment for Sprint on an existing monopine adjacent to the Leawood South Maintenance Building. The plan proposes the new antennas at two levels: three new antennas along with remote radio units are proposed at the 55-foot level and replacing three existing antennas at the 60-foot level. At the ground level within the existing screen wall, the plans propose removal of three existing cabinets and replacement with two new cabinets. Staff has received communication from a member of the public regarding required landscaping surrounding the tower. Staff has inspected the site and found that a number of the landscaping materials had died or were unhealthy, and staff recommends a stipulation requiring that the landscaping be replaced per the tower's approved plan, which is Case 62-08. Staff recommends approval, subject to the stipulations provided in the Staff Report. I'm happy to answer any questions you may have.

Comm. Elkins: One question I have has to do with our jurisdiction here. I understand staff's investigation identified unhealthy landscaping that needs to be replaced, but I notice that Stipulation No. 2 places the burden of that replacement on the landowner. I'm mildly curious about our ability to condition the applicant's application upon a third party's doing something.

Mr. Rexwinkle: Leawood South owns the land, and Sprint owns the tower. Since the landscaping was approved as part of the tower's plan, we could enforce it through our ordinary enforcement mechanisms, or we could stipulate it on this. We thought it would be appropriate to address it now since concern was raised.

Comm. Elkins: I was more concerned about who should address the landscaping. Presumably, the tower is under a lease from Leawood South to Sprint. I question whether it is appropriate to condition granting this application upon requiring the landowner to do something, especially when the landowner is not in front of us tonight. It seems that the obligation ought to be placed on Sprint as opposed to the landowner.

Mr. Klein: Staff would be fine with having the tower owner be responsible for it, so we can modify that stipulation.

Comm. Roberson: Can you explain the need for a 20% bond?

Mr. Klein: That is a requirement within the Leawood Development Ordinance. If, for instance, the SUP expired and they decided not to take down the antenna, the 20% bond could be used for removal.

Comm. Roberson: So the bond stays in place throughout the SUP timeframe?

Mr. Klein: Yes, and we get it on all of them.

Applicant Presentation:

Pete Akers with Wave Wireless appeared and made the following comments:

Mr. Akers: We agree to all the stipulations. Certainly, the change to make Sprint responsible for the landscaping is fine; they were expecting that.

Chair Rohlf: You understand the Special Use Permit will expire at the same time the tower does?

Mr. Akers: Yes, we have another site coming up in Leawood that will be coterminous with the tower as well.

Chair Rohlf: Is this to update or improve equipment?

Mr. Akers: Sprint had an agreement with Clearwire to provide 4G services, and the agreement fell through. Sprint is going through the process called Network Vision, and they are literally touching nearly every site in the country. Sprint is doing their own 4G. There is not an increased coverage area, but capacity and data speeds will increase.

Chair Rohlf: Will we see all of those towers and antennas we've approved in the last twelve months with these upgrades?

Mr. Akers: More than likely; in various steps, we have four that have been trying to get in the door to see some revisions as well, and I believe there are at least two or three others coming down the pipeline.

Chair Rohlf: It says that the cabinets will be fully concealed; however, the GPS antenna must project above the screen wall for operational purposes. Is that something that used to be contained within the screen wall?

Mr. Akers: No, it can't be contained; it is similar to a remote control with an actual line of sight. This is the other reason Sprint chose to replace the antennas at the top and then modify and add additional antennas down low due to the tapered nature of the tree.

Chair Rohlf: Is this equipment unique to this site because it is a monopine versus what we might see on other sites?

Mr. Akers: I don't think so. Basically, the stealth nature of the structure allows the antennas to be stealth; in fact, there are socks we can put over them to make them look green or brown. We can also put additional branches around it. Generally speaking, it's pretty much the same equipment. One of the issues raised was regarding the radio units. Previously, they were able to be housed in the base equipment at the ground level, but because it is simply the old coax cable that has to run between the antennas and the radio units, with this upgraded equipment, they have to be closer. They have gone from a ground-mounted solution to a tower solution. They have run into issues when it may not work structurally. In this case, it did, but they have to mount a lot more things closer to the antennas. The new technology doesn't allow the special differentiation.

Comm. Roberson: What is the purpose of the GPS unit?

Mr. Akers: It is for times when people call 911.

Comm. Roberson: It is a locating unit for the tower?

Mr. Akers: Absolutely; it helps with public safety and also routine maintenance and monitoring for Sprint.

Comm. Elkins: I am concerned about the maintenance of the landscaping and the fact that it takes an application for a Special Use Permit for us to have a conversation about the landscaping. Does Sprint have some sort of a program that regularly monitors the status of the landscaping? I know it is probably not your job for what you are asked to do, but do you have a sense as to why they let it get away from them?

Mr. Akers: I do; I worked for Sprint directly for ten years. I know they have contracts. The general routine maintenance is visiting at least quarterly to check on landscaping. I cannot give you justification for the current status. I can point to a very dry winter and summer. I can tell you that Sprint recognizes a need to take care of issues. I can tell you all their sites used to be run by a guy named Jeff, who had quarterly maintenance to check for that sort of thing.

Chair Rohlf: If there is nothing else for the applicant, this case requires a Public Hearing.

Public Hearing

Alan Todd, 12314 Mohawk Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Todd: I live approximately 194 feet from the monopine. I believe staff has addressed my concern. I would just like to get an idea what the proposal is.

Mr. Klein: It is a plan approved with the original tower, so that's what they would be responsible to put in.

Mr. Todd: Are we going back to the original design?

Mr. Klein: Yes, it would go back to the original.

Mr. Todd: My concern is much of what was on the original has died, and there should be more. We went through this in 2008, and Curtis Holland, the attorney for Sprint, promised me that there would be a green screen between my property and the maintenance facility. They were going to do everything they could. That has not happened. I know we've had bad weather with the drought. The country club did put in irrigation, but apparently, it hasn't worked. My main concern is to get more than what the original plan called for because that does not give me any help, really, as far as what I see in the maintenance facility. The club is the one collecting the monthly fees off the tower. I would like to see Sprint maintaining this. I know the country club does not have the resources to come in there and constantly replace it due to bad weather. I appreciate Sprint taking over this, but I would like to see more than what was originally planned. I can tell you, in '08, the cell tower was erected; in '10, we had the Special Use Permit. The crews that come out there create a real invasion of privacy. They're up on that tower, and there is not a lot of respect for the neighbors around. There is screaming, loud music and cussing up until 7:00 or 8:00 at night. I was on my back porch one night having dinner, and the music was so loud, I turned it off because they were on the tower. It is disturbing to the neighbors living around there. That is a concern. I'm wondering if we're going to be looking at something every couple years, and it sounds like we are with this. That is a concern for you to think about and to think about the residents in the neighborhood who are all law-abiding, taxpaying citizens. We want to get a little bit of concern from the board here. That is really all I have.

Chair Rohlf: Thank you, Mr. Todd. I'm sure the applicant has heard your comments, and hopefully, he will take those back to Sprint. As far as the complaints about when they are out there working, Mr. Coleman, is there a resource for him to call?

Mr. Coleman: After hours, he would need to call the police.

Mr. Todd: I was trying to avoid all that. I've talked to Mr. Coleman about this. My biggest concern was to get more landscaping than what was originally planned.

Chair Rohlf: My best guess is that we're looking at fall before anything serious will happen out there.

Mr. Todd: Yes, and I would just hope that Mr. Coleman has the power and authority to take care of this. I'll leave it in your hands and hope for the best.

Chair Rohlf: Thank you for coming. Is there anyone else who would like to speak about this case?

As no one else was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

Chair Rohlf: That takes us up to final discussion.

Comm. Williams: Mr. Coleman, my question goes to the issue of noise and music. Does our noise ordinance apply in this particular situation?

Mr. Coleman: It applies; I don't know that the noise would meet the threshold; 60 decibels is about our conversation.

Comm. Williams: On those construction sites, those radios can get pretty loud.

Mr. Coleman: It may, but there is no way to tell unless you went out with a meter and measured it. It would be a nuisance issue of disturbing the peace.

Comm. Williams: Hopefully, Sprint has heard the concerns and will try to be a better neighbor than what has seemed to occur in the past.

Chair Rohlf: If there is nothing else, I think we are ready for a motion. We do need to revise Stipulation No. 2 and change it from "property owner" to "tower owner."

A motion to recommend approval of CASE 33-12 – LEAWOOD SOUTH COUNTRY CLUB MAINTENANCE BUILDING – SPRINT WIRELESS ANTENNA – Request for approval of a Special Use Permit for wireless antennas and associated equipment, located at 3891 W. 123rd Street – with the six stipulations in the Staff Report with the following modification to No. 2: "Prior to issuance of a Building Permit, the applicant shall replace all dead or unhealthy landscaping per the approved plan for the tower." – was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 57-12 – PALO VERDE – LOT 2 – iMODULES – Request for approval of a Preliminary Plan, Final Plan, Preliminary Plat and Final Plat, located at 5101 College Blvd. **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 57-12 – Request for approval of a Preliminary Plan, Preliminary Plat, Final Plan and Final Plat for a two-lot subdivision called Palo Verde, located on the south side of College Blvd. and east of Nall Avenue and the construction of an 18,240 square foot, two-story office building. The subject property currently consists of two un-platted parcels. Each parcel contains an existing office building. The plans propose platting the property with Lot 1 being the eastern lot and Lot 2 being the western lot and demolishing the existing 24,274 square foot, two story office building on Lot 2 and replacing it with the proposed office building. The existing building on Lot 1 is proposed to remain as is. The new building will occupy the same location and general footprint as the existing building, leaving the layout of the site similar to today's layout with the building on the north end of the lot and the parking lot to the south. The primary building entrance will face south toward the parking lot. A new public sidewalk is proposed along the south side of College Blvd. along the site with a connection to the building entrance. Ground-mounted mechanical units are proposed to be located at the northwest and northeast corners of the building and will be screened with landscaping. The Landscape Plan proposes new street trees and perimeter landscaping along College Blvd. and along the south property line as well as

interior parking lot landscaping, all of which complies with the Leawood Development Ordinance. The elevations show the proposed building constructed almost entirely of glass. The south elevation will feature perforated aluminum solar shades, while the east and west elevations and small portions of the north elevation will feature vertical perforated louvers. The applicant is proposing a window sign on the north elevation of the building, a monument sign along College Blvd. and a directional sign on the south side of the building adjacent to the parking lot. The applicant is also requesting a deviation from the minimum interior parking lot setback requirement. The ordinance requires a minimum parking lot setback of 10 feet from interior lot lines, and given that the parking lot crosses the existing and proposed lot lines and is not proposed to be altered significantly, staff is supportive of this deviation request. Staff is recommending a stipulation pertaining to the proposed monument and directional signs to ensure that they fully comply with the Leawood Development Ordinance. With regard to the monument sign, staff's concern is whether the internal light source will be visible. The applicant indicates that the glass will have a frosted appearance and, consequently, the light source will not be visible; however, the plans did not specify this. Staff is recommending the plans be revised in order to specify this information. With regard to the directional sign, its area exceeds the maximum allowed by ordinance, which is 6 square feet. Staff recommends that the plans show its reduction in order to comply with the ordinance. Staff also recommends a stipulation to address the proposed rooftop elements. The building is designed without a parapet, and the plan shows rooftop elements, such as vents, which extend up to 32 inches above the height of the roof. The plans do not show screening of these elements at this time. The applicant has recommended screening the area with perforated aluminum to match the solar shade used on the building exterior, and staff is supportive of this method of screening since it matches the building exterior. This case does require a Public Hearing, and the applicant held an Interact Meeting on May 8th. The summary of the meeting is attached. Staff recommends approval of this request, subject to the stipulations provided in the report. I'm happy to answer any questions you might have.

Chair Rohlf: Refresh my memory of what businesses are in these two buildings.

Mr. Rexwinkle: I believe it is a mixture of offices in the building on the east, and the existing building that is proposed for demolition is vacant.

Chair Rohlf: What does the building on Lot 1 look like? Are these stone?

Mr. Rexwinkle: The base of the buildings is primarily stone. They have a similar look to the buildings to the east that are near the intersection of Nall and College Blvd.

Comm. Williams: I see some samples near your desk that, I assume, are for this project. The perforated panel would be the sunscreen?

Mr. Rexwinkle: I believe that is correct, but we can clarify with the applicant.

Comm. Williams: If I understand the elevations correctly, I see a substantial number of these panels running across the façade. Will this look like metal panels to passersby?

Mr. Rexwinkle: On the south side of the building, it's going to be a flat appearance. On the east and west sides, louvers will project outward from the glass skin on the building.

Comm. Williams: The louvers are not perforated?

Mr. Rexwinkle: I'm not sure. Most of the north elevation that is visible from College Blvd. would be glass, though.

Comm. Williams: Still, what is staff's rationale for approving this with the issue we have had with metal panels?

Mr. Coleman: These metal panels are sunscreens and are not part of the siding. That is the difference.

Comm. Williams: I think we are splitting hairs. I understand the purpose of them, but I think they will look like the façade of the building because you only see the glass where they don't have the panels.

Mr. Coleman: It will change as people drive along. At some point, they will see the glass.

Applicant Presentation:

John Reeves with El Dorado Architects, 510 Avenida Cesar E. Chavez, Kansas City, MO, 64108, appeared before the Planning Commission and made the following presentation:

Mr. Reeves: *(Refers to PDF presentation throughout)* Our Site Plan shows the two different lots. Lot 1 is on the east; Lot 2 is on the west, where there is a 24,000-square-foot building being demolished and replaced by an 18,000-square-foot building. Currently the site has 106 parking spaces; 74 parking spaces are planned, which is a substantial reduction due to the floor area ratio that is part of the Leawood design guidelines. The tree survey shows existing trees that will be removed and those that will remain. The Landscape Plan was included with a diagram that showed species, caliper sizes, mature and planting heights. The west driveway is shared with the Root Building to the west. Accessible parking is on the west side. New parking spaces are to the south. The primary entrance is at the front door after a series of steps that go down to the courtyard about 5 feet below finished grade of the parking area and at grade with the accessible parking spaces to the west. The monument sign is a frosted glass that will be illuminated by concealed LED. The letters will be opaque. At the stairs, concrete retaining walls will help with erosion. The directional sign is just on the west side with the tenant's name. Staff said the sign will need to be made smaller to 6 feet. The floor plan is wide open. It is a brand new cast-in-place concrete structure. iModules is a technology company, so they will have open office areas and private offices. Around the edges of the building are the louvers on the east and west sides. To the south is the perforated screen that is parallel with the south elevation. The covered entry is to the south. To the north are a few louvers at the end, book-casing the ends of the building. The second floor is very similar to the first with more open office area. Again, the same situation occurs with the louvers to the east, west and north. To the south is the solar screen with a perforated canopy below with glass over the front door. The roof plan is simple. Staff comments were to screen the rooftop equipment, which is approximately 32 inches. I would prefer not to add screening to the rooftop, but if I need to, I will. I can show you different views from around the site that shows the rooftop equipment is negligibly visible.

I'll go over the building elevations. Across the south elevation is the perforated metal panel. There are a few breaks introduced to give the elevation a bit of relief. It aligns with different points in the building that pass through the core. Exposed concrete is at the ground line. A canopy is above the main entry. The east elevation shows the louvers facing the east side. They open up a bit and are spaced typically every 24 inches on center. At the middle of the building are a couple of conference rooms, and they open up and stay open moving south. There is a bit of undulation with the building elevation. The north elevation shows glass for 96 feet across the middle with bookends of louvers on the glass on either end. The west elevation is quite similar to the east with the louvers opening up a bit at the west egress stair. *(Shows a sample of the louver)* This is the louver material of prefinished aluminum that will be mounted on the outside of the building vertically at an angle to the building to maximize the amount of shading for the shortest distance. It will be 24 feet tall and parallel with the building on the south side.

Chair Rohlf: Are these permanently affixed?

Mr. Reeves: They are static; they don't move at all. Building sections show relationships of what's happening from the outside of the building to the inside. I have included the roof-mounted equipment. You can see it is pretty small in relation to the scale of the whole site.

Chair Rohlf: What is up there?

Mr. Reeves: It is a small condensing unit for the server room's air handling unit, and then there is a vent for the restroom fans, as well as fresh air intake hood as well.

The Site Plan shows the light fixtures on the site. I added photos to our submittal for clarity's sake. I believe there are three pole fixtures. They are a basic shoebox fixture that will be the finish material of our louvers. The weatherproof fluorescent fixture will be integrated back up into the building at the south awning as well as at the west exit. We will have a metal shroud that is the same color but not perforated concealing those fixtures. Along the path parallel to the building are 12-inch-tall miniature bollards, providing a bit of illumination on the entry path for pedestrians. The two concrete walls at the stairs have a silver or white fixture without the louvers to integrate with the concrete. The recessed fixtures will shine on the trees on the east side. I have also added a couple of shots from our 3-D model that show louvers to the north and west, as well as what it looks like on the east and south. (*Shows the 3-D model*) There was a question about the perforation on the louvers. The way it is modeled is more open than 40%. The rooftop equipment is in the center of the building, which reduces visibility. Are there any questions about the building design that you would like me to address?

Comm. Ramsey: The louvers are permanently mounted and don't move?

Mr. Reeves: That's right; they are permanently affixed to the building.

Comm. Williams: On the louvers as they stick out from the building, you showed us the panel a moment ago that showed the louvers as basically a piece of flat metal that is bent on the ends, showing the back as well as the front with a little wraparound edge instead of being a wide panel.

Mr. Reeves: Correct; it is not a thick box at all, but rather a plate.

Comm. Williams: Is the back side finished to match the front side?

Mr. Reeves: Yes, all faces will be finished.

Comm. Williams: I may not have the dimension correct, but I thought you said the panels would run approximately 24 feet in height. Is that a continuous piece, or is there a break? Your drawings indicate a break in the panels.

Mr. Reeves: Our intent is to break there, yes.

Comm. Williams: On the screen on the south side, how far out from the façade of the glass and framing structure does the screen sit, and how does it actually get mounted to the building?

Mr. Reeves: It is mounted 18 inches off the face of the building. The louvers are not fully engineered yet; we are still working through it. We just completed another project with a similar façade treatment. Mounted to the face of the concrete will be an armature that comes out to hold the louver.

Comm. Williams: It's a concrete structure?

Mr. Reeves: It is a concrete structure. Near the roofline will be an armature sticking out. At the floor line of the second floor, another piece branches out to grab those two louvers. Then we have a 12-inch-tall concrete wall around the perimeter of the building, which is where the other armature connects to the louvers.

Comm. Williams: Short of the armatures, are there ledges or surfaces to catch dirt and debris that could not be cleaned up easily?

Mr. Reeves: No, it is a storefront, concrete, armatures and louvered panels.

Comm. Williams: Some buildings, more so than others, particularly when they're glass structures, have difficulties keeping the glass clean. How does the owner go about cleaning the glass on this building?

Mr. Reeves: I know we can definitely clean quite a bit from the top. The lower portions, we will have to work through. I know we have a couple openings in the lower spots for that.

Comm. Williams: On the finish, it is listed as bone. I am assuming that is a paint finish.

Mr. Reeves: It is a generic term for off-white paint. It will be a powder coat on the aluminum.

Comm. Williams: What are the reflectivity characteristics of the material?

Mr. Reeves: It will be fairly matte; it will not be gloss.

Comm. Williams: The neighbors will not get glare shining on their houses?

Mr. Reeves: I wouldn't think so; windshields would give more glare than this.

Comm. Williams: Mark, on the screens for the rooftop equipment, the requirement is that the equipment cannot be seen from the property line, correct?

Mr. Klein: Actually, the LDO states that they are not to be visible. At one point, we defined that as a 6-foot person standing at the property line. We found instances in which people could see them from different angles. We have required that the screens be at least the height of whatever unit they are screening. If we find that the equipment is visible at a later date, it is much harder to go back and add one.

Comm. Williams: Your requirement for the screen is the perforated panels around the equipment, or is it building up the parapet?

Mr. Klein: It is around the equipment.

Comm. Williams: I don't have any other questions at the moment.

Mr. Reeves: I have a few comments or questions on the Staff Report. We are definitely going to take care of the directional signage on the south face of the building to make it less than 6 square feet. I would like to make sure we have pure clarification on the roof screening. The other thing I missed when reading the Staff Report today is the requirement for burying existing power lines in the right-of-way. We had not planned on that, and it was quite a surprise when we read it.

Mr. Klein: That is a standard stipulation on all projects, and we cannot waive it.

Mr. Reeves: The next is the driveway aprons being in poor condition. On Lot 1, we are only adding the sidewalk extension across the south edge of College, so we would prefer not to do the driveway apron and curb until we should ever have significant changes to the parking lot or if there is ever redevelopment of the site. On the west driveway going into the site is a shared drive between two owners. That driveway is in pretty decent shape. The curb may have some issues, but we feel the requirement to replace the entire drive with another owner complicates it a bit.

Chair Rohlf: Are you referring to Mr. Ley's memo?

Mr. Reeves: Yes.

John Sweeney, 11601 Granada, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Sweeney: I am a commercial real estate broker and developer and have done a lot of work in Leawood for a number of years. I represent both iModules as the real estate broker, and I represent the building owners. As has been discussed tonight, the owners wish to raze this building that was constructed in the mid-'70s and then construct the new building. I think that is pretty unique. As the LDO has been updated over time, clearly, the focus is on new development with little consideration to razing and reconstructing. This relates to a couple issues that appear as a disincentive to redevelop. One of those issues is the density. We have accepted the density. The existing building is over 24,000 square feet, but the LDO requires it to be 18,000 square feet, so we lose 6,000 square feet in order to comply with the LDO. That was a tough pill to swallow.

I am here to talk about the parking ratio. In this case, staff is recommending 74 parking spaces. We are requesting 83 parking spaces. Currently, the parking lot has 106 spaces. We have taken a big hit on the reduction in square footage, but we are actually contractually obligated to provide iModules with 83 parking spaces because the lease was signed before all the plans were prepared. We are asking for favorable consideration on the parking.

Something noteworthy about these owners is they truly are outstanding citizens of the City of Leawood. They have developed six new office buildings in Leawood: two on Tomahawk Creek Parkway, two on College Blvd., one near Town Center and the most recent on 135th Street. They also own five older buildings at College and Nall. They have not only rehabbed those buildings but have maintained them quite well. They also own 30 acres at 135th and Roe, which we are hoping to develop in the next few years. Over the last 2 ½ years, we have completed 50 leases in the City of Leawood that are both build-to-suit like this one and single-tenant. Mostly, though, we are attracting small tenants to College and Nall. iModules is relocating from Overland Park in the South Creek Office Park. It is worth mentioning that it is a very tight deal economically. The owner understands the market conditions and was able to negotiate a rate that a lot of owners could not have done. He is willing to do that in recognition of the long-term value to begin redeveloping the College and Nall area as opposed to investing in older wood structures that are literally 40 years old and perhaps even a fire hazard for the City of Leawood. Our request tonight regarding the parking is to consider all the circumstances we have discussed, allow the parking variation and recommend approval for the project.

Chair Rohlf: Thank you. Mark, I don't see anything about parking in the Staff Report. Have I missed it?

Mr. Klein: The plans we were given have the parking shown without the additional parking. They raised this issue and indicated they wanted the additional spaces added into green space. Staff really isn't supportive of the additional parking, and there is no way we can recommend it even if we wanted to because we would have to calculate the maximum parking ratio and ensure they continue to meet the minimum open space requirements. With regard to the building having to meet the current requirements of the LDO, as with all cities, regulations are in place for legal, non-conforming structures; however, almost all of those regulations,

including the City of Leawood's, have a threshold that, if a building is modified or changed beyond a certain percentage, the application will come into compliance with the current LDO.

Chair Rohlf: So the maximum parking for this structure is 74?

Mr. Klein: I believe so.

Comm. Ramsey: Did I understand that there is not enough room the way it is currently configured when they meet all the requirements?

Mr. Klein: At this point, we really haven't been able to analyze the plan with regard to that.

Chair Rohlf: Mr. Reeves, were you finished with your presentation?

Mr. Reeves: I am, but I would like to address one more thing. In the Staff Report on Page 1 dated May 8th, the first comment we respond to (and I will just read what we typed) is that we request the Governing Body to evaluate the project's existing conditions and proposed plan to approve the removal of the interior parking setback as permitted by the section. It is our preference to keep as many existing parking spaces as possible. Please note, the quantity of proposed parking spaces of 83 on the property schedule and shown dashed in on the Site Plan for consideration. 74 parking spaces are allowed; 83 parking spaces are proposed.

Mr. Coleman: When we first met with El Dorado, we explained we had a maximum parking count and that it was 74, which is what would be allowed on the site.

Chair Rohlf: I don't see what he's reading from.

Mr. Klein: He has an initial letter that we send out when we first receive the application. With regard to the parking, there is no deviation provided by the LDO to allow additional parking, other than to have a parking study provided by the applicant.

Mary Claire Amer, Wallace Engineering, 819 Grand, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Ms. Amer: I would like to address the stipulation about placing the utilities along College Blvd. underground. Early in the project, I had a conversation with David Ley about what the requirements would be within the public right-of-way. I knew that was one of the issues, and since we were just one lot along College Blvd. and everything along College Blvd. is overhead, David Ley told me it would not be required of just one lot to bury the utilities. That is one of the reasons we were able to proceed with this and why the stipulation was such a surprise.

Mr. Ley: We require escrow accounts on areas like this, but it is not done as part of the project. It is something the city would do when they bury the lines all along College.

Comm. Williams: They pay for it now and just put the money in escrow.

Mr. Ley: Yes.

Comm. Williams: That is what the city has done in the past in situations such as this?

Mr. Ley: Yes.

Doug Stockman, El Dorado Architects, appeared before the Planning Commission and made the following comments:

Mr. Stockman: I would like to give a closing argument for the design team, as we have worked hard to attract iModules to the City of Leawood and to give them a building that they are really excited about. They are thrilled to move to Leawood, and I think a lot has to do with this building and the environment we are creating for them. Some of the leniency requests you are seeing from the team and the realtor are to try to do a balancing act between the fiscal responsibility for the owner in attracting the tenant. If the requirements are as they are, we will do what we can to move forward, but we do ask for leniency if at all possible. We thank you for your consideration. Thank you.

Chair Rohlf: Thank you. Does anyone have questions for any of the applicant's team?

Comm. Ramsey: Why incorporate the sun shades? Is this passive building of any kind? Are you going for any kind of green certification?

Mr. Reeves: There is no LEED certification. With it being an all-glass building, there is a bit of a heat load from the sun, so it is mitigating that. It is a passive solar response.

Comm. Ramsey: I appreciate that, but from the sheets that I've seen so far, the impression I am given is something of an industrial look. I have a great concern with that because we've had other applicants in here who have been rejected soundly because of trying to use metal skins and different types of applications because of the industrial look. I am not sure what you can do, but my initial reaction is this is not something I would expect to see on College Blvd. in Leawood.

Mr. Reeves: The louvers, in my opinion, are tailored for the building. It is not galvanized or rough; it is fairly tight to the building elevation and detailed specifically so it is not an industrial look.

Comm. Ramsey: You may need to supply another drawing, because I have a distinct feeling of an industrial look.

Mr. Stockman: Our original design was simply a glass building, and the solar shading was requested by staff.

Mr. Coleman: We didn't recommend it, but they did note in the LDO that it talks about environmental shading for buildings, and we agreed that it would be fine. They had another design prior to this that had horizontal sun shades. This design appeared three weeks ago.

Chair Rohlf: Are there any other questions for the applicant? This case does require a Public Hearing.

PUBLIC HEARING

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

Chair Rohlf: That takes us up to discussion. Does anyone have any comments?

Comm. Roberson: I have mixed emotions about this building. I commend you for having designed something that is quite unique, but I think I have to agree with Commissioner Ramsey that this looks like a

big box surrounded by metal. Quite frankly, it is totally out of character, not only on College Blvd., but in Leawood as a whole and it just doesn't fit the nature and character of Leawood whatsoever, in my opinion. Elsewhere, I think this would be a neat-looking building, but given the character of the neighborhood, I just don't think it fits in at all.

Comm. Elkins: I am still a bit confused on this parking issue. The applicant seems to be asking us for a departure from the norm, and I'm not sure that the norm is articulated in the plan, so I'm not sure how to deal with the issue. It sounds like some of my colleagues don't even get to that issue, but don't we typically have a stipulation or part of the plan that talks about parking?

Mr. Coleman: In the past, the goal was to get as much parking as possible. With the change in the LDO, we have minimum and maximum parking. It is applied to all new office buildings. The reason for that is to reduce the amount of asphalt and heat island that is created by the extra parking that people seek that isn't actually necessary. The ordinance has a maximum parking ratio for office and retail, and that is what we have applied to this project.

Chair Rohlf: There is nothing in here that states what the number actually is.

Mr. Coleman: We are giving them the maximum number of parking spaces allowed by the LDO.

Comm. Elkins: It doesn't seem to be in the plan or the stipulations.

Mr. Coleman: The maximum in SD-O is four per thousand.

Comm. Elkins: We are not quarreling with the requirement; we are quarreling whether it is contained in the plan we are being asked to approve.

Mr. Klein: It is shown on the plan, but it is not in the Staff Report.

Mr. Coleman: In the plan is a Table of Parking that shows the parking division between the two lots, the existing number on Lot 2 (83) and the allowed on Lot 2 (74).

Comm. Williams: They actually had over 100 parking spaces on the lot in question?

Mr. Coleman: To reach the 30% open space and green space required, they had to remove a number of parking spaces to get down to the correct number. This building was built in 1970, and there were not requirements for internal landscaping for parking lots.

Comm. Williams: I'm not taking issue with that; it is just that we have very little information at all about what the original site looks like. I have only seen the aerial photo. Parking and the buildings are roughly in the same place.

Mr. Coleman: They removed a number of parking spaces on the west edge of the parking near the entry, and they increased the size of two of the parking islands.

Comm. Williams: The key for us is, if the city is going to maintain the 83 parking spaces they are requesting, it is not possible?

Mr. Coleman: It is not allowed by the LDO.

Comm. Williams: It sounded like Mark had to review the green space and so forth; if it cannot happen, we will just move on.

Comm. Ramsey: Was the calculation previously done?

Mr. Klein: Yes; they have 74 as the maximum parking ratio within the development for SD-O. There is no deviation to allow the increase in parking spaces.

Comm. Ramsey: So other than changing the ordinance, there is no other way to allow it.

Mr. Klein: The only way to do it is to provide a parking study indicating that they need the additional parking.

Comm. Ramsey: As part of this, if we pass it and add a stipulation that they provide a parking study, it is the only way they could go over the 74 spaces.

Mr. Klein: Yes, and since it is a Final Plan, the case couldn't be approved until the study was done and reviewed by the Planning Commission and City Council.

Chair Rohlf: If we approve this tonight, it is with the understanding that they have 74 spaces, period.

Mr. Klein: Correct; the only stipulation in question at this point is with regard to the underground utilities. The LDO does require that the utilities are buried; however, it does allow them to be taken care of through an escrow account. That stipulation would have to be changed to require them to pay into escrow the amount of money to bury the utilities.

Comm. Ramsey: To be clear, we can take action on this tonight with 74 parking spaces. The only other way to take care of this would be to table it to allow them time to provide a parking study showing the need for the additional spaces.

Mr. Klein: Correct; then they would still have to meet the requirements of open space. Right now, they have 37% and the minimum is 30%.

Comm. Ramsey: But the parking study could get in to the details of how they might be able to do that.

Mr. Klein: Correct.

Comm. Strauss: I will point out that it says 80 employees are planned at this site. If you think about visitors, it does seem like there could be a deficiency in the number of parking spaces. I guess the parking study would identify that.

Mr. Klein: We originally talked about arranging shared cross-access parking. That other building would also have to have the minimum ratio of parking for that building as well.

Comm. Ramsey: Are they doing anything with the other building?

Mr. Klein: I'm not sure what the relationship is with the other building.

Mr. Reeves: If the hang-up for approval is the 74 spaces, we will be fine with it. The business has 80 Kansas-based employees.

Chair Rohlf: Are just the Kansas-based employees there?

Mr. Reeves: I don't know how many are in the building.

Comm. Ramsey: How critical is it for the additional parking spaces? Do you want us to go forward, or do you want us to table it so you can do a parking study?

Mr. Reeves: I think we should go forward with 74 parking spaces.

Chair Rohlf: Do we have other comments? I think we are, perhaps, ready for a motion.

Mr. Ramsey: I'm not comfortable with the screens the way they're configured. I'm okay with everything else. As Commissioner Roberson indicated, I don't think it fits with the screens.

A motion to recommend approval of CASE 57-12 – PALO VERDE – LOT 2 – iMODULES – Request for approval of a Preliminary Plan, Final Plan, Preliminary Plat & Final Plat, located at 5101 College Blvd. – with the 22 stipulations as proposed in the Staff Reports with the following modification to No. 6: rather than requiring the applicant to place the utilities underground prior to final occupancy, provision will be made for a deposit of the appropriate funds into an escrow account to accomplish that at the appropriate time – was made by Elkins; seconded by Strauss. Motion approved with a vote of 3-2. For: Williams, Elkins and Strauss. Opposed: Roberson and Ramsey.

CASE 64-12 – SOMERSET SHOPS – DOG PAWZ – Request for approval of a Final Plan, located at the southwest corner of Somerset Drive and Lee Boulevard.

.Staff Presentation:

City Planner Justin Peterson made the following comments:

Mr. Peterson: Madame Chair and members of the Planning Commission, this is Case 64-12 – Somerset Shops – Dog Pawz. The applicant is requesting approval of modifications that currently exist to a tenant space. These have not been approved, nor was a building permit given. The modifications include the addition of a service door on the back of the tenant space, construction of landing stairs providing access to the service door and a fenced enclosure. The applicant has been using these modifications to allow dogs to be taken out the back door and into the enclosed area outside. Staff is not supportive of this application for the following reasons: the shopping center is a legal, non-conforming structure that does not meet current setback requirements, including a residential setback of 125 feet. This tenant space is approximately 11 feet away from the nearest residential property, and the fence enclosing the outdoor dog area is adjacent to this residential property. The modifications significantly change the way the tenant space is used and its impact on nearby residential homes. The city has received complaints from some of these neighbors. The modifications made to the building and site were made without any prior approvals or permits. A denial of this application would require that all modifications to the building by the applicant without approval or permit shall be removed and the building site be returned to its condition prior to modifications. Staff recommends denial of this case. I would be happy to answer any questions.

Comm. Elkins: I want to make sure I understand this correctly. Legally speaking, the issue is about the modifications to the building and not the use to which this particular part of the shopping center is being placed; is that correct?

Mr. Klein: They put in the improvements to the building without a permit, and therefore, no approval went through. Any exterior modifications are supposed to go through Planning Commission and City Council. By putting in the door and enclosing the back area, they effectively created an outdoor play area for the dogs, which changed the way the building was being used. They were allowed to move into the building, which is

a legal, non-conforming structure due to the setbacks. With the current ordinance, this type of kennel would not be allowed in this area; however, they moved in to the building prior to the change in the ordinance, but with no approval for an outdoor play area.

Comm. Elkins: The kennel itself is a legal, non-conforming use, and if they get the door back to the way it was, if they can get the dogs to the outdoor play area, it would still be a legal, non-conforming use.

Mr. Klein: There was a perimeter fence between the existing residential and the shopping center. They added two other sections of fence to extend from the building to that perimeter fence to enclose that area. They would also be required to move those sections that create the outdoor play area.

Comm. Elkins: The fence would also required Planning Commission review and City Council approval?

Mr. Klein: Yes, because it would actually be creating an outdoor play area for this exterior, it would require approval.

Mr. Coleman: This business moved into this space with only a sign permit. We talked to them about any outdoor use and that they would need to get a plan approval for any such use for dog play. They said it would be entirely contained within the building. Then they made these improvements without permit.

Chair Rohlf: Was it brought to your attention by complaints?

Mr. Coleman: Yes, it was.

Comm. Strauss: How long has the business been in existence?

Mr. Coleman: I think it has been there about 18 months.

Applicant Presentation:

Dan Thompson, owner, 7960 Lee Blvd., Leawood, appeared before the Planning Commission and made the following comments:

Mr. Thompson: When we first moved in, we had a build-out permit that we changed in the building. Our sign took about 2 ½ months to get approved, and we finally got that up. I don't know what he's talking about with the permit.

Mr. Coleman: The permit was for interior modifications only and not for any exterior modifications.

Mr. Thompson: When I negotiated a lease with the owners, they were well aware that we were going to walk dogs to the outside to get them some breathing space and let them go to the bathroom once or twice a day, just like a vet does. Our business model has not changed. We did put in a back door without getting approval; we shouldn't have done that, and I apologize. I didn't think it would be any problem. The first week we put the back door in, I found out that our staff was leaving the back door open, so all that noise was going out the door to the neighbor's house behind us. Once I found that out, we stopped it. Now, we have a walk schedule at 9:00 a.m. and 1:00 p.m. It is not an outside play area. We used to do pool areas when we first moved in, but we were told not to, so we stopped. We walk two dogs out at a time and put them in the back area for 10-15 minutes. It is never late at night, and it is never any more barking going on than a regular neighbor dog. We have 20 employees at Dog Pawz, so we have one employee for 6-8 dogs. We make sure there is not a smell from the back; we spray it with bleach and OdoBan. We are very conscious of our neighborhood. We are the first commercial building, as I was told, in the City of Leawood. I know we are close, but that is also what makes us successful. I would say probably 80% of our clients are neighbors

behind us, and they are all for us. We were told that a particular neighbor was going around and trying to get other neighbors to complain to the city. All we are aware of is the neighbor behind us. I have talked to her in the past and have tried to work out a compromise, and she was unwilling. She left me a note that she wanted me to buy her house. I told her I didn't have an interest in it, and that is when the relationship went downhill, and here we are. My business concept has not changed; it is not an outside play area. If I had known I couldn't use the outside space to walk the dogs a couple times a day, I probably wouldn't have opened the business there, and I don't think the model would work. We are at jeopardy here with 20 employees; if we don't have availability to outside space, it will hurt our business. As far as the fence is concerned, it was there a long time before. We only completed one side with a gate.

Carrie Smart appeared before the Planning Commission and made the following comments:

Ms. Smart: The owners of the actual building have built a 6-foot fence, which might also be what they are thinking we built. As far as we know, the owners of the building got a fence permit and put up the 6-foot fence; it was not our doing.

Chair Rohlf: When did these modifications go up?

Mr. Thompson: Maybe two months ago or a year and a half after we were there.

Chair Rohlf: What were you doing before you put them up?

Mr. Thompson: We were walking them out the side door on leads around to the same area.

Chair Rohlf: This has just changed your access.

Mr. Thompson: Correct; and now the liability is that there is a better chance of a dog getting loose and into the neighborhood or into the busy street. The way we are using the space has not changed; we have been doing that since the beginning with no complaints for a year and a half.

Chair Rohlf: But at one time, you had the back door open, which created more noise.

Mr. Thompson: Yes, and we shouldn't have. I wouldn't want to sit on my deck and hear that. We make sure a person is out with the 2-6 dogs at a time, and we stop barking as soon as it starts.

Chair Rohlf: Have you spent enough time out there to believe that to be true?

Mr. Thompson: Absolutely; I am passionately involved in my business. Carrie runs the store itself, but it is my passion. We clean the place 6-8 times a day.

Chair Rohlf: I need to clarify with staff, even if they came through with these particular modifications as part of an addition, because of their status, they couldn't get approval because they are non-conforming?

Mr. Klein: They are a legal, non-conforming use. We are not trying to disparage the business. I realize you are running a business and trying to do the best you can. The issue that comes into play is the fact that it is a legal, non-conforming structure that is extremely close to the residences behind. They came through Planning Commission and City Council with a Sign Plan; however, there was no outdoor area. They are absolutely correct that the 6-foot fence went up from the shopping center because a fence originally acted as a buffer between the shopping center and residential. The fence came down, and Neighborhood Services notified them that the fence needed to be replaced to restore the buffer. They probably added another side to the fence to enclose the area. The kennels we have had in the past have included these

outdoor spaces to allow the dogs to be outside, and it was specific to the approval of those kennels. When Dog Days came through for Market Square, there was a lot of discussion about the outdoor play area. That was in a commercial area with a bank adjacent. If this came before Planning Commission and City Council, we would see that they are increasing the intensity of it, and staff probably wouldn't recommend approval due to the close proximity to the neighborhood. It is no fault of their own; it just happens to be one of the first shopping centers in the City of Leawood and is in close proximity to a residence. They are going through the process to request the improvements to be approved. Staff is recommending denial for the reasons stated in the Staff Report and the impact on the adjacent neighborhood. Jane's Canine was out in Village of Seville, and they didn't have an outdoor play area; they took their dogs out on leads as well. We assumed this would work the same way.

Mr. Thompson: I understand what he's saying, but our big thing is that the number one and only complaint I got from the neighbor behind was the door being propped open for the whole day. That's where the noise was coming from. The noise wasn't coming from the dogs being walked on leads. I would encourage any of you to come and sit outside our building and monitor it. Someone walked around with a noise meter, but I don't know what the result was. We haven't changed our business at all. We put in a door without the permit, and I apologize for that.

Chair Rohlf: I'm sure we are sympathetic to what has happened here, but unfortunately, when approval was given for your business to go in there, the way your business plan was working didn't show for an outdoor access. However you are using that, whether it is by leads or making it easier on your staff to handle the dogs, you are now using an outside access area that was not part of the understanding when you were given your permit to go in there. If you had come forward with what you needed to do to modify this site for outside use by your dogs, I'm not sure that you would have been able to do that, given the status of that building. Is that correct, Mark?

Mr. Klein: Correct; we became aware of it when it came through with a Sign Permit. These modifications were not part of that approval.

Chair Rohlf: And you didn't understand it to have access to the outside; it was more like Jane's Canines.

Mr. Klein: Correct; if they were moving in as a new applicant and anticipated enclosing the outdoor area, it would have come through Planning Commission and City Council. It is more or less where we are at this point; it is just that staff is recommending denial due to the close proximity and impact it could have on the neighbors.

Mr. Thompson: When I got my occupancy license, I did not say I wasn't going to walk dogs. I remember a conversation with the city about where the dogs would go to the bathroom. I said I had an area in the back and that the landlord was well aware I needed to use the area. I wasn't in front of you, but I was very clear I was going to use the side door to get to the back because it is fair for dogs to relieve themselves outside. I don't know if we will be able to stay in business if this changes. I am not asking for a play area in back where 20 dogs play; all I am asking is to use my business the same way I've been using it for a year and a half, which is walking dogs to the back, keeping them on leads twice a day. The other 23 ½ hours, dogs are not outside. I am looking for a compromise and not a complete shutdown.

Chair Rohlf: The option is that you would need to remove everything you put up and take it back to the way the building was.

Mr. Klein: Yes, it would be going back to the way they were operating before.

Chair Rohlf: It is unfortunate, but I'm not sure where the misunderstanding occurred.

Mr. Thompson: I don't think there is a misunderstanding at all; I was very clear we would walk the dogs to the outside from the beginning. I didn't need to come before you for that. I had all the permits in place, and everything was done up-front.

Comm. Ramsey: You didn't need to come in front of us until you put the door in, and you put it in without coming in front of us. Now, the issue is how to deal with that because there is no provision for us to allow this.

Chair Rohlf: I also think the bigger discussion is whether they are supposed to be using that area.

Mr. Klein: This is a case that is basically asking to take the dogs out on leads like they have been doing for a year and a half. These stipulations would require the building to go back to the way it originally was. They would still have the ability to do it exactly like they did before. Nobody is saying they can't walk the dogs on leads or that they can't exist; it is only that the building needs to be changed back to the way it was before.

Comm. Ramsey: Can they come back in and request the door?

Mr. Klein: That is what they are doing now.

Mr. Thompson: I invested about \$5,000 in the back door. I should have gotten the right permits, but I am just asking for you to consider all of that because I am a small business with 18 employees, and I'm trying to contribute to Leawood.

Comm. Elkins: Had the door not already been built and these folks came in with an application to put a door back there, is there anything that would prohibit that in the LDO?

Mr. Klein: Say it required a Special Use Permit and you were taking a look at this site for a kennel to be located there. You would probably look at the site and determine impacts on the surrounding area. We keep referring to the outdoor area because it is an enclosure that allows the dogs to go out. We are not talking about walking the dogs on leads and taking them back in. What you need to decide is if you feel it is an appropriate change to the building in the way the kennel is being operated for this particular location.

Comm. Elkins: I understand all that, but would we have had the authority to grant an application to put that door in, had it come to us before it was constructed?

Mr. Coleman: Yes, if they had come and asked for it when they made the sign application. The answer now is probably no because this business is no longer allowed in this zoning district. We changed our kennel ordinance, and we divided it into three different types of kennels: veterinary, commercial and one other one. In SD-NCR, it is not allowed. They are allowed in an SD-CR with a Special Use Permit. If they had applied for this before the LDO changed, it would have been a legal, non-conforming use. Now, by approving it, you would make it even more non-conforming because it is not allowed in SD-NCR any longer. This is a good example of why we changed the kennel laws. It stemmed out of the large kennels and other kennels that made applications at Market Square and Centennial Park. We revisited the kennels and appropriateness of their location.

Comm. Elkins: The fact that they would be seeking a modification of the building destroys their ability to maintain a legal, non-conforming use.

Mr. Coleman: I think it does.

Comm. Roberson: Let's assume they agree to remove the door and the two fences and go back out the side door and walk around. Can they do that?

Mr. Klein: Yes.

Comm. Roberson: By going through the application process to modify it, they would be denied no matter what they do at this point, so as a result, they shouldn't even bother to do that. What they should do is take out the door, take out the steps, take out the fence and go back to what they were doing, and they would be just fine.

Mr. Klein: They could operate the way they were before, yes.

Comm. Roberson: How many dogs do you have?

Mr. Thompson: We limit it to 50-60 dogs.

Comm. Roberson: That's a lot of dogs.

Mr. Thompson: Not all of them get walked. We are a cage-free facility. To us, "kennel" is a dirty word. We have open play areas. We treat the dogs like kings and queens. Some of the dogs are older and don't need to go out, and the owners don't want them walked; they just want them in air conditioning, sitting on couches and playing with other dogs. It has been our business plan from the beginning, and we have 1,600 clients. A lot of them are in that neighborhood. They always wanted to make sure their dogs got to go outside a couple times a day.

Comm. Roberson: Do you understand that if you come through with an application to modify, it will be turned down, and the business will be considered illegal?

Mr. Klein: They just aren't allowed to expand the legal, non-conforming use. Per the LDO, that includes additions to the structure, which would include the fence, the door and the platform. They were operating perfectly fine as a legal, non-conforming use prior to the modifications. They can still go back to that.

Ms. Smart: If we were to remove just the fence and keep the stairs for the safety factor that it is so much safer to walk with the new back door instead of going through the parking lot, would it be an option?

Mr. Thompson: We've had two dogs get out in a year and a half. That is two too many. It is a really dangerous situation. I understand where you are going with this. I'm in real estate, and I know what it's like for house values, but our business has been there a long time. If you want to make sure we don't have an outside play area, let us still use that door, and we'll take out that side of the fence so you know they are on leads at all times.

Comm. Roberson: If they leave the door, can they use the door, or does it become an issue?

Chair Rohlf: They have the stairs. I'm not sure I understand what would stay and what would go.

Mr. Klein: We have to go with the ordinance. I understand exactly what they are saying; however, the ordinance states that any use of land that would not be permitted under the terms of this ordinance that lawfully existed at the time of the adoption of the ordinance (which is their case, as they went in legally) shall hereafter be considered a lawful, non-conforming use of land. As such, it may be continued so long as it remains otherwise lawful and provided that no enlargement, increase or extension of lawful, non-conforming use of land occurs so that a greater area of land is occupied and is occupied at the time of the adoption of

the ordinance and that no additional structures or additions to structures existing at the time of the adoption of this ordinance shall be constructed on the same zoning lot. The ordinance is stating that they wouldn't be allowed to make those modifications.

Comm. Roberson: There is no addition except the fence and the stairs.

Mr. Klein: And the door.

Comm. Roberson: The door is not an addition. You could stick a window in and not have a problem. The stairs and the fence would have to go; therefore, the door is of no use. Is that a fair statement?

Mr. Klein: We would hate to have an unsafe condition.

Comm. Strauss: I'm debating on how pertinent this is, but you said the city received complaints when the door went in. Did the city receive complaints prior to the door coming in?

Mr. Klein: Not to my knowledge. Neighborhood Services became aware of it and then contacted the applicant, indicating they would need to remove the structures through a courtesy notice. It went on hold in court when the applicant made an application to the City of Leawood for these modifications in an effort to try to work this out. At this point, I don't think the LDO will allow these modifications as the use is no longer allowed in that zoning district.

Mr. Thompson: The use hasn't changed; it is just where we exit the building.

Comm. Roberson: Let's answer the question posed. How many complaints have been received?

Mr. Klein: I am only aware of one.

Mr. Coleman: The complaints started when the property owner removed the fence in the back. We contacted the property owner about replacing that fence. We have had complaints from the property owner who lives directly behind the business.

Mr. Thompson: I've tried to work with her.

Mr. Coleman: The building is 11 feet from her property.

Mr. Thompson: I just feel that if this one neighbor wasn't doing all this, we wouldn't be here. It happened when she asked me to buy her property and I said I would not.

Comm. Roberson: With respect to this building, if you take down the fence, do you have full access behind this office complex to walk back and forth? Your fence stops any traffic back there.

Mr. Thompson: Correct; it is an enclosed fence with a gate, but we only put one side up. We are almost making a jail system for dogs. We have two doors to get into the fence so if they get out, there is another area they can't get out. It is so much more important to not have the dogs loose in the neighborhood.

Comm. Roberson: In the back, normally you have the back of an office and a fence along the property line. Is that fence enclosed at the back of the office complex?

Ms. Smart: It is not completely enclosed in the back. There is a parking lot in the back.

Mr. Thompson: (*Refers to photo overhead*). Here is our area right here.

Ms. Smart: The yellow line is the fence.

Mr. Thompson: We have a really odd triangle space.

Comm. Roberson: What is the yellow line that runs somewhat parallel to the fence?

Mr. Thompson: I'm not sure.

Ms. Smart: You can see the other existing fence.

Mr. Coleman: Regardless of where the fence is located, the zoning issue and the use still remain.

Chair Rohlf: I think we've discussed this enough. I think it is unfortunate, Mr. Thompson, but I don't think there is anything we can do here but deny this plan. Our hands are tied by the ordinance and the fact that you're a legal, non-conforming use. I am a dog owner, and I understand your request, but I just don't think there is anything we can do at this point. Unless anyone else has any other comments, we will bring this case to an end.

Mr. Thompson: Is the requirement to physically remove the door, or can we just board up the door?

Chair Rohlf: That is a question for staff. I don't know if there is a code issue.

Mr. Coleman: Our request is to put it back the way it was.

Mr. Thompson: Do I have an appeal process for that?

Mr. Coleman: It still has to go to Governing Body, and they will make a decision.

Chair Rohlf: If there is nothing else, could I have a motion?

A motion to recommend denial of CASE 64-12 – SOMERSET SHOPS – DOG PAWS – Request for approval of a Final Plan for a Tenant Finish, located at 7960 Lee Blvd, subject to the one Staff Recommendation – was made by Roberson; seconded by Ramsey. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

Mr. Rexwinkle: We have a request from Mr. Alpert from Park Place to alter the order of the agenda. You could vote to change the order; however, it would have to be a new vote. He wants to move Case 70-12 to the next case and push the other three Park Place cases behind that in the same order.

Chair Rohlf: I don't see a problem with that.

A motion to revise the agenda to re-sequences the cases such that Case 70-12 is heard before Case 66-12 was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 70-12 – PARK PLACE – BUILDING J EXPANSION – Request for approval of a 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 70-12 – Request for approval of a Final Plan and Final Plat for Building J Expansion at Park Place. The plans propose construction of a 2,000-square-foot building addition to the ground level of the north side of Building J. The Final Plat is proposed in order to adjust the lot line northward to correspond with the building expansion. The addition is proposed to be constructed of brick and cast stone to match the existing building. No rooftop units are proposed on this expansion. The expansion results in removal of green space north of Building J. When Building J was originally approved, staff had expressed concern with the design of the area immediately north of the building. At that time, the plan was approved with two potential layouts, one of which anticipated a restaurant tenant on the north end of Building J. This layout proposed the space to be constructed as an outdoor dining area for the restaurant. The applicant has stated that this building expansion is necessary in lieu of the outdoor dining area to accommodate a forthcoming restaurant tenant. Staff's main concern when Building J was originally approved was that the area north would become a dead space or leftover space, which is why staff was supportive of the alternate layout with the proposed patio. However, that concern no longer exists with the building expansion since the space is becoming occupied. Given the expansion proposed in this space, we no longer express that concern and recommend approval of the case, subject to the stipulations provided in the report.

Chair Rohlf: This was already part of the overall square footage calculation?

Mr. Rexwinkle: Correct; this doesn't add to the total square footage; it is taken from a future building.

Comm. Elkins: That future building is retail or office?

Mr. Rexwinkle: There is one remaining retail building, and it would have to come from that one.

Comm. Elkins: It is coming from Building K; thank you.

Applicant Presentation:

Jeffery Alpert, Park Place Village, LLC, 11551 Ash Street, Leawood, appeared before the Planning Commission and made the following presentation:

Mr. Alpert: With me this evening: my partner Melanie Mann, Gary Schuberth with Opus Architecture and Engineering and Judd Claussen and Jeff Lawback from PEI Engineering. Thank you for altering the order. In the context of our issues tonight, this was really the most time sensitive. This space was always intended to be a restaurant. We were approached by the ownership of 801 Chophouse to do a very high-end seafood restaurant, which they intend to call 801 Fish. We have the lease signed and ready to go, but the space was approximately 5,000 feet. In order to execute the concept they desired, they needed approximately 7,000. We really didn't have another good place to put them that made sense in terms of our overall plan, so we focused on this space and got to the concept of extending the first floor of the building to the north to get them the space they need. Because it is a fine dining concept, outdoor seating is not really a feasible alternative for them. That is why they would like the space enclosed. With that background, I will ask Gary Schuberth to run through the exhibits. We did include the storefront design, but we are not asking for approval for it tonight; that will, presumably, come through at the July meeting.

Gary Schuberth, Opus Architecture and Engineering, 4900 Main Street, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Schuberth: *(Refers to computer presentation throughout)* The north end of the Generale Building is what we are talking about. The yellow area is the existing portion of the building, and the red area is what

we are proposing to expand to the north. On the west side of the building is an existing sidewalk with the steps. We would add a sidewalk heading east with the Landscaping Plan that has been submitted from the original Young & Dring's plan. The expansion to the building would be on the north end. We want to keep the massing. The handrail would continue around the balcony. We will keep the same materials and architectural treatment to the building. The intent is that it looks seamless with what is currently out there now. Do you have any questions?

Comm. Ramsey: Where does the outdoor go?

Mr. Schuberth: It does not exist; this is in lieu of an outdoor area.

Chair Rohlf: How large will the building be?

Mr. Schuberth: This is a 2,000-foot increase. The lease space was around 5,000 square feet going to 7,000.

Chair Rohlf: In a restaurant setting, is that a large restaurant?

Mr. Schuberth: I would say medium. I think Bristol is around 8,000.

Mr. Alpert: 801 Chophouse is 7,500 square feet. Gordon Biersch is 7,500 square feet. Those are the largest restaurants we have currently.

Chair Rohlf: There are tenants for that large of a restaurant space just in case.

Mr. Schuberth: It is no unusually large, by any means.

Comm. Strauss: Is there anything on the roof? It is not open to access, is it?

Mr. Schuberth: It is not. The Generale balcony would stop where it is now, but there is no rooftop equipment there; all that equipment is up on the original top of the building. It was designed with chases for any kind of venting. No equipment is intended to be on this roof at all. We are looking at a nice-looking gravel ballast, which we think would be ideal.

Chair Rohlf: Where is the entrance?

Mr. Schuberth: It would be in the corner right next to the courtyard.

Chair Rohlf: Is there anything else?

Mr. Alpert: Not unless you have more questions of me.

A motion to recommend approval of CASE 70-12 – PARK PLACE – BUILDING J EXPANSION & PARK PLACE 10TH PLAT – Request for approval of a Final Plan and Final Plat, located at 11625 Rosewood Street – with all 14 Staff Stipulations – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 68-12 – PARK PLACE – REVISED OFFICE & TENANT SIGN CRITERIA – Request for approval of a Revised Final Sign 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 68-12 – Request for Revised Tenant Sign Criteria for Park Place. The applicant is requesting approval of revisions to the office tenant and retail tenant sign criteria. The office tenant sign criteria are proposed to be modified to address single-tenant office buildings by allowing a total of three signs per building, not to exceed one per façade. The criteria are written such that they regulate sign size based upon the sign's location on the building, height on the building and also the total overall height of the building. These criteria changes are necessary to permit approval of the AMC signage proposed this evening. The modifications to the retail tenant sign criteria are limited to signage on Building I, which is the building below the aloft hotel. They propose a maximum average letter height of 45 inches, which is an increase from a maximum letter height currently of 18 inches. They propose a maximum multi-line letter height of 60 inches, up from a current maximum of 24 inches. In addition, the proposed criteria permit a second wall sign for tenants in Building I if they have an exterior wall adjacent to a public street, which in this case would be Nall Avenue. These criteria changes are necessary in order to permit approval of 801 Chophouse signage proposed with a case later this evening. Staff is supportive of the proposed office tenant sign criteria; however, we are not supportive of the proposed retail tenant sign criteria because it would permit additional signage on the south and west sides of the building. Staff is concerned about increasing sign clutter in that area, as there are already three signs on that façade. In addition, we do not want to set a precedent for future retail tenants wanting additional exposure along the perimeter streets. Since staff is not supportive of the proposed retail tenant sign criteria, we are recommending approval of this case, subject to the stipulation that approval is limited only to the office tenant sign criteria. I would be happy to answer any questions you might have.

Chair Rohlf: Does anyone have questions for staff? 801 Chophouse would be affected because it is a retail tenant. We need to figure this out.

Applicant Presentation:

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

Mr. Alpert: These three cases are obviously interconnected. The request to request the tenant sign criteria is to specifically allow for the next two cases to potentially be approved. The 801 Chophouse sign was precipitated by a request from the owner of 801 Chophouse. His space actually backs up to the west wall of the building that runs along Nall Avenue that carries these other signs. He requested the opportunity to put a sign on Nall for additional visibility. In terms of the office sign criteria revisions, they were to accommodate the requests of AMC for the signage for their building. I would just open up for any questions you might have.

Chair Rohlf: Give us your thoughts on it. How critical do you think it is to the businesses?

Mr. Alpert: From the perspective of the office, I think it is extremely important. This is AMC's signature building and how they want their building to be identified. We feel very comfortable with it.

Chair Rohlf: Would it change any of your current tenants?

Mr. Alpert: No, because the criteria were specifically written to address a building of 100,000 square feet or more. We tried to make it very specific so that other tenants in smaller buildings would not request additional signage.

Chair Rohlf: Is this the only building that large?

Mr. Alpert: Currently, it is. In theory, we could bring another building on the east end of the property to you for consideration. At this point, that land is master-planned primarily for residential. As of 8:45 tonight, it is still our plan.

Chair Rohlf: Now for the retail, convince me that we need to do this.

Mr. Alpert: Again, this is a unique situation because, to my knowledge, there are not other retailers who have space that actually backs up to that rear wall who would have a request for signage with Nall exposure. We would not do it internally, so this is truly a single, unique situation.

Chair Rohlf: Staff's concerns about future request for more tenants requesting signage facing toward Nall doesn't exist? You wouldn't allow it?

Mr. Alpert: We wouldn't allow it because, again, there isn't another situation in which we have a retail tenant whose space extends to the west wall.

Comm. Ramsey: So we are not going to end up with a sign wall on Nall if we were to approve this?

Mr. Alpert: No, it is absolutely our intent that this would be the only one that would qualify under these revised criteria.

Comm. Ramsey: If we approve the Revised Sign Criteria but stipulate that 801 Chophouse is the only additional sign to be allowed on that wall, would you agree?

Mr. Alpert: We would be fine with that.

Mr. Coleman: Before you go down that road, I just want to clarify that the amount of wall space that 801 Chophouse has on Nall is 16 lineal feet from a storage area on the ground floor. This sign is not placed on any wall adjacent to 801 Chophouse; it is actually the advertising company's wall space.

Comm. Ramsey: I appreciate that, but I understand that, realistically, through that wall and on in there is 801 Chophouse.

Mr. Coleman: But the tenants aren't fixed in the center, so in the future, the internal spaces could be reconfigured with many more retail spaces touching the wall.

Comm. Ramsey: I understand that, but if we stipulate that this is the only additional sign allowed on that wall, it would preclude anything else from coming out there.

Mr. Coleman: Normally, our signs are on the wall of the business itself rather than simply any wall on any building.

Comm. Ramsey: What about the two other signs on that wall?

Mr. Coleman: They are facing spaces occupied by those businesses.

Comm. Ramsey: What did you say was behind that wall for them?

Mr. Coleman: It is on the ground floor and not the second floor. It is a storage area that is 16 linear feet.

Comm. Ramsey: Who is the storage area for?

Mr. Coleman: It is for 801 Chophouse's dry goods.

Comm. Ramsey: So it is part of their area that they are utilizing for their retail operation.

Mr. Coleman: The ground floor part of the building is but not the second floor where the sign is located.

Comm. Roberson: Did I understand Ra Sushi has one up there?

Mr. Coleman: They have one on the south wall of that building facing the utility court.

Comm. Roberson: But they are not facing Nall, correct?

Mr. Coleman: Correct.

Comm. Roberson: So there are only two signs facing Nall.

Mr. Coleman: Correct.

Mr. Alpert: It is the aloft hotel and the advertising agency. Just to further clarify, in terms of our office tenants, we do have signage on the building. We always locate office tenant signage up near the top of the building near a cornice or something, regardless of whether the tenant is on the first, second or third floor.

Comm. Strauss: To me, I guess the caution would be that it would start to look like a billboard. I realize this would be the last sign, but that is the image I start to think about.

Comm. Roberson: I would be inclined to agree with that statement.

Chair Rohlf: I take it we are leaning toward being fine with the office tenant sign criteria change but not the retail.

Comm. Williams: That would be my lean, yes.

Comm. Elkins: I am still not in committal on the retail sign. I hear what the other commissioners are saying, and I have the same concern. The particular picture we are given in the case that would come forward if this case is approved actually gives some symmetry to that wall compared to what it is today. I'll more than likely defer to my fellow commissioners on this one.

Comm. Williams: I feel that, just because a portion of the business touches that wall, it is not an entrance or a guide marker; it is purely up there for advertising. I just don't see that it justifies putting up a sign.

Comm. Roberson: I agree.

Comm. Williams: You are saying it has 16 feet of wall exposure at the ground floor; the sign is proposed to be 18 feet long.

Chair Rohlf: Has Chophouse expressed any concern about patrons saying they didn't know where the building was or that they couldn't find it?

Mr. Alpert: We hear that from time to time because we are an internalized development.

Chair Rohlf: Park Place has become a destination place.

Mr. Alpert: As time goes on, people are definitely becoming more familiar with it, and it tends to become less of an issue.

Comm. Elkins: I'm still not sure I've worked my way through this, but as these avenue trees mature, at some point, they will cover all those signs. Maybe the intent is to trim them so they do not cover the signs.

Chair Rohlf: It sounds like we are leaning toward approving office and not retail. Does anyone else want to weigh in?

Comm. Ramsey: I am fine with the whole thing. At this point, with the build-out of Park Place to the extent that they are, I think we're slicing and dicing. Is the 801 sign the actual sign that they're talking about, or is it to be a place marker?

Mr. Alpert: The actual application for the sign approval is in here.

Comm. Ramsey: I'm okay with them doing this if it will help their tenant and help Park Place continue to be successful because then Leawood will be successful.

A motion to recommend approval of Case 68-12 – PARK PLACE – REVISED TENANT SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located at the northeast corner of 117th Street and Nall Avenue – with two Staff Stipulations – was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

A motion to extend the meeting to 9:30 was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 66-12 – PARK PLACE – AMC SIGNS - Request for approval of a Final Sign Plan, located at the southeast corner of Town Center Drive and 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 66-12 – Request for approval of a Final Sign Plan for AMC at Park Place. The plans propose the installation of three signs: one on the top floor of the west elevation, one on the top floor of the east elevation and one on the ground level of the south elevation. The signs on the east and west elevations are identical and are proposed to read "AMC" and consist of red aluminum letters with red acrylic faces with internally illuminated red LED. Each sign will measure 5 feet, 6 inches in height by 22 feet, 3 inches in width for a total area of 122.37 square feet or 1.2% of the area of the west façade and 1.5% of the area of the east façade. The sign on the south elevation is proposed to read "AMC" on one line with "Theatre Support Group" below. The revised office tenant sign criteria permit a second line for building identification. Part of the reason the applicant is requesting this is to distinguish it from the AMC theatre down the street. The sign is proposed to measure 4 feet, 2 inches in height by 12 feet, 1 ¼ inch in width for a total sign area of 51.5 square feet or .3% of the area of the façade. It is proposed to consist of white aluminum letters with white acrylic faces and internally illuminated with white LED. The proposed signs comply with the Sign Criteria and with the LDO. Staff is recommending approval, subject to the stipulations provided. I am happy to answer any questions.

Comm. Elkins: I'm struggling a little bit. Staff has concluded this is in compliance with the LDO. With respect to the sign that references the Theatre Support Center, why is that not a prohibited sign under Section 16-4-6.9(AA), which limits what you can have on a sign to the name of the tenant or the owner and doesn't permit additional information? We've had this discussion regularly, and I am struggling to understand what is different about this than what we have seen in the past.

Mr. Klein: We struggled a bit with this as well. Part of the reason staff is fine with it is that it basically names what the center is. Although the ordinance calls for just the legal name and nothing beyond it with regard to phone numbers and additional text, this further defines the space and differentiates it from the AMC Theatres that are just down the street. It is similar to a boutique that identifies what kind of business it is. Staff does want to have discussions with the Planning Commission with regard to that section of the ordinance and how it is interpreted because it is starting to get to a point where we need direction as far as how the Planning Commission would like us to interpret that. Originally, when we had that part of the ordinance in there, we would get something like "Abby's Hamburgers: 1 million sold every day" or something like that, and they would swear it was the name of their business. That was when we started asking for a legal name. Staff has been supportive of having a descriptor that identifies what the type of business is. Businesses have gotten a DBA (Doing Business As) to operate, but there is nothing that would stop them from DBA and then having a phone number as well. The reason we are fine with this one is that it is not information for the sake of additional information, but it actually named what the tenant was.

Comm. Elkins: Your view is that it is not additional information about the applicant or the tenant; it relates to the function of the space itself, and that is the distinction you are willing to draw, at least for tonight.

Mr. Klein: Correct.

Comm. Roberson: Could "Theatre Support Center" be defined as Headquarters?

Applicant Presentation:

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

Mr. Alpert: I think that has been clouded somewhat by recent events. Since we began our negotiations with AMC, they have always identified it as Theatre Support Center. They have never allowed the word "Headquarters" to be used. Bear in mind, before this latest transaction, they were still owned by another entity. There is always that grey area. This is their desire and the way they have always wanted to be identified.

Comm. Strauss: If the purpose of adding "Theatre Support Center" is to inform customers that the actual movie theatre is down the street, it seemed odd to me that it was only on the sign at the front door and not on the east or west elevations where drivers would be trying to find the theatre. Do you know what the thinking was there?

Mr. Alpert: I think they have a very contemporary, distinctive building, and they want to maintain clean lines and not compromise the design by adding too much verbiage on those signs. Their feeling, as I understand it, is they are not anticipating a huge number of people making the mistake, but if people do, once they get to the front door, it will be obvious that it is not the theatre.

Chair Rohlf: What is on the theatre side of Nall?

Mr. Alpert: It may just be "AMC" only.

Mr. Klein: I'm not sure if IMAX got included on that side or not.

Comm. Elkins: It does reference theaters because I have actually questioned if it is in conformance with the ordinance.

Mr. Coleman: All signs on the AMC Theatre are different, I think: AMC 20, AMC Theatre, AMC IMAX.

Chair Rohlf: Anything else for staff or the applicant? Mr. Elkins, you raised a point. Are we satisfied with the Staff Report?

Comm. Elkins: It's a fine line, but it's a line that can be drawn from my view.

A motion to recommend approval of CASE 66-12 – PARK PLACE – AMC SIGN PLAN – Request for approval of a Final Sign Plan, located at the southeast corner of 117th Street and Nall Avenue – with all three Staff Stipulations – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 67-12 – PARK PLACE – 801 CHOPHOUSE - Request for approval of a Final Sign Plan, located at the northeast corner of 117th Street and Nall Avenue.

Staff Presentation:

City Planner Justin Peterson made the following presentation:

Mr. Peterson: Madame Chair and members of the Planning Commission, this is Case 67-12 – Request for approval of a Final Sign Plan for 801 Chophouse. This case was contingent upon the approval of Case 68-12. Without that approval, this sign cannot be approved. Staff recommends the Planning Commission deny this case. I would be happy to answer any questions.

Applicant Presentation:

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

Mr. Alpert: Everything that can be said has been said. I'm happy to answer questions.

Comm. Elkins: I would ask that the record made in connection with the prior case on the Sign Criteria be incorporated as part of the record on our consideration of this case.

A motion to deny CASE 66-12 – PARK PLACE – 801 CHOPHOUSE – Request for approval of a Final Sign Plan, located at the northeast corner of 117th Street and Nall Avenue – was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

CASE 119-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – 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**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 119-11 – Leawood Development Ordinance Amendment to Section 16-4-9, Fences and Walls, pertaining to fences constructed on top of decks. This case was originally heard on October 5, 2011. At that time, there was the provision that the fences on top of decks be measured from the floor of the deck to the top of the fence and be no more than 4 feet in height; however, part of the amendment was to include some screening requirements for the underside of the fence, specifically, if the fence was within the building setback, it could go up 4 feet in height. If the deck encroached the building setback, it would have to be screened only with landscaping or left open. That case went on to Governing Body on November 21, 2011. They remanded it back down to the Planning Commission after discussion on screening. Planning Commission heard the case again on February 28, 2012 and decided to discuss it further in a work session. Staff took the direction that the amendment should focus on the actual measurement of the height of the fence from the floor of the deck to the top of the fence and should place no restrictions on the screening of the underside of the deck. That is what is before you tonight. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Comm. Williams: You say there are no restrictions for screening. In 16-4-9.3(B)(2) where there is reference to screening and reference to a height on screening.

Mr. Klein: I apologize; the part with the screening should be removed. No. 2 should state, "When attached to the deck, the fence shall be a maximum of 4 feet in height as measured from the floor of the deck to the top of the fence." From that point on should be stricken. Also, where it talks about fences and walls associated with patios and decks, "Maximum height: 6 feet from grade, or if attached to a deck, a maximum of 4 feet in height as measured from the floor of the deck to the top of the fence." The rest is stricken.

Comm. Elkins: Am I correct in understanding that what we end up with is no requirement of screening at all?

Mr. Klein: Correct; currently, the ordinance does not address screening requirements underneath decks. This would keep that the same. It does not address screening at all.

Comm. Elkins: It would permit screening; it just does not require it.

Mr. Klein: Correct.

Chair Rohlf: We would have to strike the language in the other table on the next page that refers back to the ordinance.

Mr. Klein: In Table 16-9-4; correct.

Chair Rohlf: I know we've discussed this a number of times. I don't even remember now why it was brought up.

Mr. Klein: It was a recommendation from staff.

Comm. Elkins: To say I am fuzzy is an exaggeration when referring to our discussions in planning sessions, but I am troubled by the idea of not requiring screening. This is not a good time to take up this issue, but I am concerned about the aesthetics. I understand a deck that is 10-12 feet above the ground should not require screening, but I also know a lot of decks in Leawood are 2-3 feet above the ground. To me, there is a huge difference in the aesthetic of not having screening. This is a terrible analogy, but I'll use it anyway. It is kind of like having a double wide without a skirt at the bottom of it. I do have that concern. I know that this issue has received a lot of thought and consideration, although, I think the focus has been really on the

height of the fence as opposed to the screening. I am happy to be enlightened if someone has a better recollection of our discussions relative to screening in this context.

Ms. Shearer: We don't require it now, actually. The whole reason this amendment ever got brought to the Planning Commission is there was ambiguity about where you measure the height of a fence that was on top of the deck. That is all this amendment was meant to clarify.

Mr. Coleman: What happened was people were extending the fence to the ground on the outside of the deck. That is how the screening came into the issue.

PUBLIC HEARING

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

Chair Rohlf: If there is no more discussion, we are ready for a motion.

A motion to recommend approval of CASE 119-11 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – 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 – as adjusted to strike the references to screening in 16-4-9.3(2) and the corresponding table – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Roberson, Williams, Elkins, Strauss and Ramsey.

MEETING ADJOURNED.