

**City of Leawood
Planning Commission Meeting
March 12, 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, Williams and Elkins. Absent: Strauss and Ramsey.

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

Approval of the minutes from the February 12, 2013 Planning Commission Work Session.

A motion to approve the minutes from the February 12, 2013 Planning Commission Work Session was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

CONTINUED TO A SPECIAL CALL APRIL 2, 2013 PLANNING COMMISSION MEETING FROM THE ORIGINALLY SCHEDULED MARCH 25, 2013 PLANNING COMMISSION MEETING:

CASE 143-12 – 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 for public/semi-public campuses.

PUBLIC HEARING

CASE 23-13 – PLAZA POINTE – CROSS FIRST BANK GENERATOR – Request for approval of a Special Use Permit, Preliminary Plan and Final Plan, located south of 135th Street and west of Roe Avenue.

PUBLIC HEARING

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**

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

CASE 31-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of building identification symbols. **PUBLIC HEARING**

CASE 27-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-9, PERFORMANCE STANDARDS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to noise from generators. **PUBLIC HEARING**

CASE 33-13 – DARBYSHIRE – OFF STREET PARKING – Request for approval of a Preliminary Plan and Special Use Permit, located north of 143rd Street and east of Overbrook Road. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 20-13 – PARK PLACE – SWEET PEA & COMPANY (CHILDREN'S APPAREL) – Request for approval of a Final Sign Plan, located south of Town Center Drive and east of Nall Avenue.

CASE 21-13 – MISSION FARMS – NEW YOU – Request for approval of a Final Sign Plan, located south of 105th Street and east of Mission Road.

CASE 22-13 – PARK PLACE – CLICKSPEED (OFFICE: INTERNET MARKETING CONSULTANT) – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 26-13 – LEAWOOD COMMONS – S&G DENTISTRY – Request for approval of a Revised Final Plan, located north of Town Center Drive and east of Ash Street.

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

OLD BUSINESS:

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

Mr. Klein: Madame Chair, (*inaudible comments*) staff would like to recommend that this case be continued in order to work with the applicant. We have been discussing the issue for a little while now.

Mr. Coleman: We agreed to this before, and now they are disagreeing. We want to move to continue it so we can work this out.

Mr. Owens (applicant): Your citizenry of Leawood is very vocal, and they just wanted to have that on record. We are not disagreeing with where we are and what we've negotiated to this point; we just want to make that a record, as we told our neighbors we would offer the petition when we got here this evening. I don't know if we need to be continued.

Chair Rohlf: Mr. Coleman, is it our intent to continue this and then have another Public Hearing?

Mr. Coleman: We just got this and haven't had a chance to read it.

Chair Rohlf: Is it a petition from the property owners?

Mr. Owens: We'll retract it. May we do that?

Mr. Coleman: I haven't even had a chance to read it. I think it should be continued.

Mr. Owens: We would just as soon retract it. This was given to my developer by the homeowners, asking that we provide it in the record. If it messes up us being heard this evening, we would just as soon put it in our pocket and tell the neighbors that you know they are a vocal citizenry.

Chair Rohlf: Mr. Coleman, how do you want to proceed there? I need Mr. Owens to identify himself on the record. If they retract a document, I'm not sure.

Mr. Coleman: I don't know how you retract it after you've handed it all out. We can go ahead with it.

Chair Rohlf: I have not passed this down. I don't know if you have read yours or not. You tell me what you'd like to do.

Mr. Coleman: We'll go ahead if they remove it from consideration.

Chair Rohlf: If I could have all your copies, please.

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Planning Commission, this is case 16-13, request for approval of a rezoning from RP-3 to RP-2 and a Revised Preliminary Plan for Tuscany Reserve Village. The current zoning is Planned Cluster Attached Residential, which permits attached residential dwellings, such as the existing approved plan, which called for thirty attached units in eight buildings surrounding two cul-de-sacs. The eastern cul-de-sac is located in Tract A and the Western in Tract B. Two four-unit condo buildings have been built in Tract A; however, the remainder of the development, including all of Tract B, remains undeveloped. This application pertains only to Tract B; the zoning and plan for Tract A will remain the same. The proposed zoning for Planned Cluster Detached Residential permits generally the same density and number of dwelling units but in detached form. The proposed zoning would permit the Revised Plan, which calls for nine detached dwellings, each ranging from 2,700 square feet to 3,500 square feet in floor area. All the proposed buildings are surrounded by common open space rather than individual privately owned lots. No amenities are proposed on the common area on Tract B; instead, the existing resident amenity areas on Tract A will be used. The approved plan showed an internal sidewalk connecting that amenity area to Tract B, which is the tract under consideration this evening. It also showed two sidewalks connecting Tract B to an approved commercial development to the northwest of Tract B. I believe that's what this petition you just briefly discussed was about. The applicant came back in January with a new plan for Tract B. That project was continued until tonight. In the interim, they have revised that plan from showing no sidewalk connection to the project to the north and west at all to showing one to the west, reducing from two to one. Staff is supportive of that change. Also, for the sidewalk that connects to the resident amenity area on Tract A, they have now provided a sidewalk along the west side of the drive in Tract B that will go down the public sidewalk along 137th Street so residents of Tract B can access it by going out to the public sidewalk and then over to Tract A. Staff is supportive of this application, subject to the plans in your packet this evening and also to the stipulations in the report.

Chair Rohlf: Do we have a plan you can put up to show the sidewalks to make sure everybody is clear on location of those? (*Plan displayed on screen*)

Mr. Rexwinkle: Currently, a storm water detention serves as an amenity area as a trail that connects down to the corner of Chadwick and 137th Street. There is also a grill and a small amenity area with seating. The existing approved plan showed a sidewalk that cut across the tract to Tract B, and it split apart and continued north, connecting with the development to the north and also to the west. Initially, the plan that came before you in January showed no sidewalk connection to the development to the north and west;

however, since that time, they have worked with us to add the sidewalk connection to the west. Staff is supportive of that change to the plan. The other sidewalk is on the west side of the drive that provides access to the public sidewalk on 137th.

Chair Rohlf: There is no longer a sidewalk on the north?

Mr. Rexwinkle: There is no longer a sidewalk connection to the north, and there is also no longer an internal connection between the two tracts.

Chair Rohlf: And a sidewalk on the west that ties into the vacant land is still part of the overall Tuscany plan, correct?

Mr. Rexwinkle: Yes, it was the Tuscany Commercial, and it has expired; however, the Comprehensive Plan identifies that parcel for Mixed-Use Development. Knowing that going forward, staff would like to keep that opportunity in for the pedestrian connection to it.

Chair Rohlf: There was a note in the Staff Report about the designation on the plan and that you thought it was inadvertently referred to as Mixed-Use.

Mr. Rexwinkle: Yes, it should have been referred to as Residential, we believe. The map is not as specific as we would like it to be when we get to a parcel-by-parcel basis like we are here, but it looks like it's shown as Mixed-Use, and we believe it is meant to be Residential because this has been zoned Residential for several years, since it was originally approved.

Comm. Williams: You pointed out the sidewalk on the west side of the drive into this development, and it's a nice feature that really benefits the 3-4 homes on the west side. Why not put a sidewalk on the east side so those homeowners can have a sidewalk to them walk out instead of walking down the street, which they will most likely do, instead of crossing over to the sidewalk when it's farther away if they're going to the amenities?

Mr. Rexwinkle: That's a good suggestion we could ask them about.

Mr. Coleman: We actually made that suggestion, but they did not want to do that.

Applicant Presentation

Brick Owens, NSPJ Architects, 3515 W. 75th Street, Prairie Village, KS, appeared before the Planning Commission and made the following comments:

Mr. Owens: (*Refers to plan designs throughout*) You might remember we had 7-8 neighbors that wanted to voice their opinions, and we appreciate that. The list of names on the letter that was just received was just the neighbors wanting to say they were here in spirit. If you're familiar with the property, it is on the north end of Tuscany Reserve. They started out with a great idea, or at least they thought it was a great idea in 2007 for townhomes. They had an idea to put fourteen townhomes on the eastern cul-de-sac. They started with two townhomes the lake amenity, the fencing and the walls to create an enclave, which is what they were after. The economy being what it is and learning the curve in Leawood that condominiums, no matter how well they are put out with materials, have a difficult time here. There are many projects that are examples of that. Having said all that, Mark Simpson was approached by the entity that now owns the property to try to come up with an idea of what to do. Mark approached me. Mark is very good with villas, smaller homes and high-end finishes. His projects are the White Horse Villas, Village at Ironhorse, Lions Gate Villas and Villas at Chapel Green. The idea here was to see what we could do on the property with villas, which is where we are today. The project plan showed nine condominiums clustered around the cul-

de-sac. They moved back and forth away from the existing cul-de-sac. It still provides a streetscape with the idea that maybe then they would repeat the materials of what has been built so far, again, staying with the village idea. We approached your staff with the idea. They said we needed to be RP-2, which is why we are here. The houses range in size from 1,900-2,500 square feet. These will be one-story, 1 ½ and reverse 1 ½, given the topography we have. We've provided pictures of the architecture. The initial design intent is to repeat the materials of the existing buildings, which are stone, stucco and tile roofing. It will have the same idea of fireplaces and chimneys. Staff suggested we repeat some of the vertical details. It is in the same vein as Tuscany Reserve Villas across the street. We understand the stipulations. We have discussed with staff about the connectivity. We appreciate them working with us. We show sidewalks along the edge of the private drive. We have sidewalks around the existing townhomes. In the approved plan of the development to our west and north, it shows a green space along 137th with the intention of the sidewalk running into it. We have asked staff to have a phased installation of the sidewalk so we're not maintaining it and will not go in right away. We are willing to put money in escrow. Until development happens to our west, we would prefer to merely put markers along the two edges of the walk and then put the sidewalk in when we have something to hook up to. Again, we are here for your recommendation.

Comm. Williams: This goes to my question I asked staff. You are saying that the sidewalk you show is more intended to be connectivity from the development north and northwest to the sidewalk along 137th Street?

Mr. Owens: Yes.

Comm. Williams: Is there a reason you don't want to put a sidewalk in on the east side for the benefit of those people so they can get down to 137th Street?

Mr. Owens: Typically, in your subdivision requirements, you only require one side on local streets. To be honest with you, it's only 225 feet long. They're going to walk in the street. If you want it on the east side, we'll put it on the east side. We would prefer not to put it on both sides because it's more paving and less green. On the east side is an existing drainage system about ten feet off curb, so we would have to put it against the curb.

Chair Rohlf: Is the drawing representative of how the development looks right now, or is that just a rendering?

Mr. Owens: The one on the east side is how it looks today.

Chair Rohlf: I don't see much landscaping there. Is there any landscaping in and around that area?

Mr. Owens: It is winter. I'm not being smart.

Chair Rohlf: I can't tell where it is. I don't know what the plan originally entailed, but it looks bleaker than just being winter.

Mr. Owens: When the developer bought the ground, he agreed he would finish many pieces that were not quite finished. He's put in 126 trees along the berm as part of that commitment. It is new and is being supplemented.

Chair Rohlf: Not only that, but you have expressed a delay in getting the other lots built. I don't know for future how soon those will come in. I'm just wondering what it looks like as it exists today. Is there landscaping around the detention pond?

Mr. Owens: Yes, ma'am. It's difficult to see, but it's there.

Comm. Jackson: At this point in time, has the plan to the north and west of this expired?

Mr. Coleman: Yes, it has.

Comm. Jackson: As an RP-2 versus RP-3, is it going to cause changes in what we think is acceptable to go to the north and the west?

Mr. Coleman: They're both residential. The townhome is a little higher density. There could be residential on the other side, directly north of them, depending on what the development is. It's hard to say exactly what it will be. It's not a really big piece of property to the north. It is shown as Mixed-Use and is difficult to tell what it will be. We do have single-family grouping next to a potentially commercial development, but it would probably also include some residential aspect at a higher density.

Comm. Jackson: My hope is just that when a developer comes in for that piece, we don't hear the developer on the Tuscany piece has promised certain things that will go in there and that assumptions have been made by those property owners.

Mr. Owens: I would like to promise that. We are building a pretty good green forest skirt, if you will, all the way around the edges and will supplement that. Hopefully, we will be building in our own buffer.

Chair Rohlf: This case does require a Public Hearing. I know we had a number of individuals speak at our last meeting.

Public Hearing

Dr. Jay Murphy, Leawood resident, appeared before the Planning Commission and made the following comments:

Mr. Murphy: I'm a cardiologist. I've lived in Johnson County for 30-odd years. I just moved into my fifth home in Leawood. This home is in Tract A, and I'm on the second floor. We have windows that face the Lord of Life Church and windows that face the west. I really do not have any problems with the Tract B proposal being submitted tonight. I actually think it's a nice proposal. My issue is that I've talked to the developer and asked what he was going to do about the properties that are contiguous to the already-built areas. He wants to build the same type of single-family homes in that area. In fact, what he wants to do is build three of these homes in this one lot that is right next to our home. It doesn't pass the eye test, first of all, and there is just a little sliver to the west of us that he wants to cram a villa back into. Understand that in multi-level homes, my view is from the second floor. If he builds a villa outside on that sliver of property, from my western windows, which are half of my windows, I will be looking at a roof. We looked at the Leawood Planning Commission information before we bought this villa. This is really not what we expected. I have no difficulty with the Tract B plan he is talking about tonight. When they come back in two months and want to build that home right outside our windows, I have a big issue. I suspect you have people coming in and railing at you all the time about whether or not it's going to affect property value. I hope to be taken out of this home in a box, so whether my kids get an extra \$5,000 or \$10,000, I really don't care, but I didn't expect to look at a roof. I would hope if there is a tie between two citizens because I don't see an overwhelming community value one way or the other, Leawood would stick with the rules you have already set forth. Thank you very much.

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

Chair Rohlf: That takes us up to discussion, leading to a motion.

A motion to approve Case 16-13 – TUSCANY RESERVE VILLAGE – Request for approval of a Rezoning and Revised Preliminary Plan, located generally northwest of 137th Street and Chadwick – with 11 staff stipulations – was made by Jackson; seconded by Elkins.

Comm. Pateidl: To begin with, I think the change to this plan for Tract B is really pretty good in the sense that, living close to the area, I can identify with real problems they have with any kind of street parking and any kind of access. I think reducing the density is good for that piece of property and will be good for the traffic flow on 137th Street in the long term. The gentleman representing the developer indicated a willingness to discuss a sidewalk on the east side. I would point out to those who may not be as familiar with this development as I am that there is a stucco wall that runs all the way along 137th Street. There is a fence that goes around the rest of the perimeter and is very much of a community. I suggest that the exclusion of an internal access from Tract B to the amenities down on Plot A diminishes the value of that whole community concept that was begun in there. While I am very much in favor of this as a good proposition and a good use of that piece of ground, and since there is some willingness to have movement on that, I would propose that perhaps we add a stipulation as to further negotiations between the planning department and the applicant on the placement of sidewalks in the deal before voting.

Comm. Jackson: Are you suggesting I add a stipulation for a sidewalk going from interior of B to the interior of A?

Comm. Pateidl: I sense that the planning department isn't really happy with what is going on here and that the applicant is willing to give some degree of latitude. I think there should be some discussion to finalize that. I would encourage the internal passageway for the sense of community and leave it to the planning department and applicant to work out the details.

Comm. Jackson: My thought is that it probably won't happen unless we put in a stipulation and suggest to the Governing Body that we want to see it.

Mr. Owens: Are we talking either on the east or west side or behind the wall?

Comm. Jackson: From the interior of Tract B to the interior of Tract A.

Mr. Owens: We would not be agreeable to that. It's essentially repeating the sidewalk on 137th. In my opinion, your staff worked well to get where we are, and we like that. If the Planning Commission would rather have it on the east side of the drive instead of where we show it, we'd be willing to change it. That is our leeway. The discussion was which side to put it on.

Comm. Pateidl: You want to leave an internal sidewalk as a deal-breaker?

Mr. Owens: Yes.

Comm. Jackson: Staff, what is your suggestion on that interior sidewalk?

Mr. Coleman: We talked with the applicant about that, and they felt that it would be difficult to get in because it would be right next to the wall on 137th Street. Part of the issue is the distance between the houses. In this zoning district, they are 20 feet apart. They have maxed out how many houses can go in. There is a utility easement that goes to the back of the tract, but they really would need more space between the houses to get a connection in there. The only alternative would be to put it on the other side of the wall along 137th Street. We came to the conclusion that it was going to be tough to work out, but we did

like the idea of having the sidewalks all the way around the cul-de-sac, as Mr. Williams had pointed out. We have worked with them extensively on this, trying to maximize all these things.

Comm. Jackson: Is there sidewalk on the street side of 137th Street?

Mr. Coleman: Yes, I believe there is, so if there was a walk all the way around the cul-de-sac, they would come down the cul-de-sac to 137th and could walk on a sidewalk to the townhomes.

Comm. Jackson: I will leave my motion as I made it.

Chair Rohlf: Is the second comfortable as well?

Comm. Elkins: I actually will withdraw my second.

Motion to approve Case 16-13 – TUSCANY RESERVE VILLAGE – Request for approval of a Rezoning and Revised Preliminary Plan, located generally northwest of 137th Street and Chadwick - with 11 staff stipulations was made by Jackson; seconded by Roberson. Motion approved with a vote of 4-2. For: Levitan, Roberson, Jackson and Williams. Opposed: Pateidl and Elkins.

NEW BUSINESS:

CASE 06-13 – CITY OF LEAWOOD – 2014-2018 CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2014-2018 Capital Improvement Program. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 06-13, the 2014-2018 Capital Improvement Program. This was discussed at the February Planning Commission Work Session and proposes capital improvements during that period of time. We have Joe Johnson, Director of Public Works, to answer any questions. Staff is recommending approval of this application, and we'll be happy to answer any questions.

Chair Rohlf: I believe we were all in attendance at the Work Session, so unless someone has an additional question that has come up, we'll open the Public Hearing.

Public Hearing

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

A motion to recommend approval of CASE 06-13 – CITY OF LEAWOOD – 2014-2018 CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2014-2018 Capital Improvement Program – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

CASE 30-13 – CAMELOT COURT – HEN HOUSE EXPANSION – Request for approval of a Preliminary Plan and Special Use Permit for big box retail, located at the northeast corner of 119th Street and Roe Avenue. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: This is Case 30-13, request for approval of a Special Use Permit for big box retail at Camelot Court. The Special Use Permit is required because the proposed Hen House expansion increases the store's floor area by 20,000 square feet from 53,162 square feet to 73,162 square feet. The Leawood Development Ordinance defines big box retail users as a retail store with a floor area greater than 60,000 square feet. Those uses do require Special Use Permit. A portion of the existing tenant's space south of Hen House within the main center, which is identified on the plans as Building B, will be expanded by 12,398 square feet to a total of 20,000 square feet. Hen House will move into this building. Staff is recommending approval, subject to the stipulations in the report, and we'd be happy to answer any questions you might have.

Comm. Williams: I understand this requires a Special Use Permit because it's a big box retail use, but should the Special Use Permit identify what that particular big box store use would be so that it doesn't end up being a hardware store, as an example, on the inside? Hen House is a grocery store, but we just want it to stay that way.

Mr. Rexwinkle: Stipulation No. 1 states that the SUP is limited to Hen House for the operation of a big box retail use. If it were to change to a hardware store, it would have to get a new SUP.

Comm. Williams: What I'm getting at is the merchandise that would be sold in the store.

Comm. Roberson: They actually sell hardware right now.

Comm. Williams: Maybe hardware is the wrong example. I'm just trying to keep it within the confines of a grocery store and light general merchandise instead of adding something like a plant section or something like that, which you sometimes see in these types of stores.

Mr. Rexwinkle: I see what you're asking. Often with Special Use Permits, such as Jimmy John's, we say that it is only for that business. Big box retail is listed as a use type, so it is a little confusing, but that is the specific use it is relegated to. It doesn't actually distinguish between different types of big box retail uses.

Comm. Williams: You are saying we can't add a description to that?

Mr. Rexwinkle: We believe the stipulation does that already since we issue Special Use Permits to the owner of the business.

Chair Rohlf: I know with our discussion with the overall Preliminary Plan, we had concerns about parking. I know they were going to work that out. Is there a concern with approving this before we get all that resolved and the Final Plan approved for the overall development?

Mr. Rexwinkle: No, because the Preliminary Plan you've already seen where we discussed the parking issues took into account this floor area expansion. Parking requirements are based on floor area, so we have already taken that into account as part of our discussion. There are parking studies that are ongoing. I believe the applicant has received our response and is looking at it. This will go with the Preliminary Plan to Council, and it is contingent upon that Preliminary Plan and the parking study.

Applicant Presentation:

John Petersen, Polsinelli Shughart Law Firm, 6201 College Boulevard, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Petersen: It is a pleasure to appear tonight. Jim Harpool is here as well. We have had an opportunity to develop the stipulations. We find them acceptable and would ask for your recommendation for approval. I'd be happy to answer any questions.

Chair Rohlf: Questions for the applicant? Then this case 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 Williams. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

A motion to recommend CASE 30-13 – CAMELOT COURT – HEN HOUSE EXPANSION – Request for approval of a Preliminary Plan and Special Use Permit for big box retail, located at the northeast corner of 119th Street and Roe Avenue – with four stipulations in the Staff Report – was made by Roberson; seconded by Pateidl. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

CASE 38-13 – PINNACLE V – SIGN PLAN – Request for approval of a Final Sign Plan, located south of 114th Street and west of Tomahawk Creek Parkway.

Staff Presentation:

City Planner Justin Peterson made the following presentation:

Mr. Peterson: This is Case 38-13 – request for approval of Sign Criteria and monument sign for the Pinnacle V building. The applicant is proposing signage guidelines for Pinnacle V and will permit a total of three wall signs and one monument sign. Per the Leawood Development Ordinance, buildings within the SD-O District are limited to two signs; however, Section 16-4-6.3(b) of the LDO allows the Planning Commission to recommend and the Governing Body to approve deviations to signage, including the number of signs, if private sign standards have been approved for the development as part of a Final Plan. The applicant is proposing Sign Criteria. A maximum of three wall signs and one monument sign is proposed and limited to those locations depicted on the plans. The maximum letter height will be limited to 42 inches. All signage along this single façade shall not exceed 5% of the overall façade, or 200 square feet. All signage shall fit comfortably within the architectural elements of the façade. Wall signage will be indirectly halo-illuminated channel letters, and no raceways or box signs will be permitted. In addition to the sign criteria, the applicant is requesting approval of a monument sign. The proposed monument will be located along the west side of the east entrance and will be constructed of a brick base with cast stone sign area to match the building and indirectly illuminated with ground mount lighting. The overall monument will measure 10 feet in length by 5 feet in height for a total area of 50 square feet. Staff recommends approval of Case 38-13, subject to the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

Comm. Williams: Are there other examples when the city has accepted three signs instead of the two?

Mr. Klein: There have been a number of developments; for instance, the Cornerstone Development, with Sign Criteria that allowed two signs with the exception of a third sign located on the building as long as it was not facing a public right-of-way. Within the Park Place Development, one of the office buildings allows the office tenants up to five signs on the building with no more than either two or three on any individual façade. It has been done in other developments.

Comm. Williams: So office buildings are becoming major billboards with signage.

Mr. Klein: That isn't the intent. The intent is that Planning Commission and City Council see what they're proposing. If they don't feel comfortable with it, it would not get approved. However, it would allow more flexibility. We do want to control the signage. It's not just simply letting them have as much as they want. That is why the Sign Plan must be approved first.

Applicant Presentation:

Kevin Burman, HWA, 11460 Tomahawk Creek Parkway, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Burman: The Sign Plan shows exactly the signage guidelines we have proposed in writing and the images. It shows the exact style monument sign we propose for Pinnacle V, which is between Pinnacles II and III. You can see the character of the sign that would be constructed. We would be happy to answer any other questions. This building does show two wall signs facing Tomahawk Creek Parkway and one wall sign facing north.

Comm. Williams: Your pictures would tend to indicate a different sign location than what the drawings indicate.

Mr. Burman: The photographs are an existing building and not the building we propose for this application; they are merely for comparison purposes.

Chair Rohlf: We have two on the north and one on the east.

Mr. Burman: Correct; staff recommended we put two wall signs on the north because it's a longer façade and would accommodate the signs better and the one on the east.

Chair Rohlf: The north faces the street, correct?

Mr. Burman: That is correct.

Chair Rohlf: If there are no other questions, this takes us up to further discussion, hopefully leading to a motion.

A motion to recommend approval of CASE 38-13 – PINNACLE V – Request for approval of Sign Criteria and a Monument Sign – located south of 114th Street and Tomahawk Creek Parkway – with all staff stipulations – was made by Roberson; seconded by Jackson. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

CASE 28-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6, SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to administrative approval of permanent signage. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 28-13 – Leawood Development Ordinance Amendment to Section 16-4-6 – Sign Regulations, pertaining to administrative approval of signage. With this ordinance amendment, signage could actually be approved administratively through the planning department if it met certain criteria, including:

- Sign Criteria approved for that development. That Sign Criteria would come before Planning Commission and City Council, similar to the case you just saw.

- The sign would have to meet the approved Sign Criteria
- The sign would have to meet all the LDO requirements for signage as well.

In cases with a question on whether the sign actually met the criteria or the LDO requirements or if the sign was denied by the Community Development Director, the applicant would have the ability to bring it forward to Planning Commission and City Council as a Final Sign Plan, as you're typically used to seeing. Staff is recommending approval of this application, and we'll be happy to answer any questions.

Comm. Roberson: Does this include style, color and all that?

Mr. Klein: Style and color often times are specified in Sign Criteria of the development and are not addressed in the LDO. Again, if that was part of the Sign Criteria for the development, the sign would have to meet the criteria.

Comm. Williams: As an example, if a tenant comes in and wants a logo that is bright red and it's not an approved color for the development, it would come to us for approval?

Mr. Klein: That would be their only recourse; they would have to bring it before the Planning Commission and City Council as a Final Sign Plan. I imagine they would probably be asking to amend their Sign Criteria as well at that point.

Comm. Roberson: For example, if the Sign Criteria allowed for an orange sign with a brand name in it, you can approve that?

Mr. Klein: Yes, we could, if it met the Sign Criteria. Again, the Sign Criteria would have been reviewed and approved by Planning Commission and Governing Body.

Mr. Coleman: Basically, this was proposed by Councilman Ozman to help speed up the sign approval process. The whole idea behind it is that if the development already has Sign Criteria and they follow that Sign Criteria and staff reviews it, they're in compliance and should be able to get it approved faster.

Comm. Williams: I think we had several signs on the Consent Agenda tonight; so for example, those would then not come before us because you would approve them?

Mr. Coleman: Right, but those are generally similar because they have met the Sign Criteria and the LDO, and staff didn't have any opposition or questions.

Comm. Levitan: I think this is a good move. I think this is an efficiency process, and when time is of the essence for a lot of retailers to have to wade through a 60- or 90-day process to get approval, it's difficult and puts a burden on those retailers. Not so much for office users because they're not so dependent on the signage, but I see this as a good move, and I am comfortable that there are enough safeguards in it so that staff will weed out any issues.

Comm. Jackson: I would hope it would also prevent some of the temporary signs we see go up at new restaurants and new retailers because they are waiting on getting applications approved.

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

Public Hearing

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

Chair Rohlf: This takes us to comments, hopefully leading to a motion.

Comm. Roberson: I am uncomfortable with this. I don't really have a specific reason, but I just am not comfortable giving away the ability of the Planning Commission to review signage, even if there is a Sign Plan in place.

Mr. Coleman: When they bring their Sign Criteria, Planning Commission and City Council really have the opportunity to scrutinize that and make sure the Sign Criteria is what the city is looking for. Staff will see to it that those applications fit that Sign Criteria. Otherwise, they will be coming to you to ask for either revision of the Sign Criteria or resolution of an interpretation issue.

Comm. Roberson: I understand; I am still just a little uncomfortable. Thank you.

A motion to recommend approval of CASE 28-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6 – Sign Regulations, pertaining to administrative approval of signage – was made by Williams; seconded by Elkins. Motion approved with a vote of 5-1. For: Levitan, Pateidl, Jackson, Williams and Elkins. Opposed: Roberson.

CASE 40-13 – TOMAHAWK CREEK SCULPTURE GARDEN – “VARIANCE” SCULPTURE – Request for approval of a Final Plan for a piece of public art, located between Town Center Drive and 115th Street.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 40-13 – Tomahawk Creek Sculpture Garden. The piece being discussed is called Variance, and it is being produced by Richard Paley. The piece is proposed to be located north of the south pond along Tomahawk Creek Parkway between 115th Street and Town Center Drive. The piece is made of stainless steel. It is approximately 17 feet in height and will have a base approximately 12 feet by 3 feet. The parks department is also here to answer questions with regard to this piece. Staff is recommending approval of this application and will be happy to answer any questions.

Applicant Presentation:

Ann Kenney, Chair of Public Art Committee, 9814 Overbrook Court, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Kenney: I can answer any questions.

Comm. Roberson: This is going to be mounted on a platform 3 feet high?

Ms. Kenney: Yes.

Comm. Roberson: It will be next to the first pond on Tomahawk Creek Parkway?

Ms. Kenney: North of the southernmost pond.

Comm. Roberson: Quite frankly, this sculpture looks very dangerous. It is a lot of metal, a lot of points and a lot of edges. My biggest concern is kids trying to climb on it. Can you allay my concerns?

Ms. Kenney: This piece is actually not produced yet; it is being produced for Park Avenue and 59th Street in New York City to be displayed there for six months, and then we would buy it and have it here. This artist has been producing art for 50 years and is probably the best known and most respected modernist metal artist in the country. I'm quite sure none of his work is dangerous.

Comm. Roberson: I guess that didn't answer my question. I see pointed edges. I see a lot of points. I see a lot of jagged metal. I don't know if the edges are sharp or not. There are lots of kids that play around that pond.

Ms. Kenney: I understand your question. My answer would be that I haven't seen it. Dr. Dunbar has probably seen those pieces. Mr. McCaffrey has been negotiating those pieces. Maybe one of them could answer your question better.

Comm. Roberson: So this is not a local artist that is producing this?

Ms. Kenney: No, he's in New York.

Burton Dunbar, 12407 Cherokee Lane, member of the Art Committee, appeared before the Planning Commission and made the following comments:

Mr. Dunbar: I am familiar with other works by this artist. The image that you have before you looks as if it were made out of thin tin and hence, obviously, your concerns. Actually, the edges that we're looking at, based on other works by this artist, are much thicker and have a greater density and would not have, I believe, the sharpness you're concerned about, which obviously would be of danger to children and others that might try to climb it. Instead of looking at something that is the texture of a tin can, we're looking at something that is more in the nature of 1/8 inch or 3/8 inch in thickness. If someone were to run a hand along it, it would not create any damage to the person, based on what I have seen from other works from this artist.

Comm. Roberson: In your best guess at this point, if somebody were to climb on this and start pulling on one of these pieces that are bending out, could they bend or damage it? It is stainless steel, I'm assuming.

Mr. Dunbar: Yes, it is. Here again, the work has not been fabricated, but based on other works by the artist, it is welded and dislodging it would not be likely unless there were some type of tool. From the standpoint of a runaway child trying to climb upon this, which is an attractive nuisance, I would agree. Here again, based on other works by this artist, I do not believe it would be a danger.

Chair Rohlf: What are we actually being asked to approve here?

Mr. Klein: Basically the location because this actually goes through the Art Committee, and they're the ones that make a recommendation of approval to the Planning Commission and Governing Body. You're making a motion based off their recommendation.

Chair Rohlf: And that recommendation would be that this piece be located in the location proposed on the attachment?

Mr. Klein: Correct.

Chair Rohlf: We are approving the location; although, we are not sure what the ultimate design will look like.

Mr. Klein: The design is supposed to look like the picture you have. It hasn't been fabricated yet, but it's my understanding that it will look like this.

Mr. Coleman: It will look very similar to this.

Chair Rohlf: Has anyone seen the one that's similar to this? Is it part of the committee's job to go and look at these pieces?

Ms. Kenney: Yes, we've seen his work. I personally have not.

Chair Rohlf: So there is really no concern with the material that it is fabricated out of? Where did you say one is located? Is it all over?

Ms. Kenney: There are 60 books of his works. They're all over the United States. He's remarkably acclaimed. This will be placed on 59th Street and Park Avenue in New York City and will be there for six months. It's really quite an advantage to us to have a piece that has been in a location like that. We will get that kind of publicity for us if we get through the approval process before it gets there.

Chair Rohlf: So you have reached a deal with the artist.

Ms. Kenney: Yes, pending city approval. This is a model for it, and on July 1st, it will be at 59th and Park Avenue. It will then be available at the end of November for purchase by someone. We hope we will be purchasing it.

Chair Rohlf: It's not a done deal.

Mary Tearney, Chair of Arts Council, 3308 W. 127th Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Tearney: We can't have a done deal until we go through the approval process. We happen to have one person on the Public Art Committee who makes several trips annually to New York City and has been negotiating with the agent of this gentleman who's constructing the piece. I feel sure that Carl McCaffrey will keep in close touch with the artist and the agent as its being constructed.

Chair Rohlf: Will we have an opportunity to see this again once it's been purchased?

Mr. Klein: This is the approval. It will go on to Governing Body and will not come back.

Comm. Roberson: We're being asked to approve the purchase of a piece of art. That's what it says. "The applicant is requesting approval of a piece of public art along Tomahawk Creek Parkway." We're being asked to approve the purchase of this piece of art to be placed on Location No. 1.

Ms. Kenney: I understand your hesitation, but as with all our pieces, we do try to uplift them somewhat. This will be up 3 feet, and we put up foliage and signs to discourage the children from climbing. It is more or less effective, depending on where the piece is usually.

Comm. Pateidl: In the picture, we have a sculpture and a silhouette of a woman?

Ms. Kenney: It's a man, but it's not true to scale, really. The art will be 17 feet tall, and that is a figure of Mr. Paley, who is presumably not that short.

Comm. Pateidl: Is that part of the art, or is that just part of this picture?

Ms. Kenney: No, it's to show scale, but it's not accurate.

Comm. Levitan: Apparently, there is no stipulation that the art be purchased locally.

Mr. Klein: No, that is not a requirement.

Chair Rohlf: If there is nothing else, this takes us to a motion.

Comm. Roberson: I have a comment that is probably more of a personal preference than anything else. I think it's wonderful that we go out and spend all this money on this wonderful art from artists around the country, but quite frankly, I think it would be to our benefit if we sponsored local artists and were to spend that money locally. You may disagree with that, but quite frankly, this is Leawood tax dollars at work and not New York City tax dollars or wherever.

Ms. Kenney: We sent out a call for artists for any of these public art pieces. This one happened to be an exception because we concluded that it would be great to have this piece, and it is a bargain that was once on 5th Avenue and would then recognize Leawood as being the purchaser and will be in all of the news in New York. Normally, we put out a call for artists, and anyone can submit. Last time, we had 59 different artists submit qualifications. We don't exclude local artists. It is up to them, of course, to present what they would construct as public art in Leawood. We don't exclude them, but it is up to them to show the initiative that they want to.

Comm. Roberson: That makes sense; just, like I said, where possible, I think we ought to be using local artists. It is a comment and not a criticism.

Ms. Kenney: We encourage them, and we use every list we can get our hands on to notify all of the artists so they all are aware of the fact that we are looking at the next public art piece. Go away from here knowing that they get the information; it's up to them to respond.

Comm. Levitan: Did you have any local submittals for this particular site?

Ms. Kenney: The piece out in front is called Sentinel, and that's a local artist. The bench up on 86th Street is by Wendell Cassel, whose parents lived here in Overland Park and he went to KU. At The Lodge, we have a piece on display but sort of in storage that was built by Riley Hoffman, who was a student at the Kansas City Art Institute. Downstairs, we have a piece that was by John Northcut, who was also a student at the Art Institute. Cloudgate was another local artist. We've not excluded them at all. In fact, we've been inclusive. Introspection is by Larry Young, who lives in Columbia. That started out as a temporary art piece, and then City Council thought we ought to purchase it, so we took it through the steps and purchased it. You've seen some temporary pieces in the lobby that are always local artists.

Chair Rohlf: Were you asking specifically about that site?

Comm. Levitan: About this site.

Ms. Kenney: This particular piece and this particular site went through the selection process; we have to do that. The selection panel, the Public Art Committee, Leawood Arts Council, Planning, Parks & Rec and City Council, so there are six steps in order to get this done.

A motion to recommend approval of CASE 40-13 – TOMAHAWK CREEK SCULPTURE GARDEN – “Variance” Sculpture – Request for approval of public art – located along Tomahawk Creek Parkway between Town Center Drive and 114th Street – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

CASE 18-13 – CITY OF LEAWOOD - 2013 COMPREHENSIVE PLAN – Request for approval of the 2013 Comprehensive Plan. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: This is a request for approval of the 2013 Comprehensive Plan. This plan was discussed at the February Work Session, and it is identical to the existing plan with regard to policy statements. The plan is divided into two halves. One is about existing conditions and data, which was partially updated last year with the rest proposed to be updated with this update this year. The policy section remains unchanged. The data was discussed in detail at that meeting and is also mentioned in the memo provided to you this evening. Since the Work Session, there have not been any substantial changes made to the document, just some minor changes based on feedback we received at the Work Session. Staff is recommending approval, and I would be happy to answer any questions.

Chair Rohlf: I believe we were all in attendance at that Work Session. If no one has any additional questions, this case requires a Public Hearing.

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

A motion to recommend approval of CASE 18-13 – CITY OF LEAWOOD – 2013 COMPREHENSIVE PLAN – Request for approval of the 2013 Comprehensive Plan – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

OTHER BUSINESS:

Appointment

Mr. Coleman: We need to appoint a liaison from the Planning Commission for the 135th Street Corridor plan. I would recommend Len Williams since he is the senior member of the commission.

Chair Rohlf: I would supplement that with Len’s professional background and historical background. I think that would be a good appointment to the committee. Do we need to vote on that?

Mr. Coleman: I think it would be good to have a vote.

Appointment of Len Williams to the 135th Street Committee was approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Jackson, Williams and Elkins.

Mr. Coleman: I wanted to let you know that Joe Rexwinkle has accepted a position with the City of Kansas City, Missouri Planning Department, so he'll be leaving us. We wanted to thank Joe for his service to the City of Leawood. He's done a very good job for us.