

**City of Leawood  
Planning Commission Meeting  
January 29, 2013  
Dinner Session – 5:30 p.m. No Discussion of Items  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive  
Leawood, KS 66211  
913.339.6700 x 160**

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

**APPROVAL OF THE AGENDA:**

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

**APPROVAL OF MINUTES:**

Approval of the minutes from the December 11, 2012 Planning Commission meeting.

**A motion to approve the minutes from the December 11, 2012 Planning Commission Meeting was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

**CONSENT AGENDA:**

CASE 141-12 – MISSION FARMS – RYE RESTAURANT – Request for approval of a Final Sign Plan, located south of 105<sup>th</sup> Street and east of Mission Road.

CASE 02-13 – TOWN CENTER PLAZA – CRAZY 8 – Request for approval of a Final Sign Plan, located north of 119<sup>th</sup> Street and east of Nall Avenue.

CASE 08-13 – PARK PLACE – 801 FISH – Request for approval of a Revised Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 09-13 – PARK PLACE – KANSAS CITY FINE CABINETRY – Request for approval of a Revised Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 10-13 – PARK PLACE – GENERIC STOREFRONT (G55) – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 11-13 – PARK PLACE – SWEET PEA – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE12-13 – PARK PLACE – ROMANELLI'S SUN GALLERIA - Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 13-13 – PARK PLACE – PINOT'S PALETTE – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 17-13 – LEAWOOD COMMONS – AESTHETICARE – Request for approval of a Final Sign Plan, located north of Town Center Drive and east of Nall Avenue.

**A motion to approve the Consent Agenda was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

**NEW BUSINESS:**

CASE 03-13 – CITY OF LEAWOOD - BROOK BEATTY PARK – Request for approval of a Rezoning, Preliminary Plan, and Final Plan, located south of Meadow Lane and west of Lee Blvd. **(PUBLIC HEARING)**

**Staff Presentation:**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: This is a request for approval of a Zoning, Preliminary Plan and Final Plan for the development of a new playground at Brook Beatty Park, which is a neighborhood public park owned and operated by the city, located along Lee Boulevard. The proposed zoning is Planned Recreation, which is a zoning classification intended for parks. The plan proposes the construction of a new playground with a play structure and associated amenities, such as a picnic table, bench and water fountain. The playground is proposed to be located adjacent to the Lee Boulevard right-of-way with two sidewalks connecting it to the public sidewalk along Lee Boulevard. The park is intended to serve persons arriving on foot or bicycle only, so parking is not being proposed with this request. Additional landscaping is proposed, including shrubs between the playground and Lee Boulevard and evergreen and ornamental shrubs and trees to the west and south of the playground. Staff and the Parks and Recreation Department conducted an Interact Meeting on January 15<sup>th</sup>, and they are here to answer any questions you may have about the plans. Staff has received some written communications from the public, a few of which are included in the packet provided to you last Friday, as well as additional comments provided since then in the folder on the dais. Staff is recommending approval, subject to the stipulations in the Staff Report, and I'd be happy to answer any questions.

Chair Rohlf: Will there be another presentation by the applicant?

Mr. Rexwinkle: There is staff from the Parks Department here that could probably provide a little bit of detail about the proposed park if you would like.

Chair Rohlf: Are there any questions for staff? If we could, we'd like to hear a short presentation on some of the aspects of the park.

**Applicant Presentation:**

Brian Anderson, Parks Superintendent for City of Leawood, appeared before the Planning Commission and made the following presentation (refers to overhead presentation throughout):

Mr. Anderson: The playground is designed for children from 2-5 years old. We would have the sidewalk coming down and around the playground area with a bench and a bench-height retaining wall to provide further seating. We would have a drinking fountain that would also be a pet fountain for folks walking dogs. Landscaping will go behind the sidewalk; it is a mix of shrubs and ornamental grasses anywhere from 4-6 feet tall. Bigger trees will provide a nice backdrop and screening of the playground. A picnic table will seat maybe two people per bench. Currently, we have a sign that is only visible for traffic going southbound and not northbound on Lee. We would propose to move the sign to a landscaped area with perennials, annuals and some boxwood shrubs along the wall. On either side would be some dogwood trees, and we would have some spruce and ornamental trees as well. The Art Committee felt we should relocate the public art piece. It's a bronze sculpture that would be relocated coming off the sidewalk in a more viewable location for people that are walking down the sidewalk. Currently, we have a rain garden comprised of plants that do well in a drought or in wet conditions temporarily. It has been maintained well and looks good. We would like to expand that to make a bigger presence here. We would also add irrigation systems to keep the lawn in a better state. I'd be happy to answer any questions.

Mr. Strauss: How did the city decide on the target audience? You talk about gearing the park toward children from 2-5.

Mr. Anderson: The park itself is ¾ of an acre in size, and without the ability to have parking and making it a destination area, which was not the intent, we just wanted to provide the neighborhood with a play feature and something to use for small children. This age is also typically smaller in scale, and the equipment will not be so impactful. The current users of the park have young children. I don't have any data to tell you there are more young children in the area.

Comm. Pateidl: I recall a number of years ago that we lost a family with the flood from the drainage ditch that runs adjacent to this park area. Their Mercedes got washed down the creek in a flash flood. That is an area that can quickly fill with water. Are there safeguards we are going to put up to protect the children when it is raining?

Mr. Anderson: I'm not familiar with an accident; it was before my time. I haven't seen high water backup in the whole park. I know it is in the flood plain. Are you asking about signs?

Comm. Pateidl: I'm just asking if any consideration has been given. My concern would be some youngsters kicking a ball that rolls into the creek and it happens to be a shower and a flash flood or a rush of water. That can be difficult for a child. That's certainly not a major issue. It's something for consideration.

Mr. Anderson: I think the landscaping buffer makes a pretty dense hedge that would keep a ball from rolling into the creek.

Comm. Pateidl: I would think people would be smart enough to get out of there, but perhaps more grass along the edge of the creek or that type of thing that would discourage a child going through the area. I think landscaping is fine, but it's just a matter of consideration.

Comm. Levitan: It says that there are "No Parking" signs planned along the street. What is the rationale behind that? We can see where it is going to go, even though this is a walking park.

Mr. Rexwinkle: There is not a lot of space for parking. The plan doesn't propose off-street parking because the intent is to have it be a walking park. The rationale behind it is for people in the immediate area to walk to it.

Comm. Levitan: I just didn't know if there was a plan to address people trying to park and creating issues for all the neighbors.

Mr. Rexwinkle: I'm not sure if parks and recreation have talked about any concern about people trying to park on the street.

Mr. Anderson: As far as parking off the street and on the lawn, that's against our rules and ordinances, so it's not allowed. The police department is here tonight to talk about parking on Lee or using streets if you would like to ask a question about that.

Police Department representative: There is not parking on Lee. In the near future, it will be signed as such. As far as parking on Meadow Lane, it is permissible on both sides currently. Traffic ordinances are currently in place as far as blocking driveways, distance from a stop sign and distance from a fire hydrant.

Comm. Strauss: Commissioner Levitan's comments made me think about the fact that we are promoting a park to walk to, so does it warrant a pedestrian crosswalk for residents on the east side of Lee Boulevard or at least some signage for pedestrian crossing. I am just raising that for staff to think about, considering that a lot of people will be coming from there.

Mr. Anderson: We do have a project this year for a pedestrian and bicycle master plan. Improving walkability of the community is one of the goals we are being directed to consider, and that would be a great consideration.

### **Public Hearing**

Heidi Martin, 8616 Meadow Lane, appeared before the Planning Commission and made the following comments:

Ms. Martin: I border two sides of Brook Beatty Park. I do think there should be a park available to the neighborhood, but I am here to tell you why Brook Beatty Park is not that piece of land. I am hoping in evaluation of zoning, safety will be an issue here today because we have not seen that with the Council yet. So far, we have heard two different things about rezoning. Right now, it is either family residential or park. I have two sheets of paper to show that Chris Claxon has showed it both ways. Perhaps you can shed some light on that.

Mr. Klein: The property is actually being zoned Recreation. Right now, it is Single-Family Residential (R-1).

Ms. Martin: As far as the safety issues, the park itself is a very small piece of land which is bordered by my home at 8616 Meadow Lane on the north side, which it doesn't show on there. My property goes all the way to Lee Boulevard. There is not actually a way to get into the park except by going out on the sidewalk or entering from Lee Boulevard. The creek on the south side borders one side and is 100% filled with water all year long. On the west side, there is standing water along a little creek, which I don't believe is shown on here, either, but there is water in that 75% of the year. Parks and recreation does not take care of that; they let that water stand. If you drive down Lee Boulevard, you know it's a busy section. The Shawnee Mission School District has told my neighbor Karen Renwick, who lives right across the street from the park at 8525 Lee, that the intersection of Meadow and Lee Boulevard is a dangerous section of Lee and a bus stop cannot be placed at this location. As far as the creek goes, kids will be playing in that. I've lived there for fourteen years and have raised three kids there. My children were not allowed to cross over into that park section because it looks straight and flat, and then all of a sudden, there is a huge drop-off. It's very deep. I wouldn't allow even my junior high or high school kids to go that far over. They had to go directly to the back of my house and to the west. As far as parking, of course, none of you would want parking in front of your home. I don't want it in front of mine, either. Neither do our neighbors. I don't know what we can do about that, but as far as anything thinking it's just a walking park, I think it is something we need to discuss. Basically, this property is landlocked by danger on all sides. You've got Meadow Lane and my property on one side; Lee on another side and water on two other sides. Also, my neighbor Kristi Walton discussed some issues with Deb Filla about her concern with trespassing. Deb replied, "Well, you've got two things going for you: little fellows don't walk as far afield as adults, and the plans call for landscaping to the west side, so the kids would have to dodge the parents, slip through the bushes and evergreens and cross the drainage ditch. Hope that will do the trick. If not, we'll have to report them to the police." I have that quote right here if you'd like to see it.

Jessica Marion, 8428 Meadow Lane, appeared before the Planning Commission and made the following comments:

Ms. Marion: I am about a half block up from the proposed park. I am strongly in support of this idea. I believe it is the exact thing we need to build community within the City of Leawood. As you all know, Leawood runs north to south really far as a city. It is hard to build community because of geographic boundaries are so wide and broad, but within Old Leawood, a walking park is exactly what is needed for neighbors to see each other casually at the end of the day on the weekend, a place to gather and to build community. Anecdotally, there are at least 50 children along Meadow Lane, Ensley and Belinder under the age of eight, I believe. There are plenty of constituents in that area to go and enjoy this park. In terms of safety, it would be very remiss of a parent to allow a child to play in a creek or in the standing water. If that happens, perhaps some well-placed signs may do the trick. I'm an attorney, and I firmly believe that signage can control liability. I think also that in terms of parking, it will be seen as a pocket park. On the Kansas City, Missouri side, there are tons of pocket parks. There is also one on Roe near 91<sup>st</sup>. I think it is no problem to have people walking there. In terms of cars, I think the first few people who park illegally and get a warning from our police, they will have learned. Perhaps also, a sign that says "No Parking" may be a good idea as well. I am firmly in support; my family is in support; my children are in support. Neighbors up and down are dying for this. I think that looking forward in terms of your commission, the more pocket parks you can put into place, the richer and more community oriented the city will be. Thank you.

Karen Johnson, 8425 Cherokee Lane, appeared before the Planning Commission and made the following comments:

Ms. Johnson: I used to live at 8700 Norwood Lane. I've lived in those two houses for about the last 9-10 years. Both are within about ½ mile of this proposed park. I love the neighborhood. I feel like we have a great sense of community as it stands today. I think the park is aesthetically pleasing with the sculpture and the green space as you come up to it. I want to hit on a couple of things quickly. You've touched on them as commission members, but as far as the parking on the street goes, if you've ever driven that, you will know that it's a little treacherous, even in the best circumstances. You come in off Lee Boulevard, and cars are travelling at a pretty good clip. They come in; it curves around a house, up to the north, and then the majority of the people coming in that way immediately make a hard left. There is a lot of movement on that street. When there are cars there, which happens when people have guests visiting, it's difficult, and it scares me even in the circumstance that we have today. I certainly appreciate what the mom just said as far as having little kids. I think it's great to have a park nearby. I now have a teenager who's driving. It scares me to death to think about moms and kids and kids who might run out of the mother's hands any more so than we have today. If we draw people to the area, we're going to get much more pedestrian traffic on Meadow Lane, which has no sidewalks.

You walk in the street or in a neighbor's yard, which brings me to my second concern, which is that it's very difficult to distinguish between public property and private property. If you're going to put a public installment that close to private property, there has to be some way to delineate and keep especially small children from running into that. There are many dogs along those property lines. Many of us now have invisible fences, so there's nothing to keep the children out when they're that close. That's a concern I have. I know it's designed for children ages 2-5. It will be a gathering place for middle-school kids, teenagers and all sorts of folks. I know it's designed to be pedestrian access, but Lee Boulevard, as the staff has already commented, is very busy; you see lots of people driving by. They're going to see it and think it's a really cool park and just park on the street. Those are my concerns. Thank you for hearing me.

Zane Martin, 8616 Meadow Lane, appeared before the Planning Commission and made the following comments:

Mr. Martin: I think this is not the best idea the community has had. I think there are many precautions that have not been taken for safety reasons because my dogs are very big, and people come into our yard very often and into my neighbors' yards. Kids play on our equipment. If my dogs are out, they could injure these people who are wandering into our property. At the last meeting, they said that the budget was \$100,000, and one of the architects said if he were to help build this, it would have been \$130,000. He said that would be with the amount of money it would cost to have people working, but the city did not take into account the amount it would take to pay the people; they just considered all the money it would cost for the supplies. They just assumed since they were already paying them, it wouldn't cost any extra money to have them be helping build this park. I would also like to state that in the police station right now in Leawood, they are building a new one and are tearing that police station down to build another park that I think we could make better if we took the money for this Brook Beatty park to put into that park so it could be a better park in general. Thank you.

Brian Walden, 8612 Meadow Lane, appeared before the Planning Commission and made the following comments:

Mr. Walden: I live two doors down from Holly. I actually just have a question specific to liability. Is there a precedent that has been set, or what is the methodology to decide what is safe or not safe? If you look at the proximity of Lee Boulevard, it's pretty tight. Has the proximity to a major street been considered? Specific to the drainage ditch, unfortunately, that can fill up in a second and can be treacherous, unfortunately. Just from the standpoint of placement and utilization of my tax dollars, the methodology and safety and risk, what goes in? How deeply is that looked at? It's really a question more than a comment.

Chair Rohlf: I would need to defer to our director or city attorney if there is a comment.

Mr. Coleman: I don't know that you could answer to a degree of safety. A lot of safety for kids depends on the supervision of their parents. You could be walking on the sidewalk with your child and they see a dog across the street and can run out. Most of it has to do with supervision of parents.

Mr. Walden: I think it was established that we are going to probably have visitors that are not going to be with parents, so I'm not sure that's relevant. If you take that out of the equation and you think there are going to be unsupervised kids there, what is the answer then?

Mr. Coleman: I think it's still going to be the parents' responsibility. If the children are old enough to be out on their own, they're responsible kids. It's probably the age you allow your kid to walk to school or go to the store alone. That's an individual choice by the parents.

Mr. Walden: I'm not personally satisfied with that answer, but that's fine.

Comm. Ramsey: Have you had personal problems with this park in the past? Have you had people visiting the park and cause problems on your property?

Mr. Walden: On a biweekly basis, I have trespassers that start out at the park. I'm just thinking the foot traffic will be increased and the chances of that occurring will be increased.

Comm. Ramsey: Do they cut across the back yards or what?

Mr. Walden: Yeah, they cut across from Lee Boulevard across Heidi's yard, one more yard and then mine. Then they're playing on my equipment or back by my creek or whatnot.

Comm. Ramsey: So if it were fenced between the private property and public property, it would preclude someone cutting across.

Mr. Walden: You would presuppose that somebody wouldn't jump over the fence.

Comm. Ramsey: That would presuppose, then, that somebody really wanted to get into the other yards as opposed to just taking the shortcut. We can build upon different scenarios here of what's going to happen or not happen. What we're trying to do is balance making sure the private property is not taken for granted but at the same time, to provide the public relatively nice access points. I think we can do that here.

Mr. Walden: I think you already have done that. It's relatively nice now. I'm not sure why anything else has to be done.

Randy Wenwick, 8525 Lee Boulevard, appeared before the Planning Commission and made the following comments:

Mr. Wenwick: We live right across the street directly to the east of the park, and it's a very dangerous area. We almost get rear-ended every night pulling into our driveway; there's so much traffic. Everybody speeds along Lee Boulevard. You don't use State Line because it's so congested, so everybody uses Lee Boulevard. It's very dangerous. Our entire side of the street has no sidewalk whatsoever. We don't let our 13-year-old daughter cross Lee Boulevard. Our entire front yard has a creek that runs through it. You're going to have people parking in our front yard to try to cross over to get to that park. There is enough of a shoulder, and it looks like a public access area. The last thing we want is people parking there. There is also a creek that always has water in it. I don't want those kids playing in the park and then seeing the stream and decide to go swim in it.

Comm. Ramsey: Do they park there now and go across to the park?

Mr. Wenwick: No, because there's not a playground there right now. Thank you.

Julie Longley, 8411 Lee Boulevard, appeared before the Planning Commission and made the following comments:

Ms. Longley: I live not too far from this proposed park. My husband Chris and my little girl Elizabeth are certainly huge proponents of this. I am also a pediatrician, so seeing kids develop from a socialization standpoint with motor milestone and getting to know my other neighbors who are eventually going to grow up and have kids that go to school with my child and forming community with them before we ever enter preschool and kindergarten is a huge benefit. When my husband and I were looking to move and bought this house, on our con list was that we were not close enough to a park. This is an exciting thing. I think you would be doing a fantastic thing for all the children of the neighborhood, particularly from a developmental standpoint. Again, as a pediatrician, that's really important to me. Having kids playing with each other and also appreciating nature and all the wonderful things you're doing with the landscaping are all great things. I talk with parents about safety every single day. As parents, we are responsible for our kids until they are adults and beyond. The liability is our liability as parents. I take my life into my own hands when I go and walk with here in a stroller on a sidewalk; it's no different than taking her to the park, whether it is farther into a neighborhood or right along a busy street. It is my responsibility, and I'll take responsibility for that for this kind of development and excitement for her to grow and play and explore and have fun with other friends. Please support this venture; we'll appreciate it.

Karen Renwick, 8525 Lee Boulevard, appeared before the Planning Commission and made the following comments:

Ms. Renwick: I am also right across the street from the park. I admire you all for the thought of trying to put a playground so that there can be community and get the neighborhood together, but I just think the spot that you picked is not the most appropriate. The primary reason is the safety that you've heard everybody talk about. I don't know if a traffic count has been done on Lee Boulevard, but when you live on Lee Boulevard like I have for the last twelve years, you see how much traffic there is. Yes, folks do park on our side of the street to access things over at the park. It's not the common occurrence because, as my husband said, there isn't a park there right now. The school system, from what I understand and have been told and certainly can attest to for my daughter, doesn't like kids crossing Lee

Boulevard because of the amount of traffic. I know there are some wonderful parents out there; there are some wonderful parents here today, but we do see kids who are unattended that walk in the neighborhood. It's so close to Lee Boulevard, it's just presenting an unnecessary safety hazard when there are probably other locations where you can do justice and do a really nice playground for the kids that we can all go to and that people in the neighborhood besides those who live right in that core could drive to and park to because they're not going to have that ability, and we don't want people driving and parking because there's no place to park. I hope you will think long and hard about it. The green space is wonderful. I applaud you for everything you are trying to do; I just think that in this circumstance, it's not the right location.

Karen Prangy, 8432 Lee Boulevard, appeared before the Planning Commission and made the following comments:

Ms. Prangy: I am here tonight in support of the park. We just moved to this area a couple years ago, and one of the things we miss the most from the area we moved from was the ability to congregate with our neighbors. While on other streets in our neighborhood, there is the opportunity for people to congregate in more common areas, those of us who actually live on Lee Boulevard lack that type of area to congregate. I also want to speak in support of others who have talked about their children and how we monitor and raise our children. I have two small children. We actually live on Lee Boulevard. We play in our front yard. We've taught our children about the boundaries within our yard. We walk on Lee Boulevard almost every day with our dogs and our children, and we've taught them how to responsibly live on Lee Boulevard and in this neighborhood. I commend you for considering doing something more with the park to make it more usable. We spend some time in the park, but I have to tell you, we are hesitant to let our children spend much time in the park because we don't know where the boundaries are, and we are respectful of our neighbors. We don't know where the park ends and where the other neighbors' yards start. We tend to restrict our use of the park because of that. I think identifying the boundaries of the park will be a great step forward in making it more usable and allowing us to respect our neighbors. I just wanted to speak to make sure that you knew that there are many neighbors on Lee Boulevard who are in support of this. Thank you.

Shannon DeSalvo, 8316 Ensley Lane, appeared before the Planning Commission and made the following comments:

Ms. DeSalvo: We used to live at 8308 Meadow Lane. We moved around the corner because we love our neighborhood so much and wanted to stay in it. I'm very much in support of this park, and so is my husband. I have two small children: 4 and 2, and we've lived in this neighborhood since prior to having children. It's a very outdoorsy neighborhood; people are out walking. We don't have sidewalks, so people are walking their strollers, dogs and children; kids are on bikes. There are a lot of outdoorsy people in this neighborhood, and we have block parties. It's such a wonderful community. People don't want to leave it. So many of us have talked about how it would be wonderful to make good use of this green space that is called a park now but is really just green space with a beautiful art piece in the middle that's too hot to sit on. It's supposed to be a bench, but my friend tried to have a picnic there with her 3-year-old son, and they burned their skin sitting on it because it's black. What I want to address that we haven't addressed yet is we have to utilize parks in Prairie Village. We go to Meadow Lake, which changed its name, at 79<sup>th</sup> and Belinder. We use the park that's by HyVee, which is a new park. We have to use parks in Prairie Village because there is not a park in our own city. I think that's a negative. The other thing is that I live on Ensley behind Leewood Presbyterian Church, and there's a creek between our house and the church. I never see kids near that creek. We walk out there to try to do nature walks with my kids, and I don't see kids playing in that creek. Occasionally, a kid will pass through because they're coming home from school and want a shortcut. It's maybe once, and it's kids I know. We've got a great group of people in this community with very responsible parents, and it is our job to be parents. I see the focus of this park as being children up to five years old, and parents are going to be with those kids. If teenagers are loitering around, that's something we need to bring to the police department and address as such. I think this would be a wonderful thing. I was not aware that the one neighbor's house went all the way to Lee. That's very interesting, and I didn't know that. I think boundaries definitely need to be addressed so we know where they are. I think the foliage or fence or different things to really set out this park so it's really clear are a must. I'm talking on behalf of Megan Kopp, Theresa Brizalano, Heather Sullivan and so many people who couldn't be here today because their husbands are at work and they're home with their kids. So many of us are for it, and if you need a list of people or anyone else to speak in favor of it, I'd be happy to help gather that. Thank you for your time.

Jolynn Hobbs, 8309 Lee Boulevard, appeared before the Planning Commission and made the following comment:

Ms. Hobbs: I am a member of the Leawood Homes Association board, and I appear before you today to ask for your considering of support for the enhancements of Brook Beatty Park. The demographics have changed drastically because many young families have moved into our wonderful old Leawood neighborhood. It is a significant number of children within walking distance of Brook Beatty Park. To address Mr. Strauss' mention on the 2-5 age, our councilmember provided that there were more than 80 young children documented under the age of six within ¼ of a mile of walking distance of Brook Beatty Park. That was just an informal survey with a lot of children not accounted for. The significant number of young children, combined with the parental feedback clearly supports and reflects the need for usable green space in our neighborhood. While Brian did mention that the park is designed for children from 2-5, older children can enjoy it as well. The requested enhancements are really more than providing a playground or park benches; it's providing a point of community. Brook Beatty can be a place to meet your neighbors, visit with other parents, build relationships and provide a wonderful walkable play environment for our neighbors, many young children and their families. This is a neighborhood amenity I would have loved to have had when my children were young. I have been very impressed by the various city departments' ability to work together for the residents of Leawood: Mayor Dunn, our councilmembers, public works, Police Chief Meyer, parks and rec have all been supportive. The Leawood Parks and Recreation department has developed an impressive plan considerate for our neighbors and the architecture of our neighborhood, and I have full confidence in the parks and recreation team to design, implement and install enhancements that bring value to our neighborhood, utilizing all available safety measures, while being mindful and respectful of the adjoining neighbors. I'd like to thank the Planning Commission for your time and consideration, requesting your support on this very worth initiative, benefitting the children of North Leawood.

Mr. Walden: We're hearing from people who can't see the park from their house. Is anybody here present that can see the park from their house for this, just to put things in perspective? We're hearing these heartfelt pleas for the park, but none of these neighbors can actually see the park from their house and potentially bear the burden of all of these things we're talking about. I'm just wondering if anybody can actually see the park from their house is for this initiative.

Chair Rohlif: I think we've had comments from that perspective, too.

Mr. Walden: Nobody that can actually see the park from their house, though, is the point.

Ms Martin: You were talking about the car that washed over Lee Boulevard and into the creek and everybody was killed. Like I said, in fourteen years, we've had trampolines, picnic tables and everything in what we call our yard. Between the city and us, there has been a gentleman's agreement, as well as with the previous owners. The house was built in '48. The side creek, which they're not showing, is all mowed and maintained if it is on our side. The other side, the city takes care of it. In this situation, they want to go back and split it up, which is fine however it's going to work out, but the trampoline, picnic tables and all those things have landed in the city property, and they did not clean it up or maintain it. They don't clean up the ditch that's through there; they just leave it there and we clean it up. I ask you to please take this into consideration and please take the safety of this area, this huge flood zone, into consideration. This happens so quickly. Even today, it flooded, and this is winter. Spring storms come through there, and it floods. It's something you really need to take into consideration. Thank you.

Chair Rohlif: I think we need to wrap up. We've heard from everyone who wanted to speak and given some leeway to others to speak again. Unless anyone has a new issue that we have not heard yet this evening, I would ask that we close the Public Hearing.

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

Chair Rohlif: That takes us up to our comments and final decision.

Comm. Strauss: I'm certainly on the fence; I have to admit. I always like to hear from the public comments, and it's about even. I know that everyone could not make it, so you have to assess with the representative sample, but certainly, I want to do what the neighborhood wants. This is their neighborhood, but it was about half and half. I love the ideas of community and walkability. I think we can better define the boundary between the private property and the public property with landscaping. Those are the pros. I guess the con would be the safety, and I think that's what I'm weighing in my mind is the safety aspect. I'm not so worried about the flooding. When it starts raining, who wants to be

out at the park? I'm more worried about a 5-year-old running off. Certainly, I think parents are watching the kids, but every adult has turned a head, and I'm worried about a child running off toward Lee Boulevard. I'm just sharing thoughts with the commission, but I'm having a tough time with this.

Comm. Roberson: As usual, we hear a lot of concern, and those people have a tendency to show up. We heard from the president of the homeowners association, which I think represents the vast majority of the individuals that live in that neighborhood. I heard a lot of "Not in my back yard" comments tonight from three or four homeowners because they're concerned about people cutting through their property. I will commend the parks and rec department for the way they maintain the parks around the city. I would say that I would think, with respect to trash and mowing or anything else like that, you all will be really surprised with how well they will maintain this park. Getting back to safety, if you look at Tomahawk Creek Parkway, you'll see three ponds, a stream. City Park has a pond and a stream. Across 119<sup>th</sup> Street to the ballpark, it floods occasionally. Highland Park is next to a stream. Our parks are all next to water. I think that's a concern, but it's not the real issue. I think the real issue we're hearing is "Not in my back yard; I don't want a lot of people. I don't want the noise. I don't want the kids." Quite frankly, I'm leaning the other way and saying this will be a great community asset, especially for the people living in that neighborhood.

Comm. Jackson: From the experience of sitting on this commission, when something new is proposed, such as a park, it always amazes me about the fears that come immediately to our minds. I think that's just human nature, but once the park is in place, everyone generally comes back with comments about how wonderful it is, how well maintained it is by the city, how much it adds to the community. I think when the city is willing and able to put in an improvement like this and really make this parcel of land usable where it hasn't been in the past, it is a great thing for the community. We're always looking for ways to get our children outdoors, to get everybody moving and exercising. This is a wonderful way to do that. I think we can work with the city if there needs to be some fencing or landscaping to delineate the areas better, let's do that, but I think this is a great asset to add to the community.

Comm. Ramsey: I concur, but I really feel that the city owes the property owners out there the obligation of delineating their property from the public area.

Comm. Roberson: I agree.

Comm. Ramsey: Maybe it is heavy landscaping or a boundary of a fence. With this rezoning and the placement of this playground in there, we're changing it from a passive green space that people walk by to a destination place where people can congregate. I'm all for that, but in addition, because of that, we owe it to the property owners to protect them in terms of making sure that by enhancing the public area, we aren't stepping on their rights as property owners to maintain their property without having people run through it and be disrupted by it.

Comm. Pateid: I'm going to share some of the concerns of Commissioner Strauss on the safety aspect of this. When I really think about this, it is a park designed to be walked to, and there are no sidewalks, and that bothers me. There is a very busy street, and that bothers me. It is crowded with parked cars, which it can and will be on both sides of the street. Lacking the safety of sidewalks tends to mean that we are creating an attraction that is going to change the complexion of the safety of that area. I am much more concerned about the unintended consequences than I am the concern about a youngster running out in the street. This is going to be a place that will attract middle school kids and teenagers in the evening when it's not being frequented by the parents pushing strollers with young children and wanting to meet and have a conversation. They're going to be there. In that environment and with the traffic on Lee Boulevard, once again, the attraction that we're developing or proposing is going to change the complexion of the safety of that area. Having been in the position of both the parent and the grandparent and knowing what it's like to have a place to take the youngsters, I think it's a wonderful idea, but I share the thoughts of some of the others that maybe it is a wonderful idea in the wrong spot. Today, it is a green space within our community, and it's a very lovely green space and will continue to be if it doesn't proceed to be developed as a park as recommended.

Chair Rohlf: If no one else would like to share, I would ask for a motion.

**A motion to recommend approval of CASE 03-2013 – CITY OF LEAWOOD – BROOK BEATTY PARK – Request for approval of Zoning, Preliminary Plan and Final Plan, located south of Meadow Lane and west of Lee Boulevard, subject to the four staff recommendations and a request for a delineation between the park and the property owners – was made by Roberson; seconded by Ramsey.**

Comm. Jackson: Can we ask staff about the possibility of getting landscaping or fencing around the area?

Mr. Coleman: If it is delineation and the Council upholds it, it will be required.

Comm. Jackson: Do we need to spell out that stipulation more?

Mr. Coleman: I don't think so. They can plant landscaping material that will delineate the boundary. It is already partially delineated by the creek. You would need to include that you want the boundary delineated by landscaping in the stipulation.

Comm. Ramsey: Not only delineated but a barrier, so if they're going to do it with landscaping, it needs to be at least a hedge type so they can't get through it.

Mr. Coleman: There is a creek. The neighbors' property is partially on one side of the creek, and the park is partially on the other side of the creek. For a barrier, there is a little bit of an issue with the creek.

Comm. Ramsey: I'm not concerned about going out into the creek. I'm concerned about the western boundary of that park.

Mr. Coleman: That's what I'm saying. If you look at the plan, there's a triangular area that is west of the creek that is park property and a triangular area that is east of the creek that is private property. It makes sense especially to delineate on the east side of the creek where the private property abuts the park.

Comm. Ramsey: I'm trying to meet two requirements: make it difficult for someone to trespass on the neighbors' property without overburdening the city by putting in an overly expensive barrier. How they do it, I don't care. That is the mission here.

Mr. Coleman: You can stipulate that there is a barrier that delineates the boundary.

**A friendly amendment was made by Ramsey; accepted by Roberson to include a requirement for a barrier that delineates the boundary of the park was made by Roberson; seconded by Ramsey. Motion approved with a vote of 6-1. For: Levitan, Roberson, Jackson, Elkins, Strauss and Ramsey. Opposed: Pateidl.**

CASE 04-13 – 10314 STATE LINE ROAD - (JIMMY JOHNS RESTAURANT) – Request for approval of a Final Plan, located at 10314 State Line Road.

**Staff Presentation:**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: This is a request for approval of a Final Plan for a Jimmy John's Restaurant located at 10314 State Line Road in the former Pride Cleaner building. The applicant is seeking final approval of site and building modifications for a proposed restaurant. A couple months ago, the Planning Commission did consider and recommend approval of a Preliminary Plan and Special Use Permit for this same use, and nothing has really changed with the plans except more detail added with regard to signage. The City Council did approve that Preliminary Plan and Special Use Permit on December 17<sup>th</sup>. The plan proposes improvements to the existing parking lot to the east of the building, including a new landscape island to help define the parking area. Currently, the paved surface goes straight from the parking lot onto State Line Way, which is an access road parallel to State Line Road. The plan also proposes a new driveway on the north, west and south sides of the building, which would provide a counterclockwise circulation around the building and cross access with the property to the north so that those folks can go around the west side of the building, go around the building and exit around the south side. In addition to the parking on the east of the building, a new lot is also proposed for the west side of the building, providing a total of fourteen spaces. New landscaped areas are proposed adjacent to the north, west and south sides of the building. These are as a result of the improvements being made to the parking lot. The building exterior is proposed to be modified by removing the existing canopy and adding a new stucco parapet as well as a new storefront across the east side of the building with decorative light fixtures. Two directional signs are shown at the site's entrance and exit points, and also a new wall sign is proposed on

the east elevation of the building. All of these signs comply with the requirements of the Leawood Development Ordinance. Staff is recommending approval, subject to the stipulations in the Staff Report, and I'm happy to answer any questions you might have.

Comm. Roberson: Staff Recommendation No. 3 requires all power lines, utility lines both existing and proposed, including utilities, etc., to be placed underground. Are there any power lines, etc. that need to be placed underground in this location for this store?

Mr. Klein: That stipulation is also put in place for any utility lines they might run from the perimeter of the property to the building. Chances are, they won't; it just ensures any utility lines will be placed underground if that does occur. I don't believe there are any utility lines along the public right-of-way.

Comm. Roberson: That is fine. No. 11 says that all parking lot islands shall be bermed to discourage foot traffic. Is that a standard statement? I can't imagine a whole lot of foot traffic walking around Jimmy John's or the neighborhood buildings.

Mr. Klein: That is a standard stipulation. The reason for it is if you have a landscaped berm and people cut across it, it often kills plant material and spreads out mulch.

Comm. Ramsey: Are these all the same stipulations that were in here last time?

Mr. Rexwinkle: The first two were the first two in the last report, and then some of the others are the same. Generally, the ones that are more specific, you only see with the Final Plan.

Chair Rohlf: Did the variances that the BZA approved come before or after we saw this?

Mr. Rexwinkle: They came before the Preliminary Plan and Special Use Permit were submitted.

Chair Rohlf: It seems to me, the only thing I remember we discussed at length was the parking spaces. It meets the ordinance requirement, correct?

Mr. Rexwinkle: That is correct, and we verified that the seating was remaining the same in the restaurant, and that's what the parking requirement is based off.

**Applicant Presentation:**

Mike MacAdam, 1510 Walnut, Kansas City, MO, 64108, appeared before the Planning Commission and made the following comments:

Mr. MacAdam: We've all seen this project, so I don't have a presentation. I am ready to answer any questions.

Chair Rohlf: If we have no questions, since nothing has changed since our discussion at length during Preliminary, I would ask for a motion.

**A motion to recommend approval of CASE 04-2013 – 10314 STATE LINE ROAD – JIMMY JOHN'S – Request for approval of a Final Plan, located at 10314 State Line Road with seventeen stipulations – was made by Jackson; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

CASE 07-13 – PARK PLACE – SFP RENOVATION – Request for approval of a Special Use Permit, Preliminary Plan and Final Plan, located south of Town Center Drive and east of Nall Avenue. **(PUBLIC HEARING)**

**Staff Presentation:**

City Planner Justin Peterson made the following presentation:

Mr. Peterson: This is Case 07-13 – Request for approval of a Special Use Permit, Preliminary Plan and Final Plan for Specialty Fertilizer Products in Park Place. The applicant is requesting approval to perform research services limited

within Building A of the Park Place development. This type of use was approved by the Governing Body and added to the Leawood Development Ordinances Table of Uses on December 3, 2012 with Case 128-12. The plans propose a workspace area to perform research within their existing office space on the second floor of Building A. The research room will fall under their Research Services Ltd. use, and a Special Use Permit is required for this type of use. The research will be comprised of 1,400 square feet, which is approximately 7% of the total tenant's leased area. The proposed research space meets the requirements of the Limited Research Facilities as outlined in the Leawood Development Ordinance. The applicant has been working with the fire marshal and building official to provide the necessary information to meet the requirements of the LDO, and a memo from both of them is included in your packet. Per the LDO, approval of the SUP is conditional upon an annual review by the fire marshal and the City of Leawood. We have the building official and fire marshal here this evening to help answer any questions you may have. Staff recommends approval of Case 07-2013, following the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

Comm. Pateidl: Looking through the stipulations at No. 2, it says, 'Per the Leawood Development Ordinance, a Special Use Permit shall be conditional upon an annual review of the City of Leawood fire official. In order to facilitate review, the applicant will get reports, etc.' In lieu of seeing different issues come before this commission on an annual basis, will the renewal of this SUP come before the Planning Commission annually or not?

Mr. Klein: No, it wouldn't be a Special Use Permit that would come back. It is similar to what was down at the off-street parking at Molle Toyota where it was coming before you every year. This would be conditioned upon the fact that they have to have that annual review. If they do not have that, then the Special Use Permit would become null and void, at which time they would have to reapply.

Comm. Pateidl: There is no sunset clause on this Special Use Permit.

Mr. Klein: Actually, all sunset clauses within the LDO, if not specifically stated, like a cell tower with five years, has a twenty-year sunset clause.

Comm. Pateidl: Given the fact that we're opening up a change for research and development within the Mixed-Use area, I find it a bit unusual that we would have a parking lot come back for annual review but not a research facility when it is in the area of both residential and food service merchants. I question the wisdom of not having that condition.

Comm. Jackson: In line with that, we could certainly stipulate that it would be two years or five years instead of the twenty, correct?

Mr. Klein: You do have the ability to put a time limitation on it.

**Applicant Presentation:**

Lily Carpio, controller for SFP, 11550 Ash, appeared before the Planning Commission and made the following comments:

Ms. Carpio: The only comment that was just brought up with respect to coming back every year is we have four years remaining on the lease. It just seems that as a tenant, if we are approved and abide by the annual inspections, it doesn't make sense to me to have to come back every year and apply for a Special Use Permit, unless I misunderstood what you were saying. It would be preferable to get a Special Use Permit for a period such that we wouldn't have to come back and reapply as long as we were abiding by the inspections. If you have any other questions, I would be happy to answer them.

Comm. Roberson: Do I understand that this process is already in place?

Ms. Carpio: Correct.

Comm. Roberson: The coolers are already installed?

Ms. Carpio: The growth containers are, yes.

Comm. Jackson: Can you explain a little bit about the types of fertilizers you're using and any sort of hazard that might be related to them?

Ms. Carpio: Most of what's in those chambers is soil. Our product is an additive. We don't manufacture it; we just have the patents on it. We have outside sourcing that does the manufacturing. Our additives, when added to the soil, help crops grow bigger and better. Because we're talking about crops throughout the United States in different regions and temperatures, our testing comes in and we often test with the product and without the product to show the difference in the growth of the roots and the plants itself. This is the focus of what we do; we show how our product helps the inefficiencies in the soil. In these growth chambers, you will see a lot of different plants; they could be corn or wheat with and without our product.

Comm. Jackson: Before it gets to you and you start testing it, has it already gone through safety testing somewhere else?

Ms. Carpio: Well, there is nothing inherently dangerous with our product. They are chemicals or polymers, and you add it to the soil.

Comm. Ramsey: But there is no compounding onsite?

Ms. Carpio: No.

Comm. Jackson: You're not changing it and making it different?

Ms. Carpio: No, our product has already been manufactured. We have a facility in Dalton, Georgia and Columbus, Ohio.

Comm. Ramsey: These are essentially in a test plot.

Ms. Carpio: Yes, that's exactly it. That's why we have the controlled temperatures, humidity and all those factors.

Comm. Jackson: In something I read that you gave out, it said that the entire quantity was two gallons in a year?

Ms. Carpio: In terms of what we're testing, I'm not a scientist, so I don't have a feel for what the actual amount is, but I know that everything is well under the parameters that have been stated in the consultant's report.

## **Public Hearing**

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

Chair Rohlf: That takes us up to any additional discussion.

Comm. Roberson: I think I'm going to have to agree with Commissioner Pateidl with respect to the Special Use Permit. I think twenty years is way too long. In fact, in this situation, I think it should run concurrent with the lease or a maximum of five years, whichever is less.

Comm. Jackson: I don't know that we want to run it with the lease because then you have to see the lease.

Comm. Roberson: She just said it has four years left on it.

Ms. Shearer: I would agree with Commissioner Jackson. We, as a city, in general don't like to get in situations in which we would need to approve or review documents between private properties.

Comm. Roberson: Then I would suggest we make it a five-year Special Use Permit.

Comm. Ramsey: I am good with that. Why is it we have to go back every year on the Molle lease?

Mr. Klein: Actually, it is two years now.

Comm. Ramsey: Is that because of what we've done or the UDO?

Mr. Klein: I can't speak to that.

Chair Rohlf: Are there additional comments before we make a motion?

Comm. Pateidl: It concerns me that this activity that we are allowing by virtue of this Special Use Permit or are being asked to allow is already being done. In essence, that says to me that the applicant is in violation of this Special Use Permit that has already been given to them. This is a classic case where it's a lot easier to ask for forgiveness than it is for permission. To that end, I reiterate the desire to have it limited. I thank Commissioner Roberson for joining me in that, but I would encourage the scope of the review to become very specific with respect to obligations of the applicant as we go forward. We are putting a burden on the fire commissioner or whoever will conduct this inspection, but we are talking about adding polymers to soil to test a previously developed product, which sounds pretty benign. That doesn't say that it is all they can do. Who's to say what is going to come up next? That bothers me from a safety aspect of it, and it certainly bothers me to the extent that they are already conducting this research.

Chair Rohlf: If there are no other comments, I would ask for a motion. It appears that the majority are in agreement with the specific limit on the Special Use Permit, so that should be added as a stipulation.

**A motion to recommend approval of CASE 07-2013 – SPECIALTY FERTILIZER PRODUCTS – Request for a Preliminary Plan and Special Use Permit for Research Services – Limited – located at the northeast corner of 117<sup>th</sup> Street and Nall Avenue – with staff stipulations 1-5, including a five-year limitation on the Special Use Permit – was made by Roberson; seconded by Ramsey. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

CASE 14-13 – PINNACLE CORPORATE CENTER V – Request for approval of a Preliminary Plan and Final Plan, located at the southwest corner of 114<sup>th</sup> Street and Tomahawk Creek Parkway. **(PUBLIC HEARING)**

**Staff Presentation:**

City Planner Justin Peterson made the following comments:

Mr. Peterson: This is Case 14-2013 – Request for approval of a Preliminary Plan and Final Plan for Pinnacle V. The applicant is requesting approval of a 69,890 sq. ft. 3-story office building with an F.A.R. of .40. This site is approximately 3.9 acres and is located west of Tomahawk Creek Parkway and south of 114<sup>th</sup> Street with the southwest corner of the proposed parking lot lying partially within the flood plain. Access to the site will be provided from two drives from the north off 114<sup>th</sup> Street. The plans propose 296 parking spaces surrounding the building with a parking ratio of 4.2. Sidewalks are proposed around the perimeter of the building with sections containing decorative pavers. The existing sidewalk along 114<sup>th</sup> Street will remain as is, and a connection will be made from the building up to the sidewalk. A pedestrian connection is also proposed to connect the building with an existing trail west of the site, and a 5-ft sidewalk will be installed to create this connection. An amenity area will be located at the southwest corner of the building and feature tables with seating. A row of existing trees lines the west property line. These trees are not shown on the plan, and staff is recommending that they remain. The plans also show street trees off 114<sup>th</sup> Street clustered. Per the LDO, street trees are to be planted at 35 feet on center, and staff is recommending the plans be revised to show these. The Pinnacle Office Building is proposed to consist of a mixture of cast stone, brick veneer and resemble surrounding Pinnacle buildings. Main entrances will be located both on north and south elevations. The building will have a flat roof with a prefinished metal coping. The central portion of the building is primarily constructed of glass and extends above the roofline on either side. With the exception of the central glass portion, the building generally consists of red brick with a row of large window on each floor. A dark red and copper-colored brick are used as accents to help break up the facades of the building. The applicant hosted an Interact Meeting on January 9, 2012, and a summary of that is attached. The applicant did also appear before the Board of Zoning Appeals on December 14, 2012 to receive a number of variances. A detailed list of the approved variances is in the staff report. Staff recommends

approval of Case 14-2013, subject to the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

Comm. Strauss: Looking at the Site Plan, it looks like the east access point has stamped concrete. I assume that is an extension of the sidewalk for the east drive. Is that to delineate the sidewalk?

Mr. Klein: The LDO requires that any place a pedestrian pathway crosses vehicular pavement, the pedestrian pavement be differentiated.

Comm. Strauss: I'd like to see it on the west access point, too.

Mr. Klein: It would need to be across all pedestrian pavement; you are right.

Comm. Strauss: I'm not talking about just east/west; I'm talking about coming into the building. I love the idea that we provide perimeter sidewalks and that this plan on the east side is showing how pedestrians are going to get to the building; I just didn't see it on the west access point. I think we're saying the same thing.

Mr. Klein: (*Refers to plan*) Currently, they have a pedestrian crossing from the perimeter sidewalk down to the entrance of the building. That is required by the LDO. They currently don't have one shown along here. There isn't a requirement with the LDO to do that, but any place with a pedestrian crossing within the development, such as a sidewalk that dead-ends at vehicular pavement and continues on, would be required to be differentiated.

Comm. Strauss: Maybe the applicant can talk about that. I just think people are going to come from the west side, and they're not going to necessarily walk all the way to the east side and come in.

Chair Rohlif: It seems like we've gotten Pinnacle buildings in before. What is the overall plan? Is it part of an overall development that has a name, or are these buildings all separate?

Mr. Klein: This particular piece of property is actually platted as Alterwood, which doesn't have the same name as the Tomahawk Creek Business Park, and I don't believe the other Pinnacle buildings are part of that, either. They basically have Pinnacle II, III and IV that are located along Tomahawk Creek Parkway and then up along 114<sup>th</sup> Street. Technically, they are a little separate from the rest of Tomahawk Creek Business Park. Viewing it, you would think they are all part and parcel.

Chair Rohlif: This is a building that stands on its own.

Mr. Klein: Yes.

Chair Rohlif: I noticed in the BZA variances that were approved, did you have reasons for the increase to the F.A.R. and reduction in the open space? I'm not sure that it was really set out in the Staff Report.

Mr. Klein: Those were variances they went to the Board of Zoning Appeals for. I believe the minimum required open space is 30% within the SD-O District. They requested down to 28.2%. With regard to F.A.R., the maximum is .25; they increased that beyond that at the BZA.

Chair Rohlif: You don't really know the reasons for that?

Mr. Klein: You might ask the applicant as far as marketability.

Chair Rohlif: It seems unusual that it was granted. Does anyone else have questions for staff?

**Applicant Presentation:**

Curtis Holland, Polsinell Shughart Law Firm, appeared before the Planning Commission and made the following comments:

Mr. Holland: I am here on behalf of Block Real Estate Services. Brad Sima with Block Real Estate Services and Kevin Burman, the site architect with HWA are also here. As you indicated, this is a new Pinnacle building. It may seem like it stands on its own, but from our standpoint, it is connected to and similar to the other Pinnacle buildings here. Block Real Estate Services is the developer of Pinnacle Corporate Center Office Park. This would be Pinnacle V. (*Refers to Master Plan*) The buildings in darker red are the Pinnacle buildings. Pinnacle V is along 114<sup>th</sup> Street on the backside of the Academy of Family Physicians.

Chair Rohlf: Is there delineation for the different colors of the roofs?

Mr. Holland: That is only to show you that the brown are the Pinnacle buildings. The other buildings are office buildings in what is commonly known as the Tomahawk Creek Parkway Office Corridor. All of those are existing office buildings. The unique thing about this particular piece of property is that it's the last undeveloped piece of property in the Tomahawk Creek Office Corridor. The other thing that is unique about it is the city is the owner of the property. We have entered into a contract to purchase the property, subject to obtaining the approvals. Staff mentioned the variances. I don't intend to speak to all of those in great detail, as they were hashed out with the BZA. We are in conformance with those rules. At this point, I would like to turn it over to Kevin Burman, our site architect, planner and designer of the building and elevations for the buildings, and let him go over the Master Plan. We have met with staff many times and worked through really every detail of this plan thoroughly. We appreciate staff's recommendation for support and are happy to go through the project with you in some detail and ask for your support, too, as we head to the next level of City Council. This site was at one time going to be the Justice Center. This is a leftover piece, if you will, and we are trying to make some use of it and will pay the city a lot of money to use it if we get the approvals that we need. The rest of the park was generally developed under some older standards, and by and large, this is really the only piece of property left there that is subject to the new codes; that is why some of the variances were asked for. We will be very consistent with what is there today. We think it is the premier office park in Leawood.

Chair Rohlf: Do you have any problems with the staff stipulations?

Mr. Holland: By and large, no. We want to talk about No. 12, which happens to be the pedestrian crosswalk that Mr. Strauss talked about. Primarily for maintenance reasons, we would prefer not to have to put in stamped concrete. Snow plows catch stamped concrete. I'll let Mr. Burman go through that.

Kevin Burman, HWA, 4600 Tomahawk Creek Parkway, appeared before the Planning Commission and made the following comments:

Mr. Burman: We just so happen to occupy the fourth floor of Pinnacle III, so we're very familiar with the area. I will point out some things on the Master Plan. I'm sure you're very familiar without me pointing it out too much. (*Points out buildings on Master Plan*) As Curtis said, this is currently a vacant parcel that is recessed about 7 feet below street level. One of the things you'll see is the dirt work we have to do so the building appropriately addresses 114<sup>th</sup> Street. We have to raise the site and do some retaining wall work to make a nice amenity. This building will beautify and complete the park. I will address your question about the BZA application and what we wanted to do. The infrastructure required to make the site viable for this building is extensive. I've worked for developers almost every day of my career, and they balance the costs of a job against a lease rate that is marketable. There was no way to make the project work without its current size. The reason more so than the economics that we talked about with the board is that what we're proposing is within reach of all the other buildings in the park. Because they felt like what we were proposing was consistent with the park around us and that it was appropriate to give us approvals. We feel it will be a beautiful piece of architecture, and certainly if you've been there and realize what is there now, improving this parcel and doing another Pinnacle project here is going to improve the property values of everyone around it. It will enhance public welfare and take an eyesore and make it an improved new office building for the park.

Before we get into the Site Plan, I'm going to talk about the architecture. (*Refers to display boards*) The building is a combination of a blend of bricks, dark reddish browns, darker banding and cast stone to create a traditional and contemporary mix of water table lines. The rich palette of material blending goes with Leawood and is part of the character of the city. Some of the accents of cast stone have a lot of texture and interest. Not only does a building have depth and changes in the façade and height, but it also has texture changes of the brick. Something special about the Endicott brick that we use on this project is that it has a bit of a sheen to it. You have the monument sign we are planning, which blends and has the same materials of the building. The trash enclosure meets ordinance, and we're blending to the façade as we need to. There are two balconies designed that face east toward Tomahawk

Creek Parkway. Any questions at this point? If you look at a Pinnacle building, it is exactly what you can expect to see when this building gets built.

Chair Rohlf: I have a question about the trash enclosure. Can you tell me why it's detached from the building?

Mr. Burman: It is detached from the building so tenants occupying the building don't have to look at the trash enclosure. In a larger-scale building such as an office tower that has a central plant facility, the trash enclosure spaces are accommodated in a larger mechanical space. With this size building, it's 70,000 feet, 3-story, and everything is office. All the perimeter walls are office. Every lineal foot of glass is critical to the project being leased. I understand some part of why the ordinance is in place to have it attached. For a small office building like this with perimeter glass, you'd have to take up probably 15 lineal feet of exterior wall that could be used for office, and the next two floors are in close proximity to the trash enclosure. I will add that one of the reasons it was deemed to be approved is all the other buildings on the campus have detached trash enclosures.

*(Refers to 3-D view of the project)* It is a 7-ft. lift in order to get acceptable curb cuts with acceptable grades from the street to the parking lot, so we're keeping it just under 5%, which any more than that is not the greatest entrance drive. The site has been raised to accommodate line. Pinnacle IV has large rough-cut limestone boulders as a retaining wall, so we're not using CMU or any kind of retaining wall like that, but we do have to have some retaining wall in order to accommodate the grade change between this site and American Academy of Family Physicians. This is about the nicest way to retain dirt. On top of that wall is rolling landscape and continuous screening. Along 114<sup>th</sup> street is a berm with all the required landscaping. This project will be beautifully landscaped. Are there questions before I move to the Site Plan?

*(Refers to Site Plan)* The building faces north. It is surrounded with very efficient parking area and green spaces between the islands to separate major bays of parking that are 10+ feet in width. This creates nice separation and avoids a field of parking. We managed to plan it to limit bays of parking to one on either side rather than a field of three bays of cars to keep it visually to a minimum. The berms roll across 114<sup>th</sup>. The retaining walls are along the east, and we have a continuous row of evergreens along the back corner. The trash enclosure is on the southeast corner of the property. We have gone through a lot of expense to do quite a bit of screening on this corner. Our only visitors in the community hearing were the folks from the American Academy, and they feel like we did a great job to take care of any concerns they might have with screening. They do have an outdoor amenity area, and they feel good that we've addressed any concerns they may have. We have a wonderful building amenity off this pedestrian pathway that is a combination of stamped concrete and concrete pavers, ornamental bollards and some concrete tables and benches that are permanent fixtures. There are some along 114<sup>th</sup> Street for Pinnacle II and III, and we are using the same site furnishings for this amenity area. Along all of these Pinnacle buildings, we install concrete accents throughout the sidewalks so there is not a continuous concrete sidewalk, but rather a 2-foot strip of concrete pavers. Any questions about the Site Plan? If there are no other questions with how we've laid out the building, I would like to discuss the crosswalks.

*(Refers to photo board)* We have prepared a board that is a combination of photographs of surrounding current office buildings. I'll start by demonstrating that the office buildings around us don't have the concrete treatment for a pedestrian walkway. We think they are lovely, beautifully landscaped, pedestrian friendly and safe. We don't know that there is anything wrong with the way the existing pedestrian areas are. I feel like the pedestrian retail environment being created with a historic feel like walking down older downtown has reasons to have the wider brick pathways. It is not just for safety, but also for ornament and ambience. It does have issues with asphalt coming to concrete. It gets crushed through differential settlement. The concrete moves one way, and the asphalt moves another. I don't know that it will ever be a trip hazard, but snow removal is affected. As I understand, there may be architectural rationale beyond what might become a maintenance issue every now and then to create an ambience from an architectural standpoint, but from a private office development with the only real goal to have safe pathways for pedestrians to get from one point to another, when that specific look isn't really what you're going for, the longer-term solution to keep a beautiful environment is not to have that path crossway with conditions like the unattractive ones here. Aside from it being in the ordinance and something that is being requested by the city, I wanted to let you know why we thought it would be a better idea not to require this project to have that detail.

Comm. Ramsey: Are you going to delineate crosswalks or any kind of pathways out?

Mr. Burman: We would be happy to mark those pathways with paint or something like that. The change from concrete to asphalt is the concern from a maintenance standpoint. Every developer we work for got rid of doing that because it looks pretty in the Site Plan, but after a year and a half, they're tearing that concrete out and putting asphalt over it so

they don't have that problem. It is more when you have a 6-foot pathway that can move. We are available for any questions, and we would like your consideration on this exception.

Mr. Klein: I just want to make sure everybody understands that this is a requirement of the LDO; there is not a deviation available. The other office buildings in the area were done before this ordinance was put in place. This is not something you or the Governing Body can approve a deviation for.

Comm. Jackson: What is the city's experience with any sort of incident like he's talking about?

Mr. Klein: I know Public Works deals with it a lot. I think the city has taken the view that this is an attractive way of demarcating pedestrian crossing. I know the city uses brick pavers with detail and specifications for construction.

Comm. Jackson: It also encourages cars to slow down, too, doesn't it?

Mr. Klein: It's a clear way, more than just paint, which has a tendency to wear off eventually unless it's maintained regularly, to demarcate it with the color and also with the texture.

Chair Rohlf: Mr. Holland, does anyone else need to speak?

Comm. Jackson: Did you have an issue with No. 14?

Chair Rohlf: We need to take that out since the BZA granted that variance.

Mr. Holland: Thank you for catching that.

Chair Rohlf: It is just that part because they still need to screen.

Comm. Ramsey: What portion of that was removed by the BZA?

Mr. Holland: The plan before you without the trash enclosures being architecturally attached is what we're asking for you to approve. The BZA saw it, and it was agreed that it would not be required to be attached.

## **Public Hearing**

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

Chair Rohlf: That takes us up to any further discussion.

Comm. Strauss: I want to add a stipulation for consideration for an additional pedestrian crosswalk on the west access.

Mr. Holland: This is what you like, and we talked in great length that we don't. Yet, you want us to add another one over here. I do want to indicate that the main entrance into this area is through a sidewalk. There is a pedestrian trail with a crosswalk. We would be strongly opposed to adding anything there.

Comm. Strauss: My point of view isn't the stamped concrete as much as a designated pedestrian crossing there. I just think that it's important. I don't see anyone from the street walking down the left side and then crossing.

Mr. Burman: We would be harmed a bit to install new sidewalks, take up parking stalls and illuminate the street trees in order to get the sidewalk running through here. Right now, we have bermed the area, so it is a nice raised berm with landscaping on it. To cut through this would take tree removal and work to figure out the sidewalk pathway. It is not just the lack of a crosswalk; there is actually no sidewalk connecting those points.

Comm. Strauss: From 114<sup>th</sup> Street south to the building, add one over on the west side.

Mr. Burman: Mark, did you say that this is not a requirement? Given that it is not, we would be losing landscaping and parking requirements in addition to going to additional expense.

Comm. Strauss: That's up for the rest of the commissioners to decide.

Comm. Jackson: Is it going to be bermed so that it would be unlikely that someone would come from 114<sup>th</sup> Street and cut down?

*Inaudible comments*

Mr. Klein: As Commissioner Strauss said, this is something the Planning Commission can stipulate. I do believe at that location, it slopes down from the street, so I don't think it is up and over as much as it is down.

Chair Rohlf: Are you in agreement or not?

Mr. Klein: Staff would be supportive of that.

Mr. Holland: I would like to be sure I understand what is being asked. Is it to put a sidewalk connection, remove trees and landscaping and install a short sidewalk when we have a pedestrian pathway?

Comm. Strauss: I don't think you have to remove a tree for a 4-ft. sidewalk.

Mr. Holland: All of it is landscaped.

Comm. Strauss: The center of the tree is offset from the curb.

Comm. Pateidl: To comment on this matter, I firmly believe that the amount of foot traffic to this building coming down 114<sup>th</sup> Street is going to be minimal at best and that under the circumstances of the berm and the landscaping, etc., I would support the applicant with the plan as it is. I think the access is going to be coming from the parking lot and not from the street.

**A motion to recommend approval of CASE 14-13 – PINNACLE V – Request for approval of a Preliminary Plan and Final Plan with the 28 stipulations, correcting No. 14 to delete the words, “. . . shall be architecturally attached to the individual buildings and” was made by Jackson; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

Chair Rohlf: We will be taking Cases 15-13, 152-12 and 153-12 together.

CASE 15-13 – CAMELOT COURT – Request for approval of a Revised Preliminary Plan, located south of Town Center Drive and east of Roe Avenue. **(PUBLIC HEARING)**

Case 152-12 – CAMELOT COURT – DRY CLEANER WITH DRIVE-THRU – Request for approval of a Special Use Permit, located south of Town Center Drive and east of Roe Avenue. **(PUBLIC HEARING)**

CASE 153-12 – CAMELOT COURT – DRUG STORE WITH DRIVE-THRU – Request for approval of a Special Use Permit, located south of Town Center Drive and east of Roe Avenue. **(PUBLIC HEARING)**

**Staff Presentation:**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: This is Case 15-13, Request for a Revised Preliminary Plan. You might recall that two months ago, you saw a rezoning request for this property, and that was accompanied by a Preliminary Plan. City Council approved that plan and rezoning early last week. There are two additional cases associated with this Revised Preliminary Plan: Special Use Permits for a drugstore and a dry cleaner. We are going to discuss all three together; however, they require separate Public Hearings and motions. The plans propose modifications to the Camelot Court development,

including the site and the buildings, as well as new sign criteria. The site is laid out with the main center oriented north to south and facing west. The main center consists of buildings labeled on the plan as Buildings A, B, C, H, J and K. These labels generally correspond with sections of the building rather than individual buildings. Buildings A, B and C comprise the south half of the main center, while Buildings H, J and K comprise the north half. The pad sites consist of Buildings L, M, N, Q, R and S. Buildings L, M and N front along Town Center Drive and Roe Avenue, while Q, R and S front along 119<sup>th</sup> Street. A detailed description of these buildings, including their tenants, is provided on page 3 in the building summary. The plans propose a net floor area increase of 10,531 square feet, and this addition is occurring in the main center and results from the proposed expansion of the Hen House grocery store. The expansion would be in the area of Building B on the east side of the main center. There is also a small decrease in the floor area of Building H, which is the proposed dry cleaner. This would be to the south side of the building where the former Earl May store is connected to CVS. That portion of the center will be demolished to make way for the drive-through for the drugstore, resulting in the small decrease in floor area. The drive-through for Building H, which is the dry cleaner, is proposed to be on the north side of the building and the drive-through for the drugstore on the north side of Building J, which is the current CVS store. The plans propose the removal of an existing access point from Roe Avenue north of Building N, which is Oklahoma Joe's. This drive is proposed to be removed to make way for a parking lot expansion in the area immediately north of Oklahoma Joe's. Two new right turn lanes are proposed: one along northbound Roe Avenue approaching the main entrance south of Oklahoma Joe's and one along westbound 119<sup>th</sup> Street. The plans proposed new parking lot landscape islands, which will serve to improve the appearance of the parking lot, accommodate more landscaping and better control the flow of traffic within the site. Additional landscaping is proposed to bring the site into conformance with the requirements of the ordinance. New landscaping will include new street trees, ornamental trees and shrubs along the site's perimeter as well as additional shade and ornamental trees within the interior of the site, primarily in parking lot islands. New public sidewalks along the development's perimeter as well, including a new 8-ft path along 119<sup>th</sup> Street, as well as an additional 8-ft wide path along Town Center Drive, which will connect to the path under construction for the Justice Center. Connections from the sidewalks to the main center area also proposed; however, the plans do not show new sidewalk connections to some of the pad sites along 119<sup>th</sup> Street. Staff believes the plan should be revised to show these connections because that is required by ordinance. The plan does not comply with minimum parking requirements set forth by ordinance; however, the ordinance does permit the applicant to provide a parking study, which they have done, in lieu of the required parking ratio. Staff received the study last Thursday, so we are asking for additional time to work with the applicant and review the study to come to a conclusion about whether or not we accept that study prior to this case proceeding to Governing Body. The exterior building modifications proposed are proposed to the main center and Buildings L and M, which are the two pad sites that front along Town Center Drive. Buildings on the other pad sites are not proposed to be modified at this time. The proposed elevations for the main center show construction of new stucco parapet walls over the existing tiled roofs predominant throughout the center. In addition to stone veneer on tower elements, the peaked roofs above the existing hen House entrance are proposed to be removed because the Hen House entrance will be shifted southward in the area of the current covered grocery carryout bay. Modifications to Buildings L and M include replacing the peaked roofs for tenant entrances with tower elements over the entrances as well as building corners. The applicant has not provided elevations of the east side or back side of the main center as of today's date. The LDO requires four-sided architecture, which means that we need to know what the back side, north side and east side of the main center will look like. We are asking for a stipulation to address that concern. Sign criteria are also proposed with this application, and this calls for three new shopping center identification monument signs along Roe avenue at the main entrance just south of Oklahoma Joe's, as well as along 119<sup>th</sup> Street. The criteria also call for the removal of the existing metal sign band on the buildings in favor if individually illuminated wall signs on the new stucco parapet walls. Tenants whose floor area exceeds 50% of the floor area of a multi-tenant building or single-tenant buildings are permitted a wall sign with letter heights of up to 48 inches; however, grocery stores are permitted letter heights up to 48 inches. Pad sites are permitted two wall signs or one monument sign in lieu of one of the two wall signs, Sign criteria are approved at the time of Final Plan review; however, we do have a few concerns with the criteria as proposed, including the size of the proposed shopping center identification monument signs. They appear to exceed 50 square feet in area. I believe the way the applicant has calculated the square footage is based on the text shown, but staff has always calculated it based on the actual face of the monument. Staff is also concerned with the proposed criteria when reviewed in concert with the proposed elevations; it appears that the existing signage is elevated since the applicant is proposing parapet walls and replacing most of the mansard roofs and eliminating the metal sign plan. That will elevate the signs higher, which creates more visibility to them, and we just wanted to point that out to the Planning Commission. Aside from the concerns expressed in the Staff Report, we are supportive of this application, as it results in improvements to the development, including better traffic flow through and into the site, better pedestrian and bicycle access and additional

landscaping to help comply with the ordinance. Staff is recommending approval of all three cases, and we're happy to answer any questions you may have.

Comm. Jackson: Do you have any preliminary thoughts about the parking?

Mr. Rexwinkle: We really have to sit down as a staff. We have talked about hiring a consultant, as we typically do with a parking study. We have not had a chance to really even talk about our comfort level with what is proposed. One of the things we will have to look at is the distribution of the parking. One of the comments I pointed out was Oklahoma Joe's and Longhorn Steakhouse showed almost 100% usage at certain peak hours. One of the issues we also have is they didn't measure parking at lunchtime, and we know that there are different demands probably in different areas of the center just from observation. We would like to possibly consider some counts for lunchtime as well. Those are key issues we've talked about so far.

Comm. Jackson: If you conclude that you disagree with their proposal, you're down 100 parking spots?

Mr. Rexwinkle: They are actually increasing over what is proposed, so they are improving on a situation; however, they are also asking for more restaurant floor area than what currently exists, so while they are providing more parking, they are also increasing their parking requirement by asking for this extra restaurant floor area. It's a really complex issue. If we are not comfortable with the study, I believe the way the stipulation is phrased requires the applicant to work with us. We don't want to be too specific with the stipulation because we don't know what the outcome of a consultant analysis of the study will be.

Comm. Jackson: My worry is if you have to take out 153 parking spots, it's going to require some pretty drastic new planning, and they're not going to be able to do it with what they have here with just shifting a few things around.

Mr. Rexwinkle: Yes, to add those additional spaces would be very difficult. I don't know that there is space to do it without reducing the open space further, and they are already non-conforming in that regard. It would be a substantial change, but when I pointed out they are adding restaurant floor area, one of the things they could do if their parking is not sufficient is to reduce that restaurant floor area. Restaurants trigger a much higher parking requirement.

Comm. Pateidl: When we were talking about the parking situation at One Nineteen, it sticks in my mind that we had agreed to some off-site parking for employees to lessen the burden of parking at that particular development. Was that directed to this location?

Mr. Rexwinkle: That was a temporary solution they used until they got their Revised Plan for permanent parking.

#### **Applicant Presentation:**

John Petersen, Polsinelli Shughart, appeared on behalf of Ninety Five West LP before the Planning Commission and made the following comments:

Mr. Petersen: Also with me this evening is Mr. Jim Harpool, Director of Development for MD Management; Brian Forquer with Lutjen, who has worked on landscape planning and Henry Klover with Klover architects, who has spent quite a bit of time working with us to modernize, update and change the visual appearance of this 27-year-old shopping center. As you know, when you get into redevelopment, it is a bit of a different process than starting with a green field with extra acreage while dealing with the LDO. This is a balance, and it is also more of a sequential process as you move through the review process by the city. As you know, we came before you to get rezoned. We showed the current plan so we could ask for Special Use Permits for drive-through windows and also so we could procedurally move to the BZA to ask for variances on a couple of the requirements of the LDO. We are talking about a shopping center that has been there over a quarter of a century and an LDO that has probably been updated 8-9 times since then, taking new ideas of streetscapes and shopping center design. When we first sat down with the staff, we had over a dozen issues on our initial suggested Site Plan that we would need variances for. We got these variances down to ten, kept working and only brought two variances to the BZA, both of which were granted. It is not a bad looking center, but it is not quite state-of-the-art in terms of look, lighting and landscaping. The aerial shows the level of parking blocks, type of 28-ft lighting poles and everything that was acceptable when the center was originally built.

I'll walk through the plan quickly (*Refers to plan presentation*). You can see some of the additional green space, attempting to utilize the concept of parking blocks. We'll also get into more detail later about bringing the lighting

down to 18-ft poles to bring the photometric impact down to where we're not quite having the light spillage offsite. At this stage, we agree further refinements will be requested by staff, but you can start seeing some of the architectural elements incorporated into the center. The drive-through area for the cleaners, we'll talk about in a minute. The other corner shows the southwest corner of the inline shopping center where Paddy O'Quigley's operated for years and will now be the Red Door Grill. It starts to pick up the new themes and new landscaping. The northwest corner has Discover Vision. The Corner Bakery is an exciting addition to the shopping center. The pad sites along 119<sup>th</sup> show the Hallmark store as it sits today. We will continue to work on incorporating compatible elements out to the pad sites. The pad site to the east, which we call Glitzerz, will pick up the design elements. Then the palette of amenities and materials will come to you as samples as part of the Final Plan review.

I'll get down to a few specifics with regard to the Staff Report. We proposed a common initial point of access to two drive-up opportunities for Tide moving to the south. We have a five-car stacking capability from the break point to the Tide pickup window. Those picking up from CVS would move farther south and go to the north side of the CVS building. It would be a partial demolition of the end cap area and a little bit of additional construction to put the Tide building in place and also modernize it with the vehicular access to those two locations. Moving down to one of the absolute best parts of this redevelopment is picking up additional square footage behind what is currently the inline facing out to the west for Hen House. We're trying to figure out in terms of those of us on the design team what this will mean in terms of Hen House staying, expanding and even reformatting their existence. Jim came up with the standard, calling it the coolest grocery store in Johnson County. That is the hope of Hen House with this expanded space and the modernized shopping center, to really start bringing some new features to offer.

Chair Rohlif: What part of that is the expansion on the Hen House?

Mr. Petersen: (*Shows on the plan*) It is approximately 20,000 square feet of additional space for Hen House, but we're taking out some square footage in terms of that Earl May space, so it nets out to what's in the Staff Report of a little over 10,000 square feet of additional overall square footage in the shopping center. I want to cover a couple items to drive home the good work our design team did here in working with staff to meet virtually all the important requirements of the LDO. The frontage on 119<sup>th</sup> Street is landscaped today but not to the standards we see in some of the more modern shopping centers in Leawood. This is built. We know we have a parking issue. We can't expand the green space from right-of-way to back of curb to the parking; we have to work with the green space we have. Even having done that, we will be adding 20 street trees just in the perimeter. We do not own the McDonald's pad nor the bank pad, so everything we are doing, other than some things in cooperation with them, will not directly impact those two pads. Just on the streetscape that we own, we are adding 20 street trees along 119<sup>th</sup> Street, 25 ornamental trees for an additional 77 trees along that short row. Pursuant to the variance from the BZA, we will make sure that all parking spaces with lights facing the street will have additional hedge work put into place. Going to Roe from 117<sup>th</sup> to the main drive, which we control, has 10 street trees, 30 ornamental trees and 49 shrubs. Town Center Drive going east from Roe has 20 street trees, 23 ornamental trees and 84 shrubs. Our perimeter has 50 street trees, 78 ornamental trees and 210 shrubs. We had to work at meeting the LDO because we don't have as much area to work in. We were pretty proud we were able to do that.

The parking lot interior was a big focus of staff, and this really gets to the balance between parking and what the parking lot looks like and, in a way, how the parking lot functions because there were two challenges when our design team went into this. One is you get into this parking lot, and it's not as disciplined a parking lot as it would be if it were modernized from scratch. We have to decide how to balance it. We want to appeal to the best retailers, who are busy and need places to park. We also have to make sure the parking lot works efficiently and safely. We looked at three things: to have enough parking, to have a disciplined parking lot and to make the parking lot look more pleasing with new landscaping. Every time we put a new island in with more green and more trees, we take out parking spaces, so we need to find a balance. Then we want the parking spaces in the right place because we have lower lights, and we need more of them. It becomes a bit of a jigsaw puzzle. You can see we satisfied staff on adding parking blocks with 14 new islands. We have expanded some of our islands. We have added and moved some islands and got it to where we have a good feel for where the green space starts giving some discipline to the parking lot. We had to get rid of the area where people were backing out into the drive aisle to Tomahawk Creek Parkway, and we took it out. That cost us about 12 spaces. We are still working to tweak the plan around to make sure we've got them in the right place because once we get all this in place, we have to do a photometric study. We feel good about it and feel we have earned the right to get our Preliminary Plan approved, subject to the stipulations as we tweak a few more details with staff and bring it back to you with that.

Let's talk about parking because it is an important issue. Nobody is as concerned about parking on this site as we are. We do not want to get into what was at least perceived for a while as a One Nineteen issue where we've got

great stores but people don't want to go in because they won't be able to find a place to park. It is absolutely death to a shopping center. We are guarding it as jealously as anybody else is. It's amazing that 10-15 years ago, cities wanted way more parking and then a lot less parking. Now, I think we're getting into the balance that is good. Right now, as the center sits today, we are at 971 spaces. As we are proposing it with the additional green, additional trees and more areas to put light standards, we are at 1,007. If you take a strict reading of the code, which includes so many per 1,000 square feet of the center, evaluating increases for a restaurant, the strict reading would be 1,159. We have commissioned our own study to evaluate this. If you grant us the ability to move on with this, it will be evaluated further before City Council. Think of your own experience there. At the busiest times, there is still a lot of parking in this center. It gets bunched up in some areas. For instance, Hen House on Saturday morning is maybe its busiest time, but half of the field is not full moving farther west. One that surprised me as we have watched is very little spillover from Oklahoma Joe's. They designed it just about right because it is full, but it moves. We have balanced this out with our study. Staff will look at it and do some tweaks, but we really like the tenant mix. As a point, the drive between the main drive moving north to 117<sup>th</sup> is underutilized and is being moved, and the parking area for Corner Bakery is being expanded. We think we have the parking in the right spot to support it. We understand we will have to prove it. As we talked about the parking lot, ingress and egress, we added a deceleration lane on 119<sup>th</sup> and a new deceleration lane coming into the main drive of the shopping center. We are working with the city to restrict left turns out at the main center drive, which has caused the city some consternation.

We have had an opportunity to review the stipulations, and we only have comments on four of those. I would like some consideration on a few. The first one I bring to your attention is No. 3. Staff would like to see pedestrian connections. We have brought in a number, both from the sidewalk into the internal part of the center and also some pedestrian way-finders and connections moving from different treatment of the concrete in the parking lot so we get people moving at least uniformly to the right places. It is not as perfectly as we could do if we were working from scratch, but working with what we had, we've worked out a lot of issues. Still in question is if we have access into what I will refer to as the Glitters pad, the Hallmark pad and the Longhorn pad. We're not opposed to the opportunity to turn off the sidewalk to get you there. I would ask for a proviso. We have a significant grade issue at the Glitters pad with no way to get it ADA compliant. I hate to have it be a stipulation if we find out we can't get it done. Hallmark is similar, and at Longhorn, I will dump a public sidewalk into a parking space. We would rather bring them to our new sidewalk along the main entrance here. It may not be as convenient or efficient as a brand new shopping center that gets it all off the pad. We will work with staff; I just ask for something that lets us do the best we can and not make it a concrete requirement. The second stipulation I would like to discuss is No. 12, which is a common requirement and speaks to downspouts being enclosed. We will work hard to try to do an architectural treatment. That presumes downspouts are not aesthetically pleasing. We are going to do what we can to satisfy staff's concern that they are architecturally incorporated into the building, but we can't commit to internalizing the downspouts into the underground storm water system because it is economically unfeasible. We want to work with staff on these and try to work out a disagreement before Final Plan. No. 16 is somewhat of a standard stipulation and refers to pedestrian crosswalk demarcation. *Inaudible comments.* What staff is suggesting by pavers is that they want us to put brick in there. We are proposing to do stamped concrete with a different color that gives the difference in look. We implore you not to make us put brick in there. It will not be well maintained; it doesn't work long-term. Staff uses Mission Farms as an example, and they have one line of brick with just regular concrete between. They don't even stamp or color it. Brick is a nightmare and doesn't wear well. We will show materials at Final Plan with a nice stamped concrete with a color mix to bring interest and flavor. The final one is No. 19, which I hope is a mistake and a holdover from a green field development, requiring us to build a model as part of the Final Plan. Models are to get a perspective of bulk and mass. We have the best model in the world sitting across the street. That's a \$25,000 cost item to build a model to scale for something like this. I can't imagine any value for a model in this case. With that, we do accept the other stipulations. We are excited about this and look forward to moving to the next step. We are happy to answer any questions.

Chair Rohlf: Before we get into this further, we need to extend the meeting.

**A motion to extend the meeting to 9:30 was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

Chair Rohlf: Are there any questions for the applicant?

Comm. Elkins: Mr. Petersen, I hate to be a pessimist, but I am curious for your thoughts on how you see resolving the issue, if in fact, you and staff should come to an impasse on this whole number of parking spaces issue. You are 152

short of what the ordinance requires now. To staff's credit, they are not asking to impose that requirement; they think they can work with your traffic study. Is there really any room to add parking spaces?

Mr. Petersen: No, and I really think once we see the report and balance out the shared time frames. But there are no places to add parking. We would either go to the Governing Body and say, "Believe us and not staff," we would not be able to lease to the great tenant, tell Hen House they cannot have 20,000 feet or come back and take out islands. Those are a few options to consider, but it affects everything. Right now, we feel great with a great tenant mix, and more green in the parking lot, and what we feel are enough spaces. Those are my only alternatives.

Comm. Elkins: That was my perspective. For staff, do we have the authority to approve a plan that has 152 fewer spots than what the ordinance calls for?

Mr. Petersen: It affirmatively says that the parking ratio can be changed, subject to studies and review by the Governing Body.

Mr. Klein: That is true.

Comm. Strauss: I'm trying to visualize the drive-through for the drugstore. Are we talking about 25-ft walls on either side of the cars? How much space is between the cars?

Jim Harpool, from MD Management, appeared before the Planning Commission and made the following comments:

Mr. Harpool: CVS requires a 12-ft pavement section, and then 1 ½ feet on one side when pulling up to the window and 2-3 feet on the other side of the car. The drive will be about 16-18 feet wide. We'll tear down part of the Earl May building to put that in.

Comm. Strauss: Can you give me any example in Kansas City where this occurs with a drive-through flanked by two buildings?

Mr. Harpool: There is an Arby's at 135<sup>th</sup> and Pflumm, with this exact situation, within a strip building with shops on one side. There, I think they drive under the canopy coming out.

Mr. Petersen: I know there are some that don't like to see the windows. The only person that's really going to see this is somebody that sort of stops and looks or the person that utilizes it.

Chair Rohlf: How does all this occur with the construction? You will have to change the entire interior layout of CVS to match up.

Mr. Harpool: Yes, they will completely do the interior of CVS. Everything will stay open. We are basically re-dimensioning the entire parking lot in front of Hen House because some of the aisles are wider than code, and to get the islands in and everything else, we will have to tear up that entire parking lot. It will probably be done in 10-12 phases, but keep in mind that when we add all the islands, we have to put in sprinkler systems, so I have to cut up the parking lot for that. I also have to cut in new conduit for the lighting.

Chair Rohlf: So everything will be done simultaneously?

Mr. Harpool: No, it will be done in sections. The parking lot will be done in 10-12 phases. Our contractor is working on that at the moment. Then when we get to the front of the building, we will have to do it in phases, also because the shops have to stay open. I have to build a tunnel to get to the shops to protect pedestrians. It is a mind-boggling, expensive chess game to do. We're building one at North Oak and Barry while keeping the existing Price Chopper open. It has 17 phases. It is very complicated but is the only way to do it unless you want to shut everyone down for 14 months.

Chair Rohlf: So there won't be a chance that these pad sites will fall out of the plan.

Mr. Harpool: No, it is just sequential.

Comm. Levitan: Staff, are you comfortable with the flow of the two drive-thrus and how they empty out on the west side? It is two-way traffic so it is supported thoroughly, and are there any blind spots created?

Mr. Rexwinkle: One of the things staff has started talking about with the applicant is providing some detailed hardscape plans of each storefront area where the drive-throughs will be coming out because we want to make sure that there is adequate space for pedestrians and it meets ADA requirements and that there is also visibility so that they can see the cars coming out of the drive-throughs and the cars can see them. That's something we anticipate we'll get into more detail in over the next few months prior to Final Plan.

Mr. Coleman: The drive-thrus will also have to have an escape lane.

Mr. Petersen: The one factor that is a little different is that this isn't Starbucks or McDonald's with people 17-deep waiting in line. The other thing to remember is, as you know, Special Use Permits in Leawood go to the operator, so this goes to CVS and Tide. It isn't like it could become a coffee shop and you wouldn't have a chance to look at it.

Comm. Jackson: Since my objections to drive-thrus tend to fall on deaf ears, unfortunately, they are becoming more of an issue for people who are starting to be aware of air quality. Is there some way, either within your development or within the city that we can at least encourage people to turn their cars off? At CVS especially, you see people waiting quite a long time for their prescriptions to be filled. It only takes 15 seconds of your car being off that you save energy and save exhaust.

Mr. Petersen: I can tell you that we'll do everything we can to encourage people to turn their car off.

Comm. Jackson: Can the city allow signs?

Mr. Petersen: I will add something that my client just reminded me that we are going to work in a charging station for electric cars. We will do the best we can. This is not the type of use that typically gets these long lines.

Comm. Elkins: Mr. Petersen, for your design team, I have a personal observation and am curious if there are options. I am a frequent user of this particular center and of the pedestrian access back and forth from what you descriptively described as the Hen House field into the major part of the shopping center. As a driver going down the driveway at the face of the center and pedestrians are coming into the center, it is an interesting competition between the driver and the pedestrians. I am amazed there are not more collisions in that space. You talk about the discipline of the parking lot. Can you address that issue of getting people safely from the Hen House field into Hen House and into the rest of the center?

Mr. Harpool: It is certainly a challenge. I think one of the things we're working toward is to finalize a new plan with Hen House on where their entrance is going to be because if we expand to the south and add that much square footage, they are talking about repositioning that front entry. Right now, where that drive comes in off Roe and where the entrance to the building is, there is conflict. Whenever you have a high user tenant like Hen House and there is a drive in front of the building, it always is a challenge to keep people from walking through in twelve different places. We are adding five pedestrian entrances to the center from the surrounding three streets. One of them is at the main entrance off Roe and the sidewalk all the way into the center, and we start putting in crosswalks with the stamped concrete. We think those types of things begin to define where to cross. Additionally, we are back to what we do at the entrance of Hen House, the pedestrian space up front, not getting so wide that people park half on the sidewalk because of no curb. We need to do that at Final Plan because Hen House is still working on the inside layout.

Mr. Petersen: Narrowing those drives does a lot to bring the discipline.

Comm. Elkins: That is a good point. Are there plans for pedestrian crosswalks into the Hen House entrance that will have either bricks or stamped concrete, or were all those crosswalks related to the pad sites?

Mr. Petersen: It will depend in part on where the Hen House door comes in. I think we will have a better idea of that at Final Plan. I think we'll take it as a design challenge to focus what we can to where that is. Moving it away from CVS is going to help some.

Mr. Harpool: When we get the new Hen House plan and the new entry located, instead of doing asphalt out in the drive, we could do concrete and then could begin to color that a different color rather than painting yellow stripes so that it begins to define the entrance and where to cross. The other thing to keep in mind is we're doing islands on all of those parking bays, so that again begins to define where you walk and how often you can walk across.

Comm. Elkins: To Commissioner Jackson's point, we will still have what is technically a drive-thru for a grocery at the Hen House, right?

Mr. Harpool: At this moment, I would tell you yes, but there's a possibility that could go away.

Comm. Elkins: I understand, and there are two points I would make there. One, to Commissioner Jackson's point, at that point, you have three drive-thrus in very close proximity. The other issue is a personal observation that part of the confusion that takes place at the entrance to Hen House right now is the addition of the drive-thru as well as the two or three different places that people decide are the appropriate places to cross. There seems to be a confluence of a couple of different conflicts of people driving through just in their normal driving through the shopping center, people doing grocery pickup and people trying to get from the field to Hen House. To the extent that it is something the design team would look at to be resolved, it seems it would be advantageous to all of us.

Mr. Petersen: Part of that is a lease issue, but that could be a good solution.

Comm. Roberson: Where will the shopping carts be in the parking lot? You're going to lose parking spots, right?

Mr. Harpool: We have discussed that with staff and have asked for definition from Hen House on whether they want cart corrals or not, and we have taken into account that we will probably lose 4-5 spaces for those, and we will need to screen or landscape those. We will have those with the Final Plan.

Comm. Roberson: Otherwise, they will end up all over the parking lot, which will cost you many more parking spaces.

Mr. Petersen: When we evaluate the parking study with staff, we will know by then whether we will have them or not.

Comm. Ramsey: Could we have them run back through their stipulations being questioned to get clarification from staff? I don't see any way around doing that model.

Comm. Pateidl: I did make some notes and perhaps have some revisions I could suggest for those to move this along.

Chair Rohlf: If we're going to do that, we could move through the Public Hearings and perhaps go to a motion. If no one has further questions for the applicant, we will move to the Public Hearing on this current case.

### **Public Hearing (CASE 15-13)**

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

Chair Rohlf: This brings us up to any additional comments you want to make, Mr. Petersen, and our discussion, perhaps leading to a motion.

Mr. Petersen: I'd be happy to stand if there is a question.

Chair Rohlf: You can see if the proposed revisions to the stipulations will work for you.

Comm. Pateidl: For the purposes of discussion of those stipulations that were discussed by Mr. Petersen, it is on the presumption that a motion will be made for the approval of this project. In that event, one stipulation that created problems was No. 3. One quick comment to that is that No. 3 references the walkways from the street sidewalk on 119<sup>th</sup> Street to Hallmark, Glitters and Longhorn. Once again, I think you are going to look at a minimum of foot traffic,

and I question the practicality of that and would encourage staff to consider that and suggest that the stipulation as drafted would be that the applicant shall endeavor to revise the plan to show pedestrian connections, etc., which I believe is all that Mr. Petersen was asking for. The second objection I recall was to No. 12, related to the downspouts to be enclosed. Again, being sympathetic to the fact that this is a renovation of an existing structure, I would propose that the stipulation be changed to read, “. . . as to be determined, all downspouts possible shall be enclosed,” allowing both staff and the applicant the opportunity for further discussion.

Comm. Ramsey: John talked about taking this underground. Is that what you were talking about, or were you just talking about concealing the downspout itself?

Mr. Coleman: There are different ways of addressing the issue. The way the building is configured, most of the water drains off the back, and the roof slopes in the back. There are a lot of downspouts on the back. We are not suggesting they rebuild the roof so they have internal downspouts in the buildings, but to conceal or consolidate the downspouts to comply with the ordinance. There are different ways of dealing with it.

Mr. Petersen: If I may interject, the ordinance requires you to internalize the entire system. What I would suggest is to say that we will work with staff to offer an architectural treatment to minimize the visual impact of the downspouts of those that will be visible.

Comm. Elkins: Staff, are you asking for it to be internalized?

Mr. Coleman: Normally, in a new project, the downspouts are connected to a storm drain that then connects to the storm water system. They are not required to detain because of the proximity to the creek. We would work with them to figure out what is feasible. The ordinance asks for them to be connected rather than dumping onto the ground.

Comm. Elkins: I misspoke; I meant the storm water system. Mr. Petersen, are you saying that you just can't do that?

Mr. Petersen: Nobody could do that. May I just suggest that we defer the downspout issue to Final Plan and we'll bring it back? I think what I heard Richard say is that we can get this worked out. If we don't have to tie it into the storm water system, it takes care of our objection.

Mr. Coleman: We are willing to work with them to figure out a solution.

Comm. Ramsey: Would it be all right to take No. 12 and say that it shall be deferred until Final Plan?

Mr. Coleman: That would be fine.

Comm. Pateid: I think No. 16 is the next one you referenced. I would propose that the stipulation read, “Pedestrian crosswalks shall be demarcated from the pavement from the adjacent street pavement with differentiating materials to be agreed upon between the applicant and the Leawood planning department.”

Comm. Ramsey: We just went through this with the last one, and you guys told me it was in the LDO.

Mr. Coleman: It is. He is not saying that it is taken out, but rather that they are asking for stamped concrete versus pavers.

Mr. Petersen: That is correct. We want a distinguishing characteristic both in terms of material and color.

Comm. Ramsey: Does what he is talking about meet the requirement?

Mr. Coleman: I would defer to Mark, but I believe it does.

Comm. Jackson: I'm guessing the reference to Mission Farms was a cut and paste error.

Mr. Klein: The city prefers pavers, quite honestly. We have accepted colored concrete and stamped concrete. What they are proposing actually will meet the LDO requirement, and it is something that is generally determined at the time of Final Plan anyway with regard to material and color.

Mr. Coleman: I would just state for the record that pavers properly installed are long-lasting and low maintenance. I installed them 25 years ago, and they're still fine and still functioning.

Comm. Ramsey: I've seen them installed three years ago, and they're a mess.

Mr. Coleman: If they have a bad design and are poorly installed, they won't last. If they have the right spec and are installed properly, they will last a very, very long time. In Duluth Minnesota, the entire Main Street is brick pavers, and they have very harsh climate, and it has been there for 30+ years.

Mr. Petersen: What I was most concerned about is what sounded like a lack of flexibility on the material. What we have heard tonight is that what we are proposing meets code, so it seems that it is a Final Plan issue we can work with staff on.

Comm. Pateidl: The last issue was No. 19 related to the model. I defer to staff as to the reason you felt that stipulation was necessary.

Mr. Coleman: On large projects, for clarity for both Planning Commission and City Council, we ask for it so they can see the detail involved in a project of this scope. In lieu of a physical model, we often allow a computer-generated model that has fly-through and allows you to see the details. This is a very large renovation project, and I think it behooves us as staff to make sure that you're provided with the detail necessary to make the decisions on the project.

Mr. Petersen: Computer-generated would be fine.

Comm. Pateidl: Given the minimal change to the footprint of this overall project, could we change that to read that a computer model shall be submitted at the time of Final Plan?

Mr. Coleman: That would be satisfactory.

**A motion to extend the meeting to 10:00 was made by Elkins; seconded by Pateidl. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

Chair Rohlf: Before Governing Body, will you all have decided about the parking study?

Mr. Coleman: That is a key component. We are looking to ask a consultant to look at this study. It is not too dissimilar from our parking study and the issue at Park Place with essentially a mix of different tenants. The way the parking was managed for peak and non-peak hours. We will ask for the consultant to review what is submitted. If it is adequate, we will bring it back. If it is not, we may ask for additional work from the applicant.

Chair Rohlf: That issue will be resolved one way or the other before we see it at Final Plan.

Mr. Coleman: That is the intent. The development is finite with the number of parking spaces, so it is really on the management side where it has to be dealt with.

**A motion to recommend approval of CASE 15-13 – CAMELOT COURT – Request for approval of a Revised Preliminary Plan, located south of Town Center Drive and east of Roe Avenue, with staff stipulations 1-24, including the modifications to Nos. 3, 12, 16 and 19 as follows:**

- **No. 3: The applicant shall endeavor to revise the plan and work with staff to show pedestrian connections.**
- **No. 12: Staff will evaluate in more detail and work with the applicant to determine feasibility.**
- **No. 16 to read: "Pedestrian crosswalks shall be demarcated from the pavement from the adjacent street pavement with differentiating materials to be agreed upon at the time of Final Plan approval."**
- **No. 19: A computer-generated model of the development will be accepted.**

**– was made by Roberson; seconded by Elkins. Motion approved with a vote of 6-1. For: Levitan, Pateidl, Roberson, Elkins, Strauss and Ramsey. Opposed: Jackson.**

Chair Rohlf: Case 152-12 – Camelot Court Dry Cleaner Drive-Thru has a separate set of staff recommendations, and it requires 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 Elkins. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

Comm. Elkins: I know we spoke to this in an earlier case. Can staff enlighten me that, absent any other provision in the case presented to us, what is the term of the Special Use Permit? If it is twenty years, I continue to have concerns about that twenty-year period. As Mr. Petersen has said in so many other contexts tonight, there is a balancing that needs to take place. I recognize the tenant needs to have some certainty with connection to the lease that the developer is asking them to sign. On the other hand, to have as many drive-thrus as close as this, we've not done before. I am concerned about signing up for a twenty-year term on an SUP. I don't know if 7-10 would be more reasonable or not. I say that recognizing that the SUP is personal to the operator. Again, if we find out that we have a bunch of bad stuff going on, I don't know that we have any option to change our minds on the SUP for a period of twenty years. That is my concern.

Chair Rohlf: I think since these are back-to-back, we could have a one-year and then extend it.

Comm. Elkins: I guess my concern would be the lack of certainty for Mr. Petersen's clients' tenants because my suspicion is that the owner is looking for a long-term commitment from its tenants as well with this level of investment. I don't know that one year is fair. I am struggling with the issue.

Mr. Petersen: I understand. It's the capital investment to tear your building down and leases. We could live with ten or five with an option to see if it works. We would rather have twenty, but ten seems reasonable. We agree with the other stipulations.

Comm. Ramsey: I would be okay with ten. I say that with deference to Marc, but the reality of it is one of the reasons we would have a Special Use Permit is for certain types of activities to review them to see that there still is no conflict or that there is something going wrong with that use.

Comm. Elkins: That is really my point. If we do it on a twenty-year term, we basically take the review period out for a generation.

Chair Rohlf: Is anyone opposed to ten?

Comm. Ramsey: If we do it for this one, I would suggest we do it for the next one as well.

Comm. Roberson: I agree.

**A motion to recommend approval of CASE 152-12 – CAMELOT COURT – DRY CLEANER WITH DRIVE-THROUGH – Request for approval of a Special Use Permit with the three staff stipulations included, modifying No. 1 to establish a ten-year term on the Special Use Permit – was made by Elkins; seconded by Pateidl. Motion approved with a vote of 6-1. For: Levitan, Pateidl, Roberson, Elkins, Strauss and Ramsey. Opposed: Jackson.**

Chair Rohlf: We have one last case in this group: Case 153-12 – Camelot Court Drugstore Drive-thru. Are there additional comments about this case? The staff recommendations are on Page 12, and we would need to amend the first stipulation to ten years, similar to the language in the last case.

### **Public Hearing**

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

**A motion to recommend approval of CASE 153-12 – CAMELOT COURT – DRUG STORE WITH DRIVE-THRU – Request for approval of a Special Use Permit, located south of Town Center Drive and east of Roe Avenue – with three staff stipulations, amending No. 1 to establish a ten-year term on the Special Use Permit – was made by Elkins; seconded by Pateidl. Motion approved with a vote of 6-1. For: Levitan, Pateidl, Roberson, Elkins, Strauss and Ramsey. Opposed: Jackson.**

CASE 16-13 – TUSCANY RESERVE VILLAGE – Request for approval of a Rezoning and Revised Preliminary Plan, located generally northwest of 137<sup>th</sup> Street and Chadwick. **(PUBLIC HEARING)**

Ms. Shearer: The applicant for the next case would like to make a brief statement. It is entirely up to your discretion as to whether you would like to hear it or not.

Mr. Owens: We have seven Leawood citizens and two real estate experts who have waited two hours. I am hoping these citizens could share their thoughts in case we can't get them back here for the next meeting or some assurance we would be first on the agenda.

Chair Rohlif: I'm not sure how many would like to speak. We cannot go beyond 10:00. I'd hate to get started. We've been at this quite a while, and I want to give the audience what they are due. I feel like it is too much to get started and treat fairly.

Mr. Owens: The best thing about this is they are all for me, and I don't get that very often.

Chair Rohlif: I assume that is probably the case. Can we hear the public part of this?

Comm. Ramsey: Can we read it into the record until 10:00 and then continue it?

Ms. Shearer: It is your discretion, but if the case is going to be heard again at the next meeting, you will in effect have two Public Hearings. You cannot go past 10:00.

Chair Rohlif: Are all these individuals going to stand up and say that they are in approval of the project?

Mr. Owens: We will cut them off so they can speak.

Ms. Shearer: The other option is if they have written letters, we always include written correspondence.

Mr. Owens: The fact that they've shown up is wonderful; the fact that they've come out on a rainy evening is wonderful. We can do what you all would like to do. How about 1-2 minutes each?

Chair Rohlif: I don't know how long staff's presentation is or yours is.

Mr. Owens: Could we just jump past mine and listen to what they have to say? They're going to be talking about the value of what they are proposing and that they are for it.

Comm. Elkins: Counsel has told us that regardless of what we do, if we hear the Public Hearing tonight, under the rules, we will have to open it up again. Given the fact that these citizens have shown up and have been here so long, I would be inclined to recommend to the chair that we go out of order and give these folks opportunity to make their comments. Our activities will still be valid because we will still have a Public Hearing in the proper sequence at our next meeting.

Comm. Roberson: I would agree.

Ms. Shearer: Regardless, we have to get on the record a continuance of the remaining cases to a date certain as well.

Comm. Roberson: So give them the fifteen minutes and give us five minutes to continue the cases, including this one.

Chair Rohlf: We will do that. I guess we have another revision to the report.

Mr. Rexwinkle: That revision is limited to the surrounding zoning table at the bottom of the first page.

Chair Rohlf: The property is currently zoned RP-3, isn't it?

Mr. Rexwinkle: That is correct.

Chair Rohlf: The language needs to be changed from RP-2.

Mr. Rexwinkle: They are changing it from RP-3 to RP-2. We will make the change.

Chair Rohlf: So this is Case 16-13 – Tuscany Reserve Village. Rather than hear from staff and applicant, we will move to the Public Hearing.

### **Public Hearing**

Dan Matula, 3204 W. 137<sup>th</sup> Street, appeared before the Planning Commission and made the following comments:

Mr. Matula: My wife Karen and I are here to extend our understanding and support for Mark Simpson's plan. The idea of the gates involved, one way or another, appears to be nothing more than access to a parking lot of some commercial enterprise. It serves no purpose for us at all, and is in turn, an invitation for somebody to walk through our back yard at will and use gates that need not be there. We are very much in favor of the Simpson plan.

Brian Elligan, 3104 W. 137<sup>th</sup>, appeared before the Planning Commission and made the following comments:

Mr. Elligan: I have seen the development plan, and I like how the developer is keeping the architecture the same with the Tuscan-style architecture. I like the villa concept over the attached housing concept. I am not in favor of the proposed sidewalk from the current street to the proposed villa street. There is a sidewalk right outside the development. I do not like the proposed gates on the northwest side to the proposed office parks. I think the gated area gives us a sense of privacy, and I don't think any city planning officials would like a public access gate in their back yard; therefore, I don't want one in mine. Thank you.

Jim Klycamp, 3110 W. 137<sup>th</sup> Street, appeared before the Planning Commission and made the following comments:

Mr. Klycamp: I am also in favor of Mr. Simpson's rezoning plan. Similarly, I am not in favor of the additional gates as access to the area in question because I just think it will allow for additional traffic into what is a private neighborhood. I don't think the residents of Tuscany Reserve are interested in having that egress outside the neighborhood. I have a similar opinion to the previous two speakers. Thank you.

Kristin Malfor, real estate agent marketing the property, 5000 W. 135<sup>th</sup> Street, appeared before the Planning Commission and made the following comments:

Ms. Malfor: This is a property that has been two four-plexes that did not go well. They went back to the bank, and we then took over for the bank to market them. We got them priced appropriately to sell them, and they have been a difficult thing to sell. Therefore, looking at the remaining land versus just seeing it barren to the proposed nine villas to be built there seems as if people on the opposite side of Tuscany that have current villas that range anywhere from \$575,000 up to \$3 million are in favor of us doing this and finishing out the land. If four-plexes would work, it would be great, but they just didn't. We are down to one left; we got an offer on that today, and currently, it is not a project that would work if we continue to try to do duplexes and/or four-plexes. There are definitely sidewalks. As agents, we hear everything about people walking through and why there would be the necessary gates between the church and/or

commercial. I just don't see a point to it, but if we can do freestanding villas, we would be able to sell them quickly. Thank you.

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

**A motion to continue CASE 16-13 – TUSCANY RESERVE VILLAGE – Request for approval of a Rezoning and Revised Preliminary Plan, located generally northwest of 137<sup>th</sup> Street and Chadwick. (Public Hearing) to the February 26<sup>th</sup> Planning Commission Meeting was made by Elkins; seconded by Jackson. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

**A motion to continue CASE 24-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6.13, PERMANENT SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to signage on architectural structures. (Public Hearing) and CASE 25-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of an architectural structure. (Public Hearing) to the February 26<sup>th</sup> Planning Commission Meeting was made by Elkins; seconded by Jackson. Motion approved with a unanimous vote of 7-0. For: Levitan, Pateidl, Roberson, Jackson, Elkins, Strauss and Ramsey.**

*MEETING ADJOURNED*