

City of Leawood  
Planning Commission Meeting  
February 25, 2014  
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, Rohlf, Elkins, and Ramsey. Absent: Jackson, Williams and Strauss.

**APPROVAL OF THE AGENDA:**

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

**APPROVAL OF MINUTES:**

Approval of the minutes from the January 28, 2014 Planning Commission meeting, and the February 11, 2014 Work Session.

**A motion to approve the minutes from the January 28, 2014 Planning Commission meeting and the February 11, 2014 Work Session was made by Elkins; seconded by Pateidl. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

**CONTINUED TO MARCH 25, 2014:**

CASE 135-13 – IRONHORSE GOLF COURSE CLUBHOUSE EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located approximately at 146th Street and Mission Road. **PUBLIC HEARING**

CASE 77-13 – RANCH MART – MCDONALD'S DOUBLE DRIVE-THRU – Request for approval of a Revised Preliminary Plan and Special Use Permit, located north of 95th Street and east of Mission Road. **PUBLIC HEARING**

CASE 21-14 – CROWN CASTLE CELLULAR TOWER – Request for approval of a one year extension for a Special Use Permit for the continued use of a wireless communication tower and associated equipment, located north of 135th Street and west of Briar. **PUBLIC HEARING**

CASE 22-14 – AT&T MOBILITY CELLULAR ANTENNAE – Request for approval of a one year extension for a Special Use Permit for the continued use of wireless antennae and associated equipment, located north of 135th Street and west of Briar. **PUBLIC HEARING**

CASE 23-14 –CRICKET CELLULAR ANTENNAE – Request for approval of a one year extension for a Special Use Permit for the continued use of wireless antennae and associated equipment, located north of 135th Street and west of Briar. **PUBLIC HEARING**

CASE 24-14 – CLEARWIRE CELLULAR ANTENNAE – Request for approval of a one year extension for a Special Use Permit for the continued use of wireless antennae and associated equipment, located north of 135th Street and west of Briar. **PUBLIC HEARING**

CASE 25-14 –T-MOBILE CELLULAR ANTENNAE – Request for approval of a one year extension for a Special Use Permit for the continued use of wireless antennae and associated equipment, located north of 135th Street and west of Briar. **PUBLIC HEARING**

CASE 26-14 – VERIZON WIRELESS CELLULAR ANTENNAE – Request for approval of a one year extension for a Special Use Permit for the continued use of wireless antennae and associated equipment , located north of 135th Street and west of Briar. **PUBLIC HEARING**

CASE 27-14 –SPRINT-NEXTEL CELLULAR ANTENNAE – Request for approval of a one year extension for a Special Use Permit for the continued use of wireless antennae and associated equipment, located north of 135th Street and west of Briar. **PUBLIC HEARING**

**CONSENT AGENDA:**

CASE 29-14 – PARK PLACE – ALTAR BRIDAL (RETAIL SPACE F-06) – Request for approval of a Revised Final Plan for a Tenant Finish, located north of 117th Street and east of Nall Avenue.

**A motion to approve the Consent Agenda was made by Roberson; seconded by Elkins. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

**NEW BUSINESS:**

CASE 33-14 – CITY OF LEAWOOD – 2015-2019 CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2015-2019 Capital Improvement Program. **PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 33-14 – City of Leawood – 2015-2019 Capital Improvement Program [CIP] – Request for approval of the 2015-2019 Capital Improvement Program. The Work Session on this item was on February 11<sup>th</sup>. Staff is here to answer any questions you may have with regard to this application.

**Public Hearing**

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

**A motion to recommend approval of Case 33-14 - CITY OF LEAWOOD – 2015-2019 CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2015-2019 Capital Improvement Program – was made by Roberson; seconded by Ramsey. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

CASE 105-13 – ST. MICHAEL THE ARCHANGEL ATHLETIC FIELD – Request for approval of a Revised Final Plan, located north of 143rd Street and east of Nall Avenue.

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 105-13 – St. Michael the Archangel Athletic Field – Request for approval of a Revised Final Plan, located north of 143<sup>rd</sup> Street and east of Nall Avenue. The applicant is requesting to grade the northwest corner of the property to create an athletic field, which shall be a 200 X 60 ft. field for the students of the school. The applicant shall install a black vinyl-coated chain link fence around the field.

Bordering the north side of the field, the fence is proposed to be 6 ft. high and 4 ft. high around the east, south and west sides of the field. The applicant shall plant a combination of maple, oak, pine and spruce trees along the east and north sides of the field, creating a buffer between the athletic field and the residential subdivision of Glen Abbey to the east and the Villas of Chapel Green to the north. No additional structures are approved with this application. Staff recommends approval of Case 105-13 with the stipulations outlined in the Staff Report, and I'd be happy to answer any questions.

Comm. Pateidl: It appears that a plan was approved in June, 2011, including the baseball diamond. Is the difference the fencing? Why is it we're back on this?

Ms. Kriks: All the past Final Plans have shown the athletic field as a future use. They are now coming in to install the fence for the athletic field; however, any other structures they are showing are still future uses. The applicant will be required to come back for bleachers or a concession stand.

Comm. Elkins: We can't approve all that in one shot?

Ms. Kriks: They haven't given us details on that.

**Applicant Presentation:**

Chris Arth, Parish Administrator for St. Michael the Archangel Catholic Parish, 14251 Nall Avenue, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Arth: We don't have any issue with the comments of the staff; we've agreed with the stipulations. I just want to take a moment to introduce two scouts from Troop 333: Sam Arth and James Eckland, who are working on their Citizenship in the Community Merit Badge. One of the requirements is to come to a public meeting.

Chair Rohlf: Welcome, boys. Questions for the applicant?

Comm. Elkins: Just to make sure I'm tracking, we have the baseball field and the fence tonight?

Mr. Arth: We're not even adding the baseball field, which was a point of discussion the previous meeting. There was an issue with the property line and the setback. We agreed to delete the baseball field from the plans. There were also landscaping questions, and we resubmitted that plan with additional landscaping on the east and north boundaries.

Chair Rohlf: This is really just an athletic field?

Mr. Arth: It's essentially a big green space now. It's designed for games we might host in the future. There was discussion of bleachers, a scoreboard, etc., but at this time, it is just for recess, football practice and other activities after school.

Chair Rohlf: No organized sports?

Mr. Arth: No organized games at this time.

Chair Rohlf: If there are no more questions, it takes us up to discussion and a motion.

**A motion to recommend approval of CASE 105-13 – ST. MICHAEL THE ARCHANGEL ATHLETIC FIELD – Request for approval of a Revised Final Plan, located north of 143rd Street and east of Nall**

**Avenue – with all staff stipulations – was made by Elkins; seconded by Roberson. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

CASE 08-14 – TOWN CENTER PLAZA – DEAN AND DELUCA EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of 119th Street and west of Roe Avenue.  
**PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 08-14 – Town Center Plaza – Request for approval of a Revised Preliminary Plan and Revised Final Plan for Dean and DeLuca. The plan includes the following modifications: 1,561-sq.ft. expansion to a 9,023-sq. ft. building for a total area of 10,590 square feet, which is a 17.3 increase to the building; modifications to the building exterior; modifications to the existing parking lot, service drive and loading dock; modifications to the Landscape Plan. The applicant is proposing several expansions to the building, one at the northeast corner of the building: a 126-sq. ft. vestibule. Another expansion at the entry on the east side of the project is a 30-sq. ft. vestibule into the main entrance. The next is a 730-sq. ft. addition at the southeast corner, which will be used for meetings. A 671-sq. ft. addition is located on the west side for receiving deliveries. In addition to that, a loading dock will extend approximately 20 feet to the west. The applicant is also proposing a sidewalk along the north side of the building, a connection in front of the storefront itself, and a sidewalk connection from 119<sup>th</sup> Street along the east side of the drive. Additionally, a sidewalk is shown the full length of the north property line adjacent to the property on the main portion of Town Center. We have included Stipulation No. 2 that indicates the sidewalk will be constructed by the applicant when the city obtains an easement for the sidewalk. I provided a modification to the stipulation which states that the easement would be obtained by the city or the applicant. With regard to the landscaping, the applicant is proposing street trees along 119<sup>th</sup> and Roe per the Leawood Development Ordinance. They have proposed additional trees for screening purposes located directly in front of the loading dock/receiving area. They are also proposing to remove four parking spaces from the southeast corner for the expansion of the meeting area; however, they are proposing to add an additional eight spaces within the site. The northeast corner will have four parking spaces with the removal of green space. Additionally, they propose to add two interior spaces and two in the southwest corner of the building near the receiving area. Staff is supportive of this application, and I'd be happy to answer any questions.

Chair Rohlf: Could you clarify this easement situation?

Mr. Klein: The plans show a sidewalk along the north side of the property from Roe all the way along the north side. The sidewalk is shown on the adjacent property, which is the main lot for Town Center Plaza. The stipulation states that if the city or the applicant owner were to get an easement for this sidewalk location, Dean and DeLuca would construct the sidewalk.

Chair Rohlf: That easement would come from what?

Mr. Klein: It doesn't exist currently; it would be if the city worked with the applicant or the property owner.

**Applicant Presentation:**

Erin Simmons, Hoefer Wysocki Architecture, 11460 Tomahawk Creek Parkway, Leawood, KS, appeared before the Planning Commission and made the following presentation:

Ms. Simmons: I have a few plans to show. (*Places plan on the overhead*) You can see the different areas we are planning on expanding. We had a lot of talk about the existing seating in the space as well as what was proposed. To meet the Leawood Ordinance, our proposed seating will equal 80 seats. We have 75

existing parking spaces. As Mark said, we are removing some and adding others, to balance out to a total of three additional spaces for a total of 78. Per the Leawood Development Ordinance, 3 ½ - 4 ½ per 1,000 square feet of space, these 78 spaces meet that requirement.

Kevin Berman appeared before the Planning Commission and made the following comments:

Mr. Berman: Hoefler Wysocki Architecture, 11460 Tomahawk Creek Parkway, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Berman: I'm sure you've seen our full submittal. I can walk you through the improvements with 3D views. (*Goes through computer presentation*) The series of images will be as if a pedestrian were walking through the project with a sidewalk up the hill. The main point of this is to put vestibules on the building, to give it a little room for loading areas and to enclose the patio. Some of these improvements are requirements because the building grew enough to require new sidewalks, landscape, lighting and so forth. Enriched paving is required through the asphalt area to connect the two sidewalks. The sidewalk on the left will take visitors through the new vestibule. You can also see the covered patio on the east façade. Currently, blue awnings hang there. The proposed plan has a continuous aluminum canopy in place of those to create a better covered condition. We are also updating the landscaping and putting in a railing. The receiving area is another addition. The meeting room with the new enclosed patio is another, and just to the north of that is the new vestibule. The new sidewalk off 119<sup>th</sup> Street will curve around with landscaping, go up the hill and connect to the outdoor patio. What was the patio area will now be enclosed. It is about 723 square feet, and it is meant for businesses or other folks who may want to use the room. Currently, the receiving area requires delivery drivers to stop and wheel products up the ramp. We wanted to create a safer, more convenient way to receive deliveries. The new building will have a dock area with a canopy and a railing for safety. Additionally, we will be hiding the trash enclosure. We are also adding light poles to meet the ordinance's foot candle levels. We will meet the new ordinances with landscaping as well. It is currently beautiful, but we are enriching it with this new plan.

We are comfortable with where we are in the approval process with a few discussion points that are, in no way, not meant to be a barrier to approval. The first point is the guest seating. Dean and DeLuca is primarily a grocer with a coffee bar and a place to buy a sandwich. Currently, there are 93 places to sit with 48 indoor and 45 outdoor. With the current submittal, we have a total of 80 seats. You would need 37 cars to seat them. We have the required parking. We would like you to consider allowing them to maintain what they have now. The enclosed area adds 14 tables, and we're taking 15 seats from outside. Between what was outside and what is now inside is something of a wash, and we would like to maintain the 93. We certainly know why we are at 80. Part of the reason for the difference is we're counting the enclosed patio as gross area but then are also using it to add parking because people are sitting in there, too. Does anyone have any questions?

Chair Rohlf: I guess I'm not following the 93.

Mr. Berman: Right now, there are 93 seats at Dean and DeLuca without the project. We feel if we're losing 15 seats outside and adding 14 seats inside, we would like you to consider that we have the parking to support it. We worked back and forth with staff to come up with 80. We are interested in having more if it seems reasonable.

Comm. Roberson: I'm puzzled.

Mr. Klein: Staff hasn't seen this at all. We have worked with the applicant, but this is the first time we've seen it. They did reduce the number of seats from what they originally proposed. I don't believe you have the ability to approve more without them providing more spaces. If they provide more spaces, they will have to take out more green space. It's a domino; you pull out one and it triggers more.

Comm. Roberson: They are asking to increase seating.

Mr. Klein: Yes, and this has an effect on the parking, which then affect green space.

Mr. Berman: Mark is right; he hasn't seen this. We want to maintain what they have now.

Comm. Roberson: You want to keep 93 seats, and therefore, you would need more parking.

Mr. Klein: Yes, and if they want to do that, we would ask them to continue the project so we could see where the additional parking spaces would be located and what open spaces would be affected.

Comm. Pateidl: Put another way, they would be in violation of the LDO with the required parking?

Mr. Klein: Currently, it does not conform to the ordinance. This is a legal, non-conforming structure. However, now that they are coming with a plan, they would be required to meet the standard.

Chair Rohlf: We are at an impasse. Would you like to continue this?

Mr. Berman: As I said, we're comfortable with our application. We wanted to bring this up for consideration. I understand Mark's interpretation.

*(Continues to refer to slides)* Stipulation No. 2 is a requirement to build the sidewalk. This version would extend the sidewalk west. We hope we do not need to adhere to this stipulation for multiple reasons. The sidewalk is not currently on our property; the stipulation refers to the future and the ability to build off-property. We feel that it shouldn't be our responsibility. We are currently creating pedestrian access to Dean and DeLuca, both off Roe and 119<sup>th</sup> Street. We feel we've done a great job enhancing the City of Leawood in doing this. We feel we've met the spirit of the ordinance by providing the sidewalks. There are obstacles for building the sidewalk, such as a transformer and the inability to continue past this property. The slope off the street is extensive. I've talked about where the best place would be for the sidewalk; the farther away from the road, the greater the need for retaining wall would be. We're estimating a 4-ft. retaining wall with 2 feet of foundation to support it. We possibly could need a railing on the left side should it be built along the road because the drop is significant enough to require a rail. We'll certainly have a lot of backfill to do. It's an extensive project. We understand the idea of connectivity, but there are obstacles. The islands across the street have landscaping and light poles. Lastly, past the transformer heading west, the next available island to continue the sidewalk is landscaped and full of trees. We don't think we can build connectivity with our project. It would be \$60,000 on the low side. Our total budget for the project is about \$500,000. We feel this could be 10%+ add to the scope of the project. We'd like you to reconsider this sidewalk, as it is quite a burden. Thank you for your time.

Comm. Roberson: Which signs are you losing on the building?

Mr. Berman: We're maintaining the current signage, but you can see the cast stone signage will be covered with synthetic stucco. The signs being approved are the aluminum ones. The two on the east are maintained, and the one on the south is being extended to the patio.

Comm. Elkins: Can you tell us the square footage of the new covered patio?

Mr. Berman: I can't tell off the top of my head.

Comm. Elkins: Is it less than the current outdoor eating space of 734 square feet?

Mr. Berman: It is positioned in the exact same location. It is covered with the aluminum canopy, and it does not add or subtract space.

Comm. Elkins: You're taking out outdoor space on the south to create that meeting room.

Mr. Berman: Is it the meeting space you're talking about or the outdoor space to the east?

Comm. Elkins: The outdoor space to the east, and basically, you're comparing the two. You're losing the 734 square feet that is now going to be the meeting room. What do you have left in terms of outdoor seating?

Mr. Berman: We have twelve seats underneath the canopy. I would be guessing at the square feet.

Comm. Elkins: Regarding the signage, you're covering up the sign that is a bit of an architectural feature now. Is that dictated by our signage requirements or the development's signage requirements?

Mr. Berman: It was to limit the signage on the building per the ordinance.

Chair Rohlf: If there are no other questions for the applicant, this requires a Public Hearing.

### **Public Hearing**

Leonard Corsi, General Manager of Town Center Plaza, 5000 W. 119<sup>th</sup> Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Corsi: We support the changes to Dean and DeLuca; however, we feel that there's sufficient room for the sidewalk that is proposed along the north line on their own property. We have not come to an agreement with regard to having the sidewalk located on our property as such. I just wanted to get that before the city. We do support it, however, and we would be willing to pursue discussions with the city and/or Dean and DeLuca with regard to the sidewalk. At this point in time, we want to state they have sufficient room on their own property to locate the sidewalk. It is noted on the plan that we have given verbal agreement on that, and we have not.

Comm. Elkins: To clarify, I take it that Dean and DeLuca's property line does not go all the way to the curb?

Mr. Corsi: That is correct.

Comm. Elkins: What is the distance from the curb to the property line?

Mr. Corsi: I don't have the exact measurements. I just know it is bordering their property line.

Mr. Klein: The property line is 8-10 feet off the curb.

Chair Rohlf: Would you please reiterate your position with reference to the plan?

Mr. Corsi: *(Refers to overhead)* The current sidewalk is 100% located on Town Center's property.

Chair Rohlf: And Town Center's position is what?

Mr. Corsi: We have no agreement with having the sidewalk in that location.

Comm. Roberson: For what reason:

Mr. Corsi: It hasn't been pursued, and we are not in agreement.

Comm. Roberson: Would you object to a sidewalk?

Mr. Corsi: Yes, but we are open to discussions with the city and Dean and DeLuca.

Comm. Roberson: You're suggesting that if they put in a sidewalk without your permission, it would be farther down the hill?

Mr. Corsi: It would be on the other side of the yellow line on the plan.

Comm. Roberson: Doesn't that slope down?

Mr. Corsi: It would slope, period. We didn't engineer it, but we don't feel there is any different hardship in locating it on their property versus locating it on ours.

Comm. Ramsey: But that's not what staff is recommending, is it?

Mr. Klein: That is correct. The current stipulation states that it is only triggered if the city or the applicant obtains an easement from the property owner to the north (Glimcher). If the easement is not obtained, there is no sidewalk. If it happens, we'll have a certain location, and Dean and DeLuca would construct it.

Mr. Corsi: It did state on the plan that we gave verbal agreement, and we did not.

Comm. Roberson: Maybe we shouldn't do this during a 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 passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

Comm. Ramsey: Let me make sure I understand this. The parking is now predicated on the requirements of the LDO in place right now. The previous parking was not based on this formula, so it's a non-conforming use and they have to bring it up to current standards.

Mr. Klein: That is correct.

Comm. Ramsey: If I remember correctly, there is no provision in the LDO for us to exempt them from the parking standards, is there?

Mr. Klein: That is correct. They would need to provide more parking, which would, in turn, affect the open space.

Comm. Ramsey: With regard to the sidewalk, the requirement would be to put it next to the curb, providing the appropriate easements are in place.

Mr. Klein: That is correct; it would be working with the property owner to the north to see if a sidewalk easement could be obtained.

Comm. Roberson: Could you explain the purpose of the sidewalk?

Mr. Klein: (Refers to display boards) The intent is to provide a sidewalk connection from Roe, across the pad sites and go to Nall as well as providing pedestrian connects north-south from 119<sup>th</sup> Street and Town Center Drive and 117<sup>th</sup> Street over to the main center. The grade is steeper coming down the hill, so it would be easier to place the sidewalk farther north, which is on Glimcher's property. The stipulation states that the city or applicant would try to obtain an easement to allow the sidewalk there. If the easement was obtained, Dean and DeLuca would be responsible for constructing the sidewalk.

Comm. Ramsey: Let's go back to the parking. Assuming they have to put in the additional parking, does it put them at odds with the open space requirements?

Mr. Klein: The way they have it calculated now, they currently have sufficient open space. The open space will depend on the number of spaces they remove. We would have to recalculate that to make sure the minimum is being met and if the parking still makes sense.

Chair Rohlf: I thought they said they weren't submitting anything additional.

Mr. Klein: That is correct. This is all we've seen. Richard indicated they are going for a Preliminary and Final Plan tonight. If they would like to take forward the Preliminary without the Final, they could come back for that.

Chair Rohlf: Right now, they are in compliance?

Mr. Klein: Yes, with the 80 spaces total.

Mr. Coleman: My point was if that they wanted to figure out how to put more parking on the site, they could come back with that.

Chair Rohlf: With respect to the sidewalk, are there any other sidewalks built along those north boundaries?

Mr. Klein: There are a number of islands with sufficient room. As you recall, Arhaus came through with an application, and we brought this up in that application as well.

Mr. Coleman: I've sent out the letter about pedestrian access at Town Center. We have gotten some responses that have all been positive. I spoke with the people at 810 Zone, which is next to this property, and they have no objection to a sidewalk at some future date.

Chair Rohlf: The goal would be to start the connectivity now and allow it to expand in the future.

Mr. Klein: To provide opportunities to connect, yes.

Comm. Roberson: The 810 Zone is fine with paying for that as well?

Mr. Coleman: We didn't go into details, but they didn't have an objection to the sidewalk.

Chair Rohlf: Mark, would your revision to No. 2 would appease the parties this evening?

Mr. Klein: It allows another party to be able to obtain that easement. I imagine the applicant is probably opposing it as far as the expectation to construct it.

Chair Rohlf: I'm not sure what the stipulation binds them to do.

Mr. Klein: If the city were to obtain an easement along that north property line, they would be required to construct the sidewalk along that north property line.

Comm. Ramsey: What is motivating them to get the easement?

Mr. Klein: Other than having the connectivity that would benefit the overall center, I don't know. If the city got the easement, they would be required to put in the sidewalk.

Comm. Ramsey: Is the city going to pursue the easement?

Mr. Coleman: It's an option.

Comm. Ramsey: I know it's an option. I'm asking if you're going to carry forward with it or if this is just something to have on the books.

Mr. Coleman: It would depend on the results of our meeting and negotiation with the property owners.

Comm. Ramsey: That implies you're going to pursue it.

Mr. Coleman: Yes, we're pursuing the pedestrian plan for the area. The city has a consultant involved, and we're meeting on Friday.

Comm. Roberson: It strikes me as more logical that a sidewalk that would benefit Town Center should be at least shared in cost by Town Center.

Comm. Elkins: We don't have any leverage over that, though.

Comm. Roberson: It seems a little unfair to force any of these property owners to bear the full burden when it will benefit the whole center.

Comm. Ramsey: It also depends, though, because some of these sites have been sold off.

Comm. Roberson: I understand.

Chair Rohlf: if we didn't want to obligate the applicant for this sidewalk, we would need to delete No. 2, correct?

Mr. Klein: You would have to remove it or change it.

Chair Rohlf: The modification you made would still obligate the applicant if an easement were obtained. I don't know if we want to do that to the applicant or let this be taken up at a later date unless someone else has specific concerns about the plan that we haven't addressed yet.

Comm. Elkins: I think the key issue here is the sidewalk, but primarily for the record, I am disappointed that the outcome of our signage ordinance results in the changes proposed in our plan. It's primarily a matter of aesthetics and personal taste, but I always thought the sign etched in what looks like stone is almost an architectural feature that lends some permanence to our cityscape, which we don't always have now. The idea that they're covering that up for what, in the long run, is a temporary sign of aluminum letters is disappointing. I understand why they made the decisions, but I'm disappointed it came to that.

Mr. Klein: Staff didn't have any conversations with them. They came in with those being removed.

Comm. Elkins: Would they be in compliance if they didn't mess with the signs at all, or does the LDO dictate that they have to do something to come into compliance with the ordinance?

Mr. Klein: If they didn't change their signage, it would be the same. They are moving one over to the west. This application has a history with cabinet signs on the building at one point. The cast stone letters were approved as an architectural feature, which is how they got around the number of signs on the building.

Comm. Elkins: If this plan went ahead without changing the sign at all, would it be a legal, non-conforming use?

Mr. Klein: Yes, that condition would be legal, non-conforming.

Chair Rohlf: This gets us back to the sidewalk issue and what we want to do with that stipulation.

Comm. Elkins: I'll start the discussion. I, too, struggle with the fairness issue. By the same token, if we think that, as a matter of city planning, creating a pedestrian connectivity off the street to the north is a positive thing. Because this is an existing development, we'll only have a few opportunities to affect that plan. My guess is 810 Zone isn't interested in paying for their piece of it right now, but they may want to expand in the future, and then that would be an opportunity to enforce it on them. My guess is Dean and DeLuca is not coming back soon for another expansion. If we think it's important to create this connectivity, this is our opportunity. I struggle with the idea of requiring the applicant to build a sidewalk on someone else's property; that seems odd, but again, the tools we have available to us are limited here. I think we need to decide if we really want that sidewalk, and if we do, this is one of the baby steps we take to get there. With some reluctance, I will be supporting the plan with No. 2 as proposed by staff. I have serious questions about its practicality, but if it's the best tool we have, we ought to take it.

Comm. Roberson: I think Commissioner Elkins is correct. I have an issue with the fairness of forcing Dean and DeLuca to put in the sidewalk. I understand and don't disagree with the connectivity issue. I just think in this situation, we're asking Dean and DeLuca to put in a sidewalk that will lead to nowhere for quite some time. Unless 810 Zone comes in, they won't do anything. I'm certainly not going to walk from Dean and DeLuca to Pottery Barn to buy anything. I'm sure you're not going to find too many people willing to do that. I think the north-south connectivity is not quite the appropriate thing. I think the east-west would be more appropriate going into the center itself.

Comm. Pateidl: When Town Center came in with some proposals, we had a sidewalk coming up from 119<sup>th</sup> Street parallel to the driveway west of the 810 Zone. What is the status of that sidewalk?

Mr. Klein: I believe it was required to be ADA. My understanding is the sidewalk was not approved with that application.

Comm. Ramsey: I really don't have a problem requesting the applicant to pay for the sidewalk in the event that it goes in for the simple reason that it's really not any different than having an applicant put in a turn lane off a street or a sidewalk on public right-of-way when they make an application. It may go nowhere now, but if you want to leave Dean and DeLuca and go to the shopping center by the most direct route, you are now walking in the street. It may not be quite the sidewalk to nowhere. It at least starts you in that direction, assuming it goes in, which it may not if they don't make the deal. I'm okay with how this all lays out.

Comm. Roberson: That sidewalk doesn't go that direction. The one you want is the one that goes up the drive.

Comm. Ramsey: And then to the west.

Comm. Roberson: But at that point, I'm still going to have to walk up the road to get to the parking lot.

Comm. Ramsey: If we never do it, pedestrians will always walk in the drive.

Comm. Roberson: And we had this discussion. I'm not going to hold this up any longer to argue about it.

Comm. Levitan: I try to look at things practically. I don't know that I see the benefit of the western connection. You have some serious issues with a transformer and then straight into an island in the 810 parking lot. It just doesn't seem practical to me to put in the sidewalk. I'm all for pedestrian connections; I just think there are other ways to go.

Chair Rohlf: Are there other thoughts on this?

Comm. Elkins: Given the split of opinion here, we owe it to ourselves to have a motion on No. 2 alone and then proceed with the balance of the plan with or without it, even though we've never done anything like this in my eleven years.

Chair Rohlf: All right.

Comm. Ramsey: Maybe the way to do this would be to move for all the stipulations and see if it goes. If it doesn't go, we make another motion to remove No. 2.

Comm. Elkins: I don't want to be in a position to have to vote on the whole plan based on my disagreement with one stipulation.

Comm. Roberson: Are you going to put the signage in once we do that? I'd like for that to go through, too.

Comm. Elkins: Perhaps we should check with the applicant. We haven't discussed the signage.

Mr. Berman: The representatives are interested in a repeat of the architectural feature, but they have been working on their branding with a different font. It wouldn't be the same existing condition, but the character would be the same.

Comm. Roberson: I take it that would kill the deal right there.

Mr. Berman: Yes.

Chair Rohlf: But we like it.

**A motion to remove Stipulation No. 2 from the plan for Case 08-14 was made by Elkins; seconded by Roberson. Motion passed with a 3-2 vote. For: Pateidl, Roberson and Elkins. Opposed: Levitan and Ramsey.**

**A motion to recommend approval of CASE 08-14 – TOWN CENTER PLAZA – DEAN AND DELUCA EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of 119th Street and west of Roe Avenue – with Stipulation Nos. 1-26 [removing what was originally No. 2] – was made by Elkins; seconded by Roberson. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

Comm. Ramsey: Mark, I assume the Governing Body can put it back in.

Mr. Klein: Yes; it would take an override, but they could.

CASE 17-14 – CAMELOT COURT – Request for approval of a Revised Final Plan, located north of 119<sup>th</sup> Street and east of Roe Avenue.

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: Before I start, I'd like to bring your attention to a light plan and attachments placed on the dais that address staff comments. This is Case 17-14 – Camelot Court – Request for approval of a Revised Final Plan for Camelot Court, located north of 119<sup>th</sup> Street and Roe Avenue. The plans propose modifications to the Camelot Court shopping center, which include the main center, outparcel buildings along Town Center Drive, parking lots and landscaping. The site is laid out with the main center oriented north to south, and the entrance to the center faces west. The main center consists of buildings labeled on the plan as Buildings A, B, C, H, J and K. These labels actually correspond with sections of the building rather than the individual buildings. Buildings A, B and C will comprise the south half of the center, while H, J and K are the north half. The pad sites consist of Buildings L, M, N, Q, R and S. Buildings L, M and N are along Town Center Drive and Roe Avenue, while Q, N and S are along 119<sup>th</sup> Street. The project proposes a net floor increase of 15,425 square feet. This addition is taking place in the main center and is a result of the expansion of the Hen House grocery store. The expansion would be in the area of Building B, which will actually become fully a part of Hen House, and the expansion will be on the east side of the main center. There is also a small decrease in the square footage of Building H, which will eventually be the cleaner. A drive-through for Building H, which is planned to be the dry cleaner, is proposed to be on the north side of that building, and another drive-through for a drugstore will be on Building J, which is currently CVS. As you recall, the Special Use Permits for the drive-through were approved in 2013 with Case 15-13. The applicant is planning to update the façade of the buildings by replacing some of the mansour roofs with stucco parapet walls, adding tower elements, updating canopies, adding new materials such as stone, brick and tile to much of the main center and Buildings L and M right along Town Center Drive. At the Camelot Court entrances at Roe Avenue and along 119<sup>th</sup> Street, architectural features are proposed to be placed. Each of these will be made up of three curved walls. The center wall will be set aside for signage for the development. The existing monument signs for Camelot Court are proposed to be removed. The applicant is proposing updates to light fixtures through the main center and the pad sites adjacent to Town Center Drive and within the parking lot. Updated landscaping is proposed as well. Street trees, ornamental trees and shrubs are proposed for the perimeter of the development, and interior landscaping includes shade trees, ornamental trees, shrubs, grassed and other seasonal color. Some concerns staff has are that the architectural features proposed to be located on either side of the entrance off Roe Avenue and 119<sup>th</sup> Street has the central wall that I talked about earlier. The size is larger than what is allowed by the Leawood Development Ordinance, as that will be used for signage. The applicant is proposing one of these architectural structures to be located on a prominent property that is owned by another business and not by the owners of the main center of Camelot Court. Staff has requested the applicant to include tabletops within the driveway between the parking lot and main center. It is staff's opinion that tabletops slow traffic and improve pedestrian safety. The applicant has proposed the use of ornamental trees for landscaping. Staff is recommending the applicant utilize shade trees within the parking lot islands. Staff recommends approval of Case 17-14; however, it is staff's opinion that all stipulations are necessary in the project as delineated in the Staff Report. I'm happy to answer any questions.

Comm. Elkins: What is a tabletop?

Ms. Kriks: A tabletop is at Town Center Plaza with raised pavement to slow traffic down.

### **Applicant Presentation:**

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

Mr. Petersen: Jim Harpool is the development consultant for Camelot Court, LLC. Brian Forquer is with Lutjen, and Henry Klover is with Klover Architects. We were actually before you on Camelot Court for the Preliminary Plan just over one year ago, when we worked through a variety of issues. We feel this plan brings a modernization and a higher level of quality to this northeast corner of 119<sup>th</sup> and Roe. We've worked through a lot of issues with significant enhancements. There is significant work taking place in regard to the facades of the outlying and outparcel buildings. You approved that on January 9<sup>th</sup> by a vote of 6-1. It then moved on to City Council on April 15<sup>th</sup> and received an 8-0 vote. We have been working issues with more specificity in terms of landscaping. We had some architectural issues to work through as well. The primary factor that stalled this project out was the fact that we were waiting for Hen House to complete its internal design before they could get to the outside. We really are in pretty good shape. I have identified five issues to discuss. We'd like to talk about second consideration on a few stipulations, and I just want a complete record on others.

We were told to do a model of this, and Henry Klover prepared a 3D movie. It will show many improvements to the project. (*Walks through the 3D model*). The design of Hen House is picked up by the small shops. Turning the corner to the east gives a visual of the southern façade. We have brought a lot of good materials to it and have modernized the design. The elements on the top of the roof are screening devices. Eventually, a patio will be created for Corner Bakery.

We worked through most of these issues with staff, but I want to make sure we're all on the same page because we've had discussions about ADA sidewalks. We're proud that we have made a commitment to the city about this along 119<sup>th</sup> and along Roe. We're going to expand the sidewalk at Town Center to 8 feet. Of the sidewalks, the ones on 119<sup>th</sup> Street will not be ADA because of the grade. In terms of our internal sidewalk systems, we worked with staff on connectivity. We are bringing new sidewalk systems in to connect with the sidewalks in the existing space, new sidewalks on the main drive connecting with the internal sidewalks, new sidewalks at Corner Bakery, Town Center and 119<sup>th</sup> Street. We were able to get all of those ADA compliant, except for some pedestrian connections between Roe and the Corner Bakery. You know, those buildings were designed with steps to work with the grade.

The second issue is not a stipulation, but it is worth discussing because the stipulation references the Public Works memo and raises an issue. We have an 8-ft. sidewalk along Town Center Parkway with a jog to get around a sizable utility box. Staff has raised the issue that we push the sidewalk against the back curb by doing that. They suggested we pull that off and maintain a reasonable distance, which we will; however, the requirements in the memo say we will work together, but we also want to make sure we miss the next utility box. I think we'll have good separation after we get the design done.

I'll give my definition of tabletops next. They are very frustrating to drivers, particularly when they are in close proximity to each other. They are an absolutely maintenance nightmare. Snow plows tear them up, and they are difficult to maintain. Given our configuration, there are other ways to address the issue identified with this. We talked about this issue extensively at Preliminary Plan stage. At that time, staff was indicating that these pedestrian ways would be brick pavers, which are also a maintenance nightmare. We made our case to make a demarcation by way of stamped concrete. We identified it was an allowed use at Mission Farms. We looked at the site and if utilization even made sense. Because of the grading, bottoms of cars can get scraped by a tabletop. Tabletops would also interfere with the drive aisle for the dry cleaner. We have a major platform in front of Hen House for carts to transition from the front of Hen House to the parking lot grade change. We feel this platform is helpful. Our preference would be not to use tabletops as we have other ways to address that.

Another issue is the issue of landscaping. I want to make a point that we have way more landscaping in this parking lot than is required by code. The code says that the landscaping should be reasonably distributed with trees being the primary landscaping material. Trees should provide shade, and

the code talks about the size and number. Nowhere does it make a distinction between shade and ornamental trees. When we started left the Preliminary Plan approval, we had eight more trees than were required by code. Of those 169 trees, 117 were shade trees and 52 were ornamental. We created 14 additional islands to create more green space for a total of 36 islands. We also brought our light poles down from 18 to 24, which means it is a significant increase in the number of poles. We therefore had lots of islands with lower poles to landscape while maintaining photometric coverage. We set the trees strategically so that the islands with light poles don't have trees in order to maximize the lighting. Staff wants two trees in every island. As a compromise, we came back with two trees in every island with some being ornamental so they would not interfere with the lighting. This resulted in 207 trees, which is 48 above code. This is our disagreement, as the type of tree is a pure preference by staff. I would hope the shopping center owner could exercise his preference for lighting to be dispersed more effectively through the parking lot. We understand that ornamental trees attract birds. We would ask for the owner's preference to be respected.

We did a lot of work with the downspouts and worked on ones we could totally eliminate. The ones we could not eliminate, we used rain buckets. We left downspouts on the back. We got staff's signoff on the way we treated those. I would note that No. 14 still reads that "All downspouts shall be enclosed." I just would say that our plan is in compliance and supported by staff. Also, on the rooftop screening, we worked hard and spent a lot of money to address the parapet system to screen the mechanical equipment. I want to ensure we are recognizing that we have satisfied this stipulation.

We have reviewed Stipulations 1-26 and would ask that Nos. 6 (tabletops) and 7 (shade trees) be removed. We would ask for confirmation that Nos. 13 and 15 have been adhered to and that No. 17 be slightly modified to say that staff and applicant will work together to get that sidewalk between both utility boxes along Town Center Drive. I think we can do it; I just hate to have a mandate out there if we have the ability to work through it. Thank you for your time.

Comm. Elkins: Could you give me more context for this? Once the Hen House expands, what is left? Does Hen House expand down to the liquor store? Could you help me visualize what is left when it's done?

Mr. Petersen: The expansion area picks up a bit of the small shop space and additional space on the east side. To put it in context for you, I think it goes down through the liquor store.

Comm. Elkins: The anticipated main entrance into Hen House will be where the black square is on the plan?

Mr. Petersen: We're not starting with a new parking lot plan. The parking lot has a grade to it. This allows us to stay at grade with a cart. It's called zero curb to rise up to the store.

Comm. Elkins: That is not just the primary but also the only entrance. When this is all said and done, how does your client stand with respect to the parking requirements? Do you have more or fewer or just about right?

Mr. Petersen: Staff had the parking consultant check it, and we have fewer spaces than code would require but more than we have today. The city consultant looked at the traffic and took into account the cross-utilization. We had to reconfigure spaces and were able to make the parking lot more efficient.

Comm. Elkins: You said you have less parking than is required, but apparently, we have the authority to allow you that variance.

Mr. Petersen: Yes, sir.

Comm. Elkins: This leads up to my concern. One of the things that has always struck me about the efficiency of this center is that the only way to get from the parking lot to Hen House is for folks to walk in the

parking lot. There is not a pedestrian path from the parking lot to the store except for the middle of the lot. Can you comment on that observation? This is the opportunity for us to address hangovers from when the center was first built, but can you comment on the thought of getting pedestrians from the parking field?

Mr. Petersen: It's a balance. The more pedestrian ways you put in, the less parking you have. We haven't found it to be an unsafe condition. We have put in designated pedestrian ways to cross the main drive aisle. We did the best we could, given the circumstances.

Comm. Elkins: I was hoping you would tell me you had lots of extra parking spots, but the facts are the facts. That is the concern I have and the one design flaw I had hoped we would find a way to resolve. From personal experience, walking down the middle of the asphalt is an adventure sometimes. It sounds like there's not much you can do about it.

Mr. Petersen: There is only so much you can do without starting over and scraping. Other than those stipulations we talked about, staff is supporting the plan. I feel like it ended up being a good plan.

Comm. Pateidl: We've heard Mr. Petersen's comments about shade trees versus ornamental trees. What's staff's position on that particular subject?

Mr. Coleman: The ornamental trees are small shrubs that will grow 15-20 feet tall. They produce red fruit that birds love. They're a nice ornamental tree in a landscape area, but we feel they're inappropriate for landscaping in a parking lot. They don't have the longevity that the shade trees would if they were oak or maple that could live 30-40 years. These will live 15-20 years, which is not long for a tree.

Comm. Pateidl: We have a stipulation that provisions be made to maintain the landscaping and the grounds once it's completed. If those trees die, they would have to replace them.

Mr. Coleman: Right, but they aren't the same size and don't provide the same amount of shade.

Comm. Pateidl: I think Mr. Petersen's argument, particularly with respect to the importance of the height of the tree as it relates to the functionality of the lights is valid. I see difficulty with a shade tree growing around a light fixture.

Mr. Coleman: The crown of these trees will be the same as the light poles; whereas, if you had oak or other larger trees, they would grow up, and you could limb them such that the light could not interfere.

Comm. Pateidl: You'd be 20 years down the road.

Mr. Coleman: That's how we plan: 20 years down the road.

Comm. Pateidl: But between now and then, branches of trees will block out that light.

Mr. Coleman: You will have that light with the ornamental tree all the time because it will never grow above the light.

Comm. Roberson: I only see one ornamental tree in this plan. Ah, found it. Would you have a problem with the redbuds?

Mr. Coleman: If they're in the parking lot islands.

Comm. Elkins: I would pose the same question to staff. There has to be some way to get pedestrians from the parking lot to Hen House. I'm not as creative as I could be.

Mr. Coleman: The only way to do it would be to widen the aisles and put a sidewalk between the two places the cars are parked, similar to what Church of the Resurrection did. Of course, they had lots of room, and this would reduce the parking spaces even more.

Comm. Elkins: How far under the requirements are they at this point? Is it 10-15, or are we talking 30-40?

Mr. Coleman: It's not a lot.

Comm. Elkins: It seems to me that even if you could put one of those sidewalks in, it would help. Perhaps it's a little offset, but on the row that's closest to the front entrance, it at least gives a chunk of your patrons a safe place to walk.

Ms. Kriks: They are about 190 parking spaces shy of the minimum parking requirement.

Mr. Coleman: That's my error.

Comm. Elkins: I'm surprised the requirement is for that many parking spots. I can't imagine 190 would ever all be used.

Ms. Kriks: It has to do with the fact that it has a lot of mixed retail, and the LDO requires 3 ½ parking spaces per square foot of retail space. Then the restaurant has one space for every two seats.

Comm. Elkins: Thank you. This is just really unfortunate.

Comm. Pateid: Between the Preliminary Plan approvals we went through and this, what has prompted the requirement for the tabletop?

Mr. Klein: I know the applicant indicated it was discussed a lot at Preliminary Plan. At that time, you are approving the use and the general layout as far as traffic circulation and locations of the drive. We generally have stipulations that pedestrian crossings should be demarcated from the vehicular pavement, but the details surrounding those get approved at Final Plan. Staff wasn't really looking at the detail. We may have said we prefer brick pavers, but we don't get into depth on the subject until Final Plan.

Comm. Pateid: Were Mr. Petersen's comments regarding the tabletop at the south exit with cars potentially scraping and the exit for Tide laundry accurate?

Mr. Klein: I have not heard that comment before. I know we have tabletops, like Michelle mentioned, at Town Center Plaza. I haven't heard any comments like that.

Comm. Pateid: I think there is one at Macy's.

Mr. Klein: I think they are at the intersections at the cut-throughs as well.

Mr. Petersen: The ones at Town Center are long; these are speed bumps. They're up and down.

Comm. Ramsey: What you're describing is technically termed a speed hump and not a speed bump because they go for the length of the car. That is what people prefer to put in today because the speed bump does more damage.

Mr. Petersen: We just heard about the speed tabletops. We did talk about the demarcation at Preliminary Plan. They paid enough attention to it that they advocated pretty strongly for brick pavers. It's a tough design, particularly at those two ends, and we have the plate at the entrance of Hen House. Then factor in the maintenance. We think it's a reasonable request to not use those.

Comm. Ramsey: Is this a Public Works requirement?

Mr. Ley: Planning, but Public Works supports it.

Comm. Ramsey: Are these calming devices more like a speed bump or more like the design in Town Center?

Mr. Ley: I think what they're looking for is a raised intersection, which is more like what they have at Town Center. It comes up 5-6 inches and is 20 feet long. There is about a 6-ft. transition from the existing roadway up. We're getting ready to install a few of them on 87<sup>th</sup> Terrace this year.

Comm. Ramsey: So it's a speed hump and not a bump.

Mr. Petersen: The point is the stipulation spoke to these at every pedestrian crossing. Town Center has them at the main entrance, which we have in front of Hen House. That's why we drew them in the way we did.

Comm. Ramsey: I understand the reason you've stated here, but is your client opposed to traffic calming?

Mr. Petersen: No, but given the situation, we think we do have a significant traffic calming device in front of the place that has the most volume. If we're stuck with all the pedestrian areas, we're down in the driveway for Tide. That's part of the balance here. We think we have one with the Hen House platform. Down toward Cactus Grill is head-in parking, which tends to calm traffic down. This is not the situation you tend to see an issue such as Town Center with all the traffic going by or in front of the big box with no parking and people walking right out of the store into the drive. I'm not trying to ridicule staff for suggesting it; I'm say we should look at the circumstances here. It's not so much an expense; we've just had them and they're a bear and don't serve the function they might somewhere else.

Chair Rohlf: Mark, do you think there's a compromise to be made here?

Mr. Klein: I know that Mr. Petersen indicated concern at locating them at all the pedestrian crossings. The way the stipulation reads, "Prior to Governing Body approval, the applicant shall submit revised plans detailing tabletops between the parking lot and the main center." I think it's at certain strategic locations.

Chair Rohlf: I'm not clear what you're asking in this stipulation. Are you giving time to work it out before Governing Body?

Mr. Klein: Yes, we're looking for tabletops between the parking lot and the main center. I don't know that it would have to be at every pedestrian crossing.

Chair Rohlf: You do think there's a compromise that could be reached based on what you've heard the applicant say?

Mr. Petersen: If we could talk about a lower number than every crossing, we can work with staff. That's fair.

Chair Rohlf: That leaves us with the ornamental tree question. Does anybody have an opinion about the ornamental trees?

Comm. Ramsey: With all due respect to staff, the fact that we have trees in there is what's important to me. I'm not too concerned at this point with whether they're shade or otherwise because what's being presented or proposed is going to be better than what's there now.

Comm. Pateidl: Personally, I'd be in favor of removing No. 7 from the plan, which is to change the ornamental trees to shade trees. I think in a practical sense, it's going to be a better product, and I'd like to see some ornamental activity in that center. I think it enhances the appearance. I don't think we have good grounds to mandate shade trees. I would offer to make a motion unless there are other comments.

Chair Rohlf: Mark, the language of Nos. 13 and 15, is that an accurate representation?

Mr. Klein: I believe No. 13 is one we talked about them working with staff. I know they've given us exhibits on which ones they intend to internalize. I believe Henry knows how many will be external.

Chair Rohlf: Should we just modify it to say the applicant will work with staff?

Mr. Klein: Right.

Chair Rohlf: What about on No. 15? Is that the same thing?

Mr. Klein: I think No. 15 is probably fine the way it is with what the applicant has tried to do.

Chair Rohlf: I did reread Mr. Ley's memo, and it looks as if the third section gives the applicant the opportunity to work with staff.

Mr. Ley: I meant to have it to work with their engineer. Maybe the wording should be "The sidewalk along Town Center *should* . . ."

Mr. Petersen: That would be fine.

**A motion to recommend approval of CASE 17-14 – CAMELOT COURT – Request for approval of a Revised Final Plan, located north of 119<sup>th</sup> Street and east of Roe Avenue – including Stipulations 1-26 as modified with the removal of No. 7 and change of language to No. 13 to read, "The applicant shall work with staff."**

Mr. Petersen: Point of clarification, please. We did work with staff. I thought we were going to put in the exact numbers closed and open in the stipulations.

Mr. Klein: What they've shown on the plan is acceptable; it's just with the stipulation as it's currently written, it sounds like they'll internalize everything. I don't think there are many left.

**Motion amended to: Stipulation No. 13 shall read, "The downspouts shall be enclosed as shown on the plan." Stipulations reordered accordingly; seconded by Roberson.**

Comm. Elkins: I commend the developer for improvements made on Camelot Court, and it has a lot to be said. I continue to believe the design suffers from a fundamental flaw that impacts the safety and welfare of the public. I continue to maintain that this is our opportunity to fix the flaw of the pedestrian hazard of

getting from the parking lot to the major tenant in the space. As a city, we shouldn't miss the opportunity to fix that design flaw.

**Motion passed with a vote of 4-1. For: Levitan, Pateidl, Roberson and Ramsey. Opposed: Elkins.**

CASE 20-14 – PARK PLACE – THE RESIDENCES POOL – Request for approval of a Revised Final Plan, located south of Town Center Drive and east of Nall Avenue.

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 20-14 – Park Place – Request for approval of a Revised Final Plan for the Residences Pool. The applicant is proposing a zero-entry pool that shall be perpendicular to 115<sup>th</sup> Street, a cabana at the south end of the pool, barbecue areas on either side of the cabana, a concrete deck and a 6-ft. black aluminum fence. The pool is proposed to be a maximum of 4 feet in depth and shall be 24 feet wide by 39 feet, 39 inches in length with a concrete deck surrounding the pool. The cabana shall be located south of the pool and would include restrooms, equipment storage and a canopy covering a portion of the deck. The cabana is said to be constructed of stucco, tile and brick. On either side of the cabana, built-in gas grills are to be placed with wood trellises over them. The applicant is proposing a combination of shrubs and flowers to be planted behind the grills. The applicant is also planning to erect a 6-ft. aluminum fence that is proposed to extend into the green space between the Residences buildings. Staff recommends approval of Case 20-14 with the stipulations outlined in the Staff Report. I'd be happy to answer any questions you may have.

**Applicant Presentation:**

Jeffrey Alpert, Park Place Residences One, LLC, 11551 Ash Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Alpert: Bill Prelogar is with me this evening with NSPJ architects, and Judd Claussen is our civil engineer with PEI Engineering. You may recall that we were actually here to get approval for the Park Place Residences approved a little over a year ago. Since that time, we determined that a storm sewer line we originally thought we could move in order to get the pool in as originally designed we could not do in a feasible way. The pool originally ran east-west parallel to 115<sup>th</sup> Place. In order to accommodate this existing condition, we rotated it 90 degrees so it runs more north-south. The cabana building that was designed to go in the pool area has not changed from the original plan. (*Shows plan designs on overhead*) The only other significant change from the approved plan was we expanded the fence out to include a little bit of grass area around the perimeter of the pool deck in order to provide additional area for our residents to enjoy the pool. The idea is that it is as open as a pool fence can be. It is designed to a wrought iron style open fence with very narrow pickets to visually connect the grass inside the fence with the grass outside the fence and hopefully not diminish the effect.

Chair Rohlf: How do people get to the pool?

Mr. Alpert: The cabana on the south end; there is a gate on either side. It is access controlled with the same for the resident uses to gain access to the building. This pool area is about 35% smaller than our competition at Mission Farms at Highland Village on the west side of Roe. We feel it is important to try to enclose a little more area within the fence to accommodate our residents. I'd be happy to answer any questions.

Comm. Roberson: How are you going to screen this from Town Center Drive?

Mr. Alpert: North of the oval sidewalk that defines the edge has a lot of screening along Town Center Drive.

Comm. Roberson: It looks like grasses and something.

Mr. Alpert: The perimeter landscaping we have established all around Park Place goes along that street. It's consistent all the way around the perimeter.

Chair Rohlf: Nothing has been added?

Mr. Alpert: I believe we added the two barbecue areas. That is one other slight change.

Chair Rohlf: Are those gas grills?

Mr. Alpert: Yes.

Comm. Ramsey: Are you in agreement with the stipulations?

Mr. Alpert: Yes.

Mr. Ley: I have a requirement that the pool had to be 5 feet from the storm sewer pipe. Stipulation 1B needs to have ". . . or provide an encasement on the storm sewer pipe."

Mr. Alpert: I believe we're 5 feet away.

Mr. Ley: If they're 5 feet away, it's fine, but if not, they would need an encasement on the pipe.

Mr. Alpert: We'd be happy to comply with that request.

**A motion to recommend approval of CASE 20-14 – PARK PLACE – THE RESIDENCES POOL – Request for approval of a Revised Final Plan, located south of Town Center Drive and east of Nall Avenue – with Stipulations 1-17, modifying No. 1B as proposed by Mr. Ley – was made by Elkins; seconded by Roberson. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

CASE 35-14 – LEAWOOD DEVELOPMENT ORDINANCE TO SECTION 16-4-12.3 WIRELESS COMMUNICATION TOWERS AND ANTENNAS: SPECIAL USE PERMIT REQUIRED – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to one year extensions of Special Use Permits for wireless communication facilities. **PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 35-14 – Leawood Development Ordinance to Section 16-4-12.3 – Wireless communication towers and antennas – Special Use Permit, specifically for legal, non-conforming towers. As you recall, in April of 2012, we had an LDO amendment that allowed a two-year extension to allow staff to work with the tower owner and the owners of the antennas to work out a solution to this tower are 135<sup>th</sup> and Nall Avenue. They have provided a report to us; however, in order to further analyze this report, we would like to propose this amendment that would allow a one-year extension as recommended by the Planning Commission and approved by the Governing Body. That is really what this LDO amendment is about. Staff is supportive of this application, and I'll be happy to answer any questions.

Comm. Elkins: I am resisting the urge to say, "I told you so." I would ask staff, without getting in the details, if you could give us a little more of a status report. We made it very clear to the owner of the tower and to the licensees of the antennas that this needed to be addressed. We gave them two years to do so, and they're not even present tonight to support you in asking for an extension. I find that disappointing. I am curious; as an example, how long have you had the report?

Mr. Coleman: After the last request, some time went by before we got an indication from the applicant about what they were doing. They were trying to get all the carriers on board to conduct the studies. I think that took them about a year just to do that. We continued to inquire about their status, and we met a couple times with them about the study. This past year, I can't tell you when each carrier began their study. They were all doing them independent of each other. We received the study in October. After this, we reviewed it. There were some generalities in it. We inquired with some engineering firms about reviewing the study. It is a tight community, and there was some difficulty. We contacted numerous consulting firms about this, and we got various responses on it. It would be possible that we might engage a consultant to do the review. None of the staff is RF experts or telecommunications experts. We have reviewed it. The indication from that study is there could be some modifications to the tower; though, it looks difficult or near impossible for the tower to come into conformance with the current LDO. One, in particular, is because of the height and the setback requirements for towers in Leawood. Right now, we're still reviewing it and trying to work with them and get to a point where we can come to an understanding about how to address these issues.

Comm. Elkins: I would just note that we made it clear to the carriers, and at least one carrier committed to us that they would spend time with us in work session context or seminar context to explain to us why technology was not improved. Here we are, one year and 11 months later, and they may have been working with staff, but it hasn't progressed to the point where we've had that opportunity. I agree that we don't have a choice but to kick the can down the road. My request is that we need to have a dialogue that is more than a Tuesday night in the context of a new SUP about the long-term technology plans, etc., for telecommunications within Leawood. I understand we have to respect federal law, but that doesn't permit them to refuse to have that dialogue with us. Thank you. I appreciate what staff has done and that you are here without those who will benefit.

Mr. Coleman: There has been some progress made. We know more than we knew a year ago. I think, although it's been excruciatingly slow, we are making progress and hopefully will be able to have more information and more dialogue in the future.

Chair Rohlf: Could we legally enforce the removal of this tower if we did not grant this extension?

Ms. Shearer: This is hard for me to answer on the record because there are a lot of attorney-client privilege conversations going on regarding this issue. There are some new nuances in federal law that could complicate that. Like I said, this is hard for me to elaborate on, but we could do that in an attorney-client session sometime.

Chair Rohlf: I'm just wondering what the motivating factors would be for them. If they know there is nothing that can truly be done, what is their real motivation to change anything?

Ms. Shearer: I understand your question, but I do not feel comfortable answering that on the record at this time.

Comm. Pateidl: I would certainly amplify your concerns and Commissioner Elkins' concerns. I would love to see a way we could send a clear message to the various parties involved that we're dead serious about this. If we could set milestones, we should. I realize we'd have the most convoluted LDO in the world if we tried to do it, but I would very much like to have a strong and clear message sent that patience is wearing thin

here. At some point in time, we have to address it. This is very disappointing. We gave them 24 months, and we're looking at another 12 months. I have no expectations that anything substantial will be resolved.

### **Public Hearing**

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

**A motion to recommend approval of CASE 35-14 – LEAWOOD DEVELOPMENT ORDINANCE TO SECTION 16-4-12.3 WIRELESS COMMUNICATION TOWERS AND ANTENNAS: SPECIAL USE PERMIT REQUIRED – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to one year extensions of Special Use Permits for wireless communication facilities – was made by Ramsey; seconded by Roberson. Motion passed with a unanimous vote of 5-0. For: Levitan, Pateidl, Roberson, Elkins and Ramsey.**

Comm. Roberson: I think it should be stated that neither the owner of the cell tower or the antennas showed up.

Ms. Shearer: I'd let the City Attorney know that in an email.

Chair Rohlf: Are they working with a consultant, or are they doing this individually?

Mr. Coleman: Polsinelli is the attorney for Crown Castle and has gotten a lot of the carriers together, has gotten them all to agree to do the studies, but they're doing them individually because they have their own individual interests in their antennas on the tower. We have been looking at consultants, yes.

Chair Rohlf: I didn't know if there is a consultant acting on behalf of all of them or if they're on their own.

Mr. Coleman: They're each individual, yes.

*MEETING ADJOURNED*