

**City of Leawood
Planning Commission Agenda
September 23, 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, Jackson, Williams, Elkins, Strauss, Ramsey, and Walden.
Absent: Roberson

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

Approval of the minutes from the September 9, 2014 Planning Commission meeting

A motion to approve the minutes from the September 9, 2014 Planning Commission meeting was made by Jackson; seconded by Elkins. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CONTINUED TO OCTOBER 28, 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 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**

CASE 76-14 – PARK PLACE – UMB BANK AND WORK/LIVE UNITS – Request for approval of a Final Plat and Final Plan, located north of 117th Street and east of Nall Avenue.

CASE 112-14 – VILLAGE OF SEVILLE – DISCOUNT TIRE – Request for approval of a Revised Preliminary Plan and Final Plan, located north of 133rd Street and west of State Line Road. **PUBLIC HEARING**

CASE 131-14 – TOWN CENTER PLAZA – RESTORATION HARDWARE – Request for approval of a Revised Preliminary Plan and Final Plan, located north of W. 119th Street and west of Roe Avenue. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 135-14 – TOWN CENTER PLAZA – HANNA ANDERSSON – Request for approval of a Final Plan for a Tenant Finish, located north of W. 119th Street and west of Roe Avenue.

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

NEW BUSINESS:

CASE 121-14 – CHURCH OF THE NATIVITY – PLAYGROUND – Request for approval of a Revised Final Plan, located north of W. 119th Street and east of Tomahawk Creek Parkway.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 121-14 – Church of the Nativity. The applicant is requesting approval of a Revised Final Plan to revise the playground for Church of the Nativity Elementary School. The applicant has worked hard to develop a revision to their playground equipment. Some equipment will remain, including the swing sets along the north end of the playground. A number of other structures are proposed. The applicant has also provided a number of supporting materials indicating that it does meet the fall zones with regard to federal requirements. One of the pieces of equipment is 18 feet, 5 inches. Unfortunately, there is a 15-ft. height limit on accessory uses. Currently, the Staff Report recommends approval of the application with a stipulation with regard to the height requirement.

Chairman Williams: You refer to American Society for Testing and Materials [ASTM] and Consumer Standards, which are not Planning Commission issues. Is there a particular reason it is in here?

Mr. Klein: It is required to show that they meet the safety requirements of those two organizations.

Chairman Williams: Does anyone have questions?

Comm. Pateidl: In addressing the height issue, the slide is proposed at 18 feet with a limit of 15 feet. Just to be clear, this is an area where the Planning Commission does not have the authority to grant a deviation; is that correct?

Mr. Klein: At this point, there is no deviation offered through the Leawood Development Ordinance.

Chairman Williams: Any other questions of staff? We'll hear from the applicant.

Applicant Presentation:

Dan Koenig, Business Manager at the Church of the Nativity, 5931 W. 152nd Terrace, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Koenig: Thank you for the opportunity to appear tonight. As you know, we're directly east of here with an existing playground we would like to enhance. Playground equipment has changed dramatically over the last several years, including more exploratory, hands-on apparatuses that encourage children to play in much different ways than they have in the past. Children of all ages can continue to be challenged over time as their abilities change with their age. We were told as long as we met the federal standards, we were good to go. Then on Tuesday of last week, we learned of the height restriction. We would request that you approve the pieces below the 15 feet and then work with us at some point in the future to obtain a variance or to help us rewrite the LDO to accommodate an 18.5-ft. structure.

Chairman Williams: How does the height difference affect your structure overall?

Mr. Koenig: (*Shows images*) Changing the size of this structure also changes how it connects to other pieces. It's a critical part of the overall layout. It has an effect on the planning of connecting pieces. At the 18.5-ft. level, no child can get up and climb; it just happens to be the top of the tent with a net structure below it. We don't envision any children at that height, and even if they were, the fall height on this by the way it is designed is just a bit over 6 feet tall.

Comm. Elkins: Mr. Koenig, are you effectively modifying your proposal here to strike the larger structure, with the idea that you will come back after hopefully advocating a change in our ordinance so you can add that structure?

Mr. Koenig: We are asking for approval of all structures below the 15-ft. level, and then we would come back at a future meeting and ask either for a change in the ordinance or a variance, but I don't think the variance is an option.

Mr. Coleman: Staff is not opposed to a taller structure at schools, but currently, the LDO doesn't differentiate between a single-family residence and a school.

Comm. Elkins: It appears that we are removing the larger structures for approval tonight.

Mr. Koenig: Correct; we would request approval of all the proposed structures below 15 feet, and we will come back to you on anything greater than that.

Chairman Williams: You'll build those structures and then come back?

Mr. Koenig: We'll have to regroup on that based on learning about the height restriction last week. These pieces do connect, so we want to be careful. We also realize this is a considerable investment that will last over time. We want to make sure we get it right now, knowing the pieces will be in place for years to come. If it requires a bit of a delay to change the height requirement in the LDO, it is what we are willing to do.

Chairman Williams: Are you asking for a change in the language of the stipulation, then?

Mr. Koenig: I'm going to look to staff on that one.

Mr. Klein: They are willing to accept it, and they will put in the ones that meet the height requirement. Then they will come back if the LDO gets amended and request the taller structure.

Comm. Elkins: Is it at all practical to simply remove the tee pee part of the larger structure and put it on later if you got the approval you needed?

Mr. Koenig: Maybe the tee pee is a bad analogy. The taller structure is a tubular frame with pre-manufactured modules that hold what we will call steel climbing nets. The entire structure and all components would have to change in size. There is no modification available with this piece of equipment. This is the new playground equipment you will soon see at playgrounds all around because the science of children playing on playgrounds has developed over the last several years.

Comm. Elkins: I was just trying to see if we could find a way to get the majority of the structure put up.

Mr. Koenig: We could probably fit in a smaller piece, but it would cause us to go back to the drawing board on all the other pieces as well.

Chairman Williams: Should the stipulations remain as they are?

Mr. Klein: Since there is no deviation available, it will remain the same. If the LDO is changed, they can come back.

Chairman Williams: They could still build the other pieces?

Mr. Klein: Yes, the recommendation for approval is for all equipment that meets the height requirement.

Chairman Williams: You're good with the language?

Mr. Koenig: We are. We're disappointed in the height requirement. We understand, but with the rest of the pieces, we are good. Even if you approve it tonight, we will probably hold off on our end until we can get the LDO changed because this is our desired overall plan, and it is our goal to eventually build it.

Comm. Strauss: Mark, do you know the federal height limit?

Mr. Klein: I do not.

Mr. Koenig: We've all gotten advanced degrees in playground equipment over the last six months. I can tell you I don't know what the federal height requirement is, but I've never seen a height requirement in any materials. I've seen fall height and fall zones, but I've never seen a height requirement.

Comm. Strauss: Is the fall zone only 6 feet because the netting is catching people?

Mr. Koenig: Correct; a person could only fall to the level below.

Comm. Levitan: Is this the same structure that Overland Park put in on 87th Street?

Mr. Koenig: I don't know. I know the City of Grandview just invested in this system to a much larger scale. In fact, I believe one of their pieces is 35-45 feet tall and much broader. There is another one in Lee's Summit. These are literally just now coming to the United States.

Chairman Williams: I believe our hands are tied, and we appreciate your understanding. If there are no other comments, we appreciate your presentation and will be cooperative to help you along the way.

Comm. Pateidl: Mr. Coleman, you made the statement that the Planning Department does not object to this height for schools and playgrounds. Candidly, I think it is a wonderful thing you are trying to do for the school, and I am disappointed as well that we're caught in this jurisdictional issue. I understand there is a process to get to a change in the code. How quickly can we address this matter, and how does that impact your lead time on ordering and installation?

Mr. Coleman: I think the earliest would be October 28th, going to City Council in November.

Mr. Koenig: Our lead time is 12-14 weeks in terms of placing an order and having construction finalized. We would love this to be available for the next school year. We agree to be patient because we want it right the first time.

A motion to recommend approval of CASE 121-14 – CHURCH OF THE NATIVITY – PLAYGROUND – Request for approval of a Revised Final Plan, located north of W. 119th Street and east of Tomahawk Creek Parkway – with 5 Stipulations - was made by Elkins; seconded by Strauss. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 119-14 – CITY OF LEAWOOD SELF-PROPELLED LEAWOOD – A PEDESTRIAN AND BICYCLE MASTER PLAN, Request for approval a Pedestrian and Bicycle Master Plan for the City of Leawood.
PUBLIC HEARING

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 119-14 – Pedestrian and Bicycle Master Plan. Brian Anderson is the Parks Superintendent, and he will further address the proposed plan.

Brian Anderson, Parks Superintendent, appeared before the Planning Commission and made the following comments:

Mr. Anderson: For the past four years, I've been the staff liaison to the Bicycle Friendly Committee. In 2012, a project was directed to the committee to develop a Master Plan. Through 2012, the committee, along with the Planning Department, Public Works, the Police Department and Parks and Recreation interviewed consultants to do this plan. We unanimously selected RDG Planning and Design. One of the first things they recommended was that we form a Steering Committee, and the Mayor did that by appointing everyone on this Selection Committee as well as some outside folks with expertise. Some of those members were a bike shop owner, a design-build contractor, a large retail shopping center manager and a school district building and grounds superintendent to provide feedback and guidance to the consultants. We had seven goals for this plan to accomplish:

1. Increase the number of people who walk and bike for transportation recreation.
2. Improve bike and pedestrian access to key community destinations like schools, parks, public buildings and shopping centers.
3. Improve access to the trail system by providing neighborhood connections to that system.
4. Use walking and biking to become part of an effort to create sustainability and the way Leawood is viewed as being a sustainable community.
5. Be recognized by the League of American Bicyclists as a gold-level bicycle friendly community.
6. Increase safety on the road for motorists, pedestrians and bicyclists alike.

7. Capitalize on the development benefits of destination-based active transportation.

I was just at a conference last week, and a gentleman from a small rural county in southeastern Kansas talked about what they are doing to become more attractive to service providers they are losing because they don't have that going on. They interviewed dentist graduates from UMKC School of Dentistry, and they heard them ask over and over if the town has bike or walking trails, disc courses or an off-leash dog park. These are things everybody is expecting. Active transportation will keep Leawood highly desirable for people to live, work and recreate.

Marty Shukert is here from RDG Planning and Design. As far as the bike routes, he literally rode every street in town to come up with good alternatives, using less busy residential streets to provide a path for non-confident riders or families to parks, school and shopping centers. The principle corridors are mainly north/south and busier streets that will quickly get people through town. Cross-town connectors are east/west. Bike boulevards, trails and neighborhood connectors will be for leisurely riders. On the pedestrian side, RDG did a complete inventory of the city that shows gaps in the sidewalk system, maintenance needs and also ADA issues. The proposed recommendation for implementation over time offers ways to build the system over ten years.

Marty Shukert, RDG Planning and Design, appeared before the Planning Commission and made the following comments:

Mr. Shukert: I would like to identify a few highlights. Everyone has been supportive of this entire effort to develop and plan an active transportation program. The basic system identified in the plan is a complete transportation system. Routes identified as bicycle routes are not just that; they also are primary pedestrian routes, too. The system includes three different situations: longer, destination-based routes, cross-town routes and recreational routes. The trail network is utilized extensively. The plan identifies phasing, potential cost and design standards. This includes state-of-the-art design practices and solutions to specific issues, such as making the area around Town Center Plaza more pedestrian friendly and linking it to the trail system. It looks at individual issues with eccentric street crossings and other kinds of potentially hazardous conditions. Our hope is this plan will serve Leawood well for years and will point the way toward active transportation a much more integral part of the transportation network.

Chairman Williams: I may have missed this, but how does the system interweave with the 135th Street Plan?

Mr. Anderson: I know that part of the 135th Street Plan is recognizing 135th Street is a tough area for biking. The plan will use the parallel streets of 133rd and 137th to access the district.

Mr. Shukert: There are ideas for crossing 135th. The main movement we anticipate for pedestrians and bikes will be to cross the street from the north to the south side. It includes such elements as crossing medians. A difficulty of crossing a street of that width is the simple width of the street. It's hard to have a signal cycle that is long enough for pedestrians to walk across comfortably. Intermediate medians would allow pedestrians to cross safely. 133rd and 135th were designed as complete streets with bike lanes, and they serve the function of getting people to various destinations on 135th Street. 135th itself will be primarily a vehicular street, but it doesn't mean the entire corridor is unfriendly to pedestrians.

Chairman Williams: We certainly hope it is friendly to pedestrians and cyclists.

Comm. Pateid: I, too, applaud the plan. I think it adds to the recreational benefit of the citizens of the city. What disappointed me was the lack of recognition of the responsibility of the bikers to the remainder of the citizens. If we're going to have more bikes on streets, do we not need signage or ordinances and enforcement to where it is not abused? 90% of the riders who responded said they ride for recreation, and

this can result in issues. I believe if we are going to invite the activity, those who participate have a responsibility to themselves and to the rest of us.

Mr. Shukert: The last chapter addresses those issues. You make an excellent point. In the various components for qualification for a bicycle friendly community, education and enforcement are of equal importance to engineering. A plan like this gets into the streets and the features of the physical environment, which are important elements. One of my pet peeves is that it is common to see bicyclists riding on the wrong side of the street. They were told as children that they should walk on the left side if there is no sidewalk. If you are a bicyclist, you are on a vehicle, and vehicles should behave like vehicles. It is a matter of education, and those require efforts by the bicycling community. Bicyclists riding 4-5 abreast are discourteous. The point we try to make throughout is that every bicyclist is an ambassador, representing the entire community. On issues of enforcement, law enforcement should give tickets to cyclists who are violating traffic laws, just as they would to motorists. We have found that the more people out there, the better the compliance with the laws is because people follow other people.

Comm. Pateidl: You've made my point very well. What I would like to emphasize is the need to integrate and to focus on that part of our plan as much as we do the streets, signs, etc.

Mr. Anderson: To further address your comment, we on the Bicycle Friendly Committee feel the same way. The difficulty for the officer at the time of enforcement is the bicycle is a motor vehicle; therefore, they get the same fee or fine for not stopping at a stop sign. The officer at the time decides to give a warning because it is so much money. We discussed an education program to serve as diversion or get the ticket in the full amount.

Comm. Pateidl: Or make some reasonable ordinances.

Chairman Williams: Along with the educational component, it is educating the motorists that the cyclist is entitled to be there as well as educating the cyclists. Both sides need to learn to share the road.

Mr. Shukert: To paraphrase Robert Frost, "Good behavior makes good neighbors."

Comm. Jackson: One of the goals is safety, as it should be. How do you determine if the city will track number and location of accidents to see if the system is working as you hope?

Mr. Anderson: That is part of the program for the bicycle friendly community recognition. We hope to evaluate and track the improvements. The Mid-America Regional Council has some measuring devices that they will allow communities to use. At an intersection of concern, we can use these to discover if more people are riding. The Police Department tracks accidents.

Mr. Shukert: It is interesting that the greatest safety measure that can be taken in terms of reducing crash rates per person is more people walking and biking. There is safety and strength in numbers. Something going on in Leawood is a walking school bus which is an event when parents walk a group of 30 kids to school, which creates a more visible group of pedestrians and makes it safer.

Comm. Jackson: Does the city have an idea of where to work first? Is it to try to go to the schools first to try to get kids walking and biking?

Mr. Anderson: On the Sustainability Advisory Board, we are actively going out on the National Walk or Bike to School days. We are getting more kids walking and biking on those days. For example, Mission Trail is one we are seeing much more use on a regular basis. If you go down Mission Road now, you will see more bikes at the bike rack. In our plan, Marty's team has addressed ways to make the campus friendlier to

pedestrians and bicyclists. It is also a combination of looking in the Capital Improvements Program and perhaps making some adjustments to the budget to start adding in some of these elements.

Comm. Jackson: What is your feel for Governing Body's willingness to add in complete streets and walking paths?

Mr. Anderson: I know so far, we have two council members that are on the Steering Committee, and they've been very positive about this. We had a work session with City Council. We presented the plan to-date, and we felt that there would be concern with the budget impact but that it was well received.

Comm. Jackson: I really applaud this program. I think it's well done and in-depth. This will also maintain property values in the area. People moving in want to see those trails. They want to see they can bike. Thank you.

Comm. Strauss: I enjoyed skimming through this also. I wish there was an executive summary. This leads to the question of how we educate people of this plan and what is in it. Additionally, how will residents know the plan is being implemented?

Mr. Anderson: We have been disseminating the plan at the annual Homeowners Association meeting at Ironwoods. We invite every officer from every HOA to that meeting, and we will continue to address this every year. Our hope is that they will take the information back to their residents. Another options is to put the plan on the city website or e-blasting.

Comm. Strauss: My point is that I think it is important to make the residents aware in a format that is reader friendly summary. I also would like to hear what coordination you have made with Overland Park.

Mr. Anderson: We know Overland Park started their bike plan. Marty looked at any preexisting information that our connecting communities have, and I have shared our bike plan and the system with Overland Park. Additionally, Mid-America Regional Council is doing a regional Bikeway Plan of the seven counties of the metropolitan area. Our potential system is very much in line with what they are developing.

Mr. Shukert: We were a little ahead of Overland Park in the process, and our friendly competitors with Tool Design Group are doing Overland Park. We sent them a copy of the document in an earlier form that they could use to coordinate with their plan. There has been coordination both on a governmental and consultant level.

Comm. Strauss: I also really wanted to bring up the importance of monitoring the plan. It sounds like the Bicycle Committee will regularly monitor the plan, and I would love for the Planning Commission to get updates on some regular basis. I'd love to see monitoring of the success of the plan.

Mr. Anderson: That is great because it keeps the plan from being shelved and from being a document that we keep referring to.

Chairman Williams: The updates to the Planning Commission are very valuable as the city finishes its build-out.

Comm. Elkins: I agree with all the comments by my fellow commissioners. I have a few concerns that dig deeper into Mr. Pateidl's concerns. We've talked a lot through the process about the way to prevent motor vehicle and bicycle/pedestrian conflicts. I would like to know how the plan addresses the prospects for pedestrian/bicycle conflicts. In particular, the multi-use trails appear to be the most likely place of risk.

Secondly, in those places where the risk of pedestrian/bicycle conflict exists, what design elements do you contemplate to address these conflicts?

Mr. Shukert: That's a great question, and it is a problem that is getting worse nationwide. Trails attract a lot of people moving at different speeds. There is a lot of message reinforcement that needs to happen along trails. We have developed a series of friendly signs that remind people of trail etiquette. They help to reinforce. There are parts of the trail in Leawood that will split for cyclists and pedestrians. Also, a better minimum standard width is 10 feet up to 14 feet. Once the trail gets too wide, though, it starts to attract motor vehicles. Often, one of the better ways to do it is to split the trail and add a bit of a median.

Comm. Elkins: I know some are uncomfortable on the trails because of potential conflict. Are those thoughts around design elements that reduce conflict captured in the plan?

Mr. Shukert: Yes, there are standards or at least references in relation to the trails, which is really where the main issue is. It calls out a need to look at separating bicycle and pedestrian tracks in high-traffic areas. From a bicycle planning point of view, I am in favor of paths of least resistance, which means not forcing bicycles onto major streets but rather find continuity of local streets that have very little traffic. The bulk of this system as it relates to bicycles in particular is to find other routes that are non-threatening but low traffic. Speed differentiation can cause a conflict with cyclists. Cyclists ought to be using the street system, which is geared toward low speeds.

Mr. Anderson: I'm hearing more from folks with conflicts, but what will help on our trail system is cutting brush back, increasing visibility. We would like to put up courtesy rules and perhaps paint a lane on the turns.

Comm. Elkins: We've talked a lot about education and enforcement, but people will be people, so to the extent that we can design and construct pathways that reduce these conflicts, we will be better off. I had the opportunity to spend time this summer in the Nordic countries with a high volume of bicycle traffic. In our design here, we largely demarcate the bicycle lines with painted lines. As our population in Leawood ages, spatial differentiation and depth perception begin to deteriorate. In some of the cities I visited, there is a curb between the street and the bicycle lane. I can see some huge headaches with dealing with two sets of curbs, but from your perspectives, are there merits to such a system?

Mr. Shukert: You're right that these systems in Amsterdam and Copenhagen have a lower curb and an upper curb. That has been done in rare places in the United States mainly because the streets were really not particularly built for it. What has become very popular as an American response to that is the concept of either buffered bike lanes or a cycle track. Buffered bike lanes are a conventional bike lane with a 3-ft. strike buffer between the travel lane and the bike lane, increasing the safety margin. The cycle track is a bit different in that it is a buffered facility that is much like the lowered curb level, but it is still at grade. The difference is that there is some sort of vertical separator. In some cases, it is a raised median; in other cases, it is a rubber bollard that will not wreck a car. Those should be considered in Leawood, but the bulk of our system is on very lightly traveled streets.

Chairman Williams: Any other questions or comments? 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 Jackson; seconded by Ramsey. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

Comm. Elkins: Mr. Strauss made an important point that a plan such as this fits the category of a comprehensive plan. I would join my other commissioners in applauding the depth of analysis that went into it. As with any plan, the implementation is the key. One thought I have that I would ask my fellow commissioners to consider is we combine a few processes. It seems like an appropriate place to evaluate plan implementation is around the same time we consider the annual Capital Improvement Program. It would give us a chance to look at street projects that are underway and assure the Governing Body that the projects incorporate some of the thoughts from this plan. One thing we might consider is approving it with either a requirement or a request to Mr. Anderson to participate with Public Works on an annual basis in the work session for the Capital Improvement Plan.

Chairman Williams: Would you like to make a motion and include that?

A motion to recommend approval of CASE 119-14 – CITY OF LEAWOOD SELF-PROPELLED LEAWOOD – A PEDESTRIAN AND BICYCLE MASTER PLAN, Request for approval a Pedestrian and Bicycle Master Plan for the City of Leawood – as an addendum to the city’s Master Development Plan with the provision that Mr. Anderson or a representative of his department join with Public Works at the time of the annual review of the city’s Capital Investment Program to report on the implementation of the Pedestrian Bicycle Master Plan – was made by Elkins; seconded by Strauss. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 132-14 – LORD OF LIFE LUTHERAN CHURCH – SIGN CRITERIA – Request for approval of a Final Sign Plan, located south of W. 135th Street and west of Chadwick Street.

Mr. Klein: As the applicant is not here, we would request to move this case to the end of the agenda.

CASE 134-14 – CAMELOT COURT – REVISED FINAL PLAN – Request for approval of a Revised Final Plan, located north of W. 119th Street and east of Roe Avenue.

Staff Presentation:

City Planner Ursula Brandt made the following presentation:

Ms. Brandt: This is Case 134-14 – Camelot Court Revised Final Plan, located north of 119th Street and east of Roe Avenue. The latest Final Plan was approved by the Governing Body on March 17, 2014 with a Community Improvement District [CID] approved on June 16, 2014. The changes proposed for the approved plan are limited to Buildings H and J. They would like to move the CVS drive-through to a future phase and add a storefront in place of that drive-through. They also are proposing an additional tenant space located on the northeast corner with a tower element to indicate the entry to the tenant space. On Building L, there will be two additional service doors. They would also like to raise the center tower element to further utility screening, and they also like to add awnings for more uniformity of design. On Building M, they are proposing an additional trash enclosure door. They would like to remove the existing trash enclosure. Additionally, they are proposing changing the direction of stairs on a service door and also adding an additional service door to a tenant space. Finally, on Buildings R and S, they are proposing upgrades to all sides of the building. In addition to the building changes, the applicant is also proposing an updated landscape plan. This plan has been updated to correct mistakes made on the approved plan and also to add additional shade trees throughout the site. Staff is recommending approval of Case 134-14 with the stipulations stated in the Staff Report, and I can answer any questions you may have.

Chairman Williams: Any questions of staff?

Comm. Jackson: Ms. Brandt, is the height of the tallest part of this building now higher?

Ms. Brandt: The height didn't change from the plan approved in February. There was one parapet wall raised, but it is at the same level as the one on the south of the building.

Comm. Jackson: So, there is one on Hen House and then CVS will have one also?

Ms. Brandt: No, the parapet change was on Building L, which is the old Earl May building on the north side of the development. They were originally proposing one on the south side that faces the parking lot and then a shorter one on the north side. They are now proposing to raise the north side of the building to be level with the one on the south side.

Comm. Strauss: I'm a little unclear on what the tower element is. Is that just what we just talked about?

Ms. Brandt: The tower element is on Buildings H and J at the northern section of the main shopping center. On the northeast corner, they want to add a tenant entrance onto the back. They will add a façade that matches the rest of the proposed façade for the main center. It is creating a tower element on the corner to indicate where the entrance to the new tenant space is.

Chairman Williams: Any other questions for staff? We'll hear from the applicant.

Applicant Presentation:

David Eskove, Klover Architects, 10955 Lowell Avenue, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Eskove: We were approved last March for Final Plan. Most of these changes have come about through lease agreements through tenants. We have included elevation changes to R and S that were previously not approved. Other changes include a trash enclosure screen door on the back of Building M to match the one adjacent to it. One of the tenants being added is a restaurant, which will create more trash. We have included switching the exit stair for that tenant to include space for a grease interceptor, which was previously not accommodated for. Any questions?

Comm. Strauss: Could you describe the bicycle and pedestrian elements of this plan?

Mr. Eskove: In the previous plan approval, there were bike racks and bike pumps. We have not changed any of those.

Comm. Strauss: Where are the bike racks located?

Mr. Eskove: There might be some, but we did not include the entire approved packet from the last submittal. None of those have been addressed in these changes.

Comm. Strauss: They are part of the previous submittal, but this submittal is only showing changes?

Mr. Eskove: That is correct.

Comm. Strauss: My other concern is the sea of parking. I know we talked last month about the Church of the Resurrection. I like the idea of having pedestrian sidewalks in the sea of parking that would allow people to walk to their destination in a safe place rather than through a parking lot. Was there any consideration of providing a more protected pedestrian corridor?

Brian Forquer, Lutjen, 1301 Burlington, North Kansas City, appeared before the Planning Commission and made the following comments:

Mr. Forquer: To answer the bike rack question, we have bike racks scattered throughout the center at the different buildings around the entrances. Regarding the pedestrian access to the site, we've tried to bring in pedestrian access from all three perimeter streets. We have done it on the main east-west access on the south side. We have brought it in from Town Center Drive to the Tide building, and we have brought it in along 119th Street along the main entrance. Internally, we have not added anything within the parking lot based on the number of parking spaces we have. A lot of these items were addressed during the original Final Plan approval, and in the desire not to reduce our parking count further, we have only put them in those locations.

Comm. Strauss: Is there a reason no pedestrian access is shown on the southeast corner? I know if the pedestrian access isn't put in now, when the future development comes in, there won't be a good connection. Is there a reason there is no pedestrian access along that road or the road that goes down to Waterway?

Mr. Forquer: At this time, the Tomahawk Creek Parkway circular drive was not part of our property. Then the Waterway drive wasn't included in the Final Plan. We have access along 119th Street with the perimeter streets.

Comm. Strauss: Now that we've just adopted this Bicycle and Pedestrian Plan, I'd like to better understand the elements in this plan that fulfill those goals. That's my only specific question.

Chairman Williams: Thank you. Mark, tonight is just revisions to what has been previously approved?

Mr. Klein: That is correct. We tried to limit it to just the changes called out in the Staff Report.

Comm. Strauss: There is not an opportunity to comment on the entire plan?

Mr. Klein: The remainder of the plan remains the same. You have the ability to comment on the overall plan since it is the same as what it was before, but as far as the actual changes, they are only proposing what we have listed in the Staff Report.

Chairman Williams: Thank you. Any other questions?

Comm. Jackson: What is happening with the CVS drive-through?

Mr. Eskove: The CVS drive-through was proposed with a lease with CVS that has not been negotiated as of yet. We are proposing to infill that with storefront until they can reach an agreement on that. They may not, so we would like to put in a storefront and use the square footage for lease space until they can come to an agreement.

Comm. Jackson: Your hope is that CVS comes through and you put in a drive-through?

Mr. Eskove: That would be the ultimate goal, yes.

Comm. Jackson: My hope would be the opposite.

Chairman Williams: Any other questions? Any further comments or discussion?

Comm. Elkins: I would just be remiss if I didn't reiterate the same concern I had when we approved the plan the last time. I challenged Mr. Petersen along the lines that Mr. Strauss mentioned tonight that this is a "once in 25 years" opportunity to modify this very important shopping center to Leawood and to address the sea of parking. It is disappointing that, because of a perception that the only way to get the required parking in place was to not make accommodation for pedestrians to get from the parking lot to the various retail spaces or for bicycle traffic within the parking lot. Again, we approved it before, and I don't know that we have much opportunity to change that tonight. Thank you.

A motion to recommend approval of CASE 134-14 – CAMELOT COURT – REVISED FINAL PLAN – Request for approval of a Revised Final Plan, located north of W. 119th Street and east of Roe Avenue – with 23 Staff Stipulations - was made by Elkins; seconded by Ramsey. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 143-14 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to Distributed Antennae Systems (DAS). **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 143-14 – Leawood Development Ordinance Amendment to Article 9, Definitions. This and the following case pertain to Distributed Antenna Systems. This is a topic we have discussed in a work session that addresses an alternative way of providing wireless coverage. It is currently proposed to be on top of city-owned light poles and also non-city-owned utility poles. This particular application deals with the definition itself within the LDO. The following case will speak to criteria of the Distributed Antenna Systems. The proposed amendment states that a DAS is a network of spatially separated antenna nodes connected to a common source via transport medium that provides wireless service within a geographic area or structure. DAS antenna elevations are generally at or below the clutter level, and node installations are compact. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Chairman Williams: Could you explain the part of the sentence that discusses the clutter level?

Mr. Klein: These are a lower scale wireless antenna system. The height is probably around 30-35 feet, which is below the clutter level. It is to indicate they have separated antennas. The phrasing came from the Distributed Antenna System authorities. Some are here tonight.

Timothy Asta, ExteNet Systems, appeared before the Planning Commission and made the following comments:

Mr. Asta: The term "clutter" is used for tree cover and buildings that we most commonly have in residential and commercial areas. The traditional towers don't necessarily reach below tree cover. Often times, your phone won't work in a wooded area because of this. These sites are getting below these obstructions in order to serve the customer better.

Comm. Jackson: Mark, why is there a difference between city poles and utility poles?

Mr. Klein: The difference is on the city poles, the city has contracts with the DAS providers. In the street light poles, wires can be run up the center of the pole. On a utility pole, it is solid wood and it has to be suspended off.

Chairman Williams: Any other questions? 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 Jackson; seconded by Ramsey. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

A motion to recommend approval of CASE 143-14 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to Distributed Antennae Systems (DAS) – with all Staff Stipulations – was made by Pateidl; seconded by Elkins. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 105-14 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-12, WIRELESS COMMUNICATION FACILITIES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to Distributed Antennae Systems (DAS). **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 105-14 – Leawood Development Ordinance Amendment to Section 16-4-12, Wireless Communication Facilities. As I stated with the last application, this addresses standards that would be allowed for Distributed Antenna Systems. It is divided into two sections. One provides standards for mounting on a light pole and standards for a utility pole. If, for some reason, the DAS does not meet those standards, it would have to be approved through a Special Use Permit just like with any other wireless communication facility. If it does meet the standards, it could be approved administratively through the Public Works Department and a Right-of-Way Permit. I also want to draw your attention to the amendment with regard to this application that included changes after we spoke to the DAS providers. Two criteria changed. The first was with regard to the maximum diameter of the housing that shield the antenna located at the top of the pole. Currently, the maximum diameter is 14 inches; the proposal is to increase it to 16 inches. The reason for the change is that at the top of the housing, the diameter is 13.9 inches; however, it slightly flares out to the widest diameter of 16 inches. The second change is with regard to the total cubic feet allowed for additional equipment. Part of the DAS is the antenna on top of the pole and then pole-mounted radio units. These radio units differ by manufacturer. Some of the dimensions we were given led us to 3.0 cubic feet to accommodate two units. Today, we received additional dimensions that led us to an increase to requesting 3.5 cubic feet. Staff is recommending approval, and I would be happy to answer any questions.

Comm. Elkins: Mr. Klein, the case before us shows both the proposal and part of the current ordinance?

Mr. Klein: Correct.

Chairman Williams: With allowing the DAS system on light poles or utility poles, does each wireless provider have its own antenna?

Mr. Klein: Yes, each wireless provider would have its own antenna and radio units mounted to the pole. The providers have indicated that due to the specific coverage of each provider, the chances that two will want the same pole are very slim. They could be on adjacent poles. The current proposal limits the number of housing units that would screen the antennas to one, so there would not be a situation with one pole and then antennas housed in and then another housing containing another one by somebody else. It is my understanding that those housing units can maintain more than one antenna. Radio units are mounted to

the pole with a maximum of two additional pieces of equipment. In no case can the total volume exceed more than 3.5 cubic feet.

Chairman Williams: Do we have any idea as to how frequently we could see these antennas on street lights or utility poles?

Mr. Klein: That might be good to ask one of the providers here.

Chairman Williams: Does this system preclude future towers, or is it supplemental?

Mr. Klein: It is my understanding that these may help reduce the need for towers, but it doesn't seem like it is a complete substitution.

Chairman Williams: Any further questions?

Comm. Elkins: If we are to adopt this change to the ordinance and a provider proposed mounting a DAS system, I understand that the design of the housings accommodate for co-location.

Mr. Klein: It appears that way.

Comm. Elkins: My second question has to do with the scope of authority of the commission will still have. For instance, if a proposed installation came in and we thought the aesthetic was bad, would we still have the opportunity to recommend to the Governing Body that the application shouldn't be approved?

Mr. Klein: The way this amendment is structured, as long as the requirements are met, this commission wouldn't see the application at all. The city would compare the application to the standards. If the application came through for a Special Use Permit, it would come through this body. The DAS system has the antennas and radios. In certain situations, the radios won't be mounted to the pole and would be moved to a ground-mounted box. If the radios are mounted on the pole and remain small, it could be approved administratively. If the radio equipment is moved to the box, it would require a Special Use Permit.

Comm. Elkins: Has the amendment to the ordinance been reviewed by city's counsel with respect to enforceability in light of federal restrictions on what we can and can't do with respect to wireless telecommunications?

Ms. Shearer: I have reviewed it. As we have discussed before, that is a very grey area right now. I don't see any red flags in here, and the ExteNet team has reviewed it as well.

Chairman Williams: Any other questions of staff? This case requires a Public Hearing.

Public Hearing

Timothy Asta, ExteNet Systems, appeared before the Planning Commission and made the following comments:

Mr. Asta: First of all, I would like to thank staff and the Planning Commission for taking the time to put these regulations in place. To address a question that came up about towers, it is a tricky area from a legal perspective, but if you are promoting this type of technology, you will see fewer new tower applications. Towers will probably not go away. If these can be approved administratively, more will choose this route. As far as the aesthetics are concerned, ExteNet provided a mockup session. Everything has been fully disclosed to the city from our perspective.

We were grateful for the chance to evaluate the amendment and provide feedback. Overall, the intent and spirit of this regulation is very good. The form factor restrictions on the equipment are very strict. The initial requirement of 3 cubic feet for pole-mounted equipment couldn't be met. We asked for flexibility for both ExteNet and the City of Leawood. We had feedback in the work session that putting these radios on the light poles reduced the number of ground cabinets. Being overly restrictive of the size of the equipment that can go on the poles could lead to more ground cabinets, which is going against the intent of this body. The maximum is still small, though. Most cities allow up to 9 cubic feet. Additionally, we have one other potential concern as far as the size of the two additional pieces of equipment on a street light pole. Another requirement is that we don't project more than 12 inches off the pole, which is very difficult to do. The largest piece of equipment we are proposing is 8 ¾ inches with a 4-in. bracket. You may want to consider 14-16 inches. The median light poles are ideal locations for these nodes, and they are a larger diameter, which require a larger bracket. Those are my concerns; otherwise, I think this is a fair and reasonable policy. I'd be more than happy to answer any questions.

Comm. Pateidl: The issue of the 12 inches is related to the radio box with established criteria to the cubic feet. In a very practical sense, they will use a bracket that will hold it as close to the pole as they can. Do we really need any regulation as to how far it can stick out? Because of the limitations already established and the limitations of the pole, I don't know that we need the limitation of 12 inches.

Mr. Klein: We were trying to address all different possibilities. With regard to radio boxes, we were shown one for Verizon, which is larger and square. The one from Sprint was longer, flatter and narrower. You are probably right that they will be mounted as close to the pole as possible, but we wanted to make sure that they didn't mount them in a certain configuration that they become more apparent.

Comm. Pateidl: I understand the reason, and it is a valid reason. I just wonder if it is practical.

Mr. Asta: I actually think having a projection limitation is a good idea. I used to work for a municipality, and I understand what these folks are trying to do. I just think 12 inches is overly restrictive. If you have 16-18 in there, somebody wouldn't have something hanging way off the pole, becoming a nuisance for a driver. A reasonable dimension is prudent.

Chairman Williams: Any other questions? Is there anyone else in the audience who would like to speak?

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

Comm. Elkins: I would like to thank ExteNet for their participation with staff in this process. As the commission knows, I have been asking repeatedly for someone to talk with us about alternative technologies that would enhance the phone service and reduce the need for traditional technology. I look forward to speaking to other carriers as well and see this as the first step toward the next generation in telecommunications. For many reasons, we seem to be tied to some of what once was brand new, cutting-edge technology. You are helping us to look ahead. I'll be strongly supporting these changes.

Comm. Ramsey: Do we need to adjust the distance from the pole?

Mr. Klein: Currently, the applicant is indicating they would not be able to meet the distance, so if you were to adjust it, it would need to increase.

A motion to recommend approval of CASE 105-14 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-12, WIRELESS COMMUNICATION FACILITIES – Request for

approval of an amendment to the Leawood Development Ordinance, pertaining to Distributed Antenna Systems (DAS) – with all Staff Stipulations, modifying Section 16-4-12.4.1(c), increasing the distance from the pole from 12 inches to 16 inches – was made by Ramsey; seconded by Elkins. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 137-14 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.4 MXD (MIXED-USE DEVELOPMENT DISTRICT) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to required use ratios. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 137-14 – Leawood Development Ordinance Amendment to Section 16-2-6.4. Mixed-Use Development District, pertaining to the required use ratios. Currently, within the MX-D district, there is a requirement that a minimum of 20% of the total Floor Area within the district is residential and a minimum of 30% is commercial. This amendment states that a minimum of 10% of the Floor Area of the overall development is retail. That would count toward the minimum of 30% commercial. The intent is to ensure uses that add activity and a mix of uses. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Comm. Pateidl: Could you be a little clearer as to what you mean by retail?

Mr. Klein: For instance, right now, an MX-D District could have 80% office without any retail. We would like restaurants and retail shops, something that generates activity with customers patronizing the business. The idea is to create synergy between the office, retail and residential.

Comm. Pateidl: The reason I asked the question is I looked up some definitions, and there is no definition of retail in our ordinance. We're implementing a requirement to an undefined practice. Secondly, the definition of commercial is, "All development other than office, recreational, open space, multi-family or other residential units." Interestingly enough, I think it covers restaurants and local retail outlets. Perhaps we need to look at exactly how we want to modify this. Secondly, under the Comprehensive Plan, we know that the rest of the development in Leawood is going to be Mixed-Use. From what I've heard from both sides, Mixed-Use is a very difficult development to put together. On the other hand, from the banking side, they are extremely difficult to finance. We've already set the course of a pretty high step for developers to come into the City of Leawood for the balance of the vacant property we have. We have an opportunity with an implementation plan for the Comprehensive Plan where, rather than have a restriction of 10% retail, we could work through what we have inside our ordinances to generate incentives for the developers for their inclusion of retail. I wonder if we shouldn't defer this to further discussion as to where we're going with the implementation of the Comprehensive Plan before we start making major additions or changes to our ordinances.

Chairman Williams: Mark, could you enlighten us as to why we are seeing this now?

Mr. Klein: Part of the reason you're seeing it now is we have now passed the 135th Street Community Plan. The moratorium has now been lifted, and we are starting to get queries and applications. The intent is to get something into place before we get too far down the road.

Chairman Williams: Mr. Levitan, being in the business, what are your thoughts?

Comm. Levitan: I guess I've always been of the mindset of Commissioner Pateidl. I think the bar is extremely high for Mixed-Use, and I think any layers we add on make it even harder. They are incredibly difficult to finance, and retail use will max out on the corridor as Prairie Fire fills up. There is only so much retail you can put out there before it starts to get crushed. I like flexibility, and I think we need to present ourselves as flexible and open for business rather than creating more restrictions on top of restrictions.

Chairman Williams: Thank you. Any other questions of staff?

Comm. Jackson: In light of the 135th Street Plan, visualizing taller Mixed-Use toward 135th and getting smaller as it gets farther away. I don't know that retail makes sense in all those areas. I'd have to think about it in relationship to the size that you're asking for in different areas.

Mr. Klein: Most of the 135th Street Corridor is between 135th Street and 133rd Street or 137th Street. The depth isn't huge. Most of the development we'll see will include that whole area. We are looking at the areas not only closer to 133rd and 137th but at the areas closer to 135th Street as well.

Comm. Jackson: I would have to worry a little bit as to whether there is enough population to support too much retail along there. Demographics are getting older in the area, and as we age, we don't buy as much.

Mr. Klein: What we hope is that with the housing component, it will provide the synergy and the people who will patronize the businesses.

Comm. Jackson: The consideration for the residential as it comes in is it if will attract younger people and younger families that will use more retail.

Mr. Coleman: That is what Mixed-Use does.

Comm. Jackson: Hopefully.

Mr. Coleman: No, that's what it does. That's what the demographics are in Mission Farms and all the other ones.

Comm. Jackson: It would be interesting to see if we are bringing in younger families to those areas. At first, the rents were so high that I didn't know if that is what would come in.

Mr. Coleman: A lot of the ones that filled up in Mission Farms and the apartments are mostly young professionals. There are a number of Mixed-Use developments. Overland Park just announced a \$350 million Blue Hawk development. Other developers have been able to start doing it. I don't know why it would preclude us.

Chairman Williams: In those respects, do you know if Overland Park has a requirement for a minimum percentage for retail versus a larger percentage number as we have for commercial?

Mr. Coleman: I don't know that, but I know that the Urban Lands Institute has certain basis and percentage mix for Mixed-Use developments. The idea is to create a vibrant living work space. Without retail, you don't have that.

Chairman Williams: I think we all understand and appreciate it. The argument is with the Mixed-Use developments that have gone in, we have had that retail component.

Mr. Coleman: Yes, but the possibility is that we might not get all that. We are just trying to get ahead of the curve.

Chairman Williams: Can staff give us an idea for comparison purposes what percentage of Mission Farms and Park Place are retail?

Mr. Klein: Mission Farms is a moving target because they recently added a significant residential component to it, which will help. However, the commercial is maybe 40%.

Comm. Ramsey: I think Overland Park has a very small retail component in the new one. They've got 600,000 square feet of office, 1,300 apartment units and about 39,000 square feet of retail. Retail is going to be a very small percentage.

Mr. Coleman: The city has been pretty flexible. You can look at the Mixed-Use developments we've been involved in and see how the planning has changed and the ability of the city to work with the developer to further the plan. Each development will have a different mix, depending on their market target.

Comm. Ramsey: With the use ratios, are we pinning ourselves to the mat?

Mr. Coleman: I don't think so because it's still 30% and 70% or 20% and 80%, so there is still quite a bit of flexibility in there. All we've done is add some retail.

Comm. Ramsey: I would go along with what Mike said. I've talked to a number of folks recently, and the ability to finance some of this comes up as an issue repeatedly. Park Place wouldn't be built today with conventional financing. As long as we can stay flexible with this, it's fine.

Chairman Williams: I would question how we can stay flexible if we put in a minimum requirement of 10%.

Mr. Coleman: They could have 50% and still have just 10% retail.

Chairman Williams: But if they wanted to have 5% retail and still maintain 30%-40% commercial, they couldn't do that.

Mr. Coleman: That is why we are setting a minimum.

Chairman Williams: Again, it would be interesting to see the comparison of the 10% request here versus Mission Farms or Park Place so we can get a comparison of what we're talking about. Are developers today achieving that?

Mr. Coleman: Yes; you can get an idea of it just by all the ground floor at Park Place, which is retail.

Chairman Williams: If you take Park Place as a whole, is the retail 10% or more?

Mr. Coleman: I would say so.

Mr. Klein: Mission Farms met the 30% commercial, and we don't have a breakout of retail versus office, but it seems like at least 10% is retail.

Chairman Williams: Having worked there on some of the retail space, I think you're looking at 30,000-40,000 square feet of retail and restaurant. How does that compare to the total approved project?

Mr. Klein: I'm sorry; all I have is percentages and not square footage.

Comm. Elkins: I still remain concerned about a point that Commissioner Pateidl made concerning the definitions. Part of it has resurfaced in our discussion tonight in the distinction between retail and hotel. I'm curious to staff's reaction to that concern and about the lack of a definition. I'm also curious how staff would define retail in implementing this ordinance.

Mr. Klein: I agree that a definition would be beneficial. In the Table of Uses, it currently gives guidance for retail that breaks down uses.

Comm. Elkins: An easy way to do it would be to cross-reference this change to the Table of Uses.

Mr. Klein: That sounds like a reasonable solution, I think.

Comm. Jackson: Mark, are hotels and restaurants considered retail?

Mr. Coleman: The hotel is unique because a restaurant or gift shop could be in the hotel, which would be retail, but the rooms are not.

Mr. Klein: Hotel is in the category of Non-Residential; whereas, restaurants are in Retail Sales and Service.

Comm. Jackson: If it was a hotel with a gift shop and a restaurant, the gift shop and restaurant would not be considered retail?

Mr. Coleman: It would be.

Chairman Williams: Any other questions or comments? Part of this discussion referenced marketplace. Going to the question of flexibility, having the market will dictate what is working for a particular development. It does carry a lot of weight, particularly with the difficulties we hear about from our own colleagues and others in this business. We want to see successful developments. I agree with staff's comments about the retail helping to create viable developments, but at the same token, 135th Street is getting heavily built out not far from the land we have yet to develop. The question of how much retail we can handle is a big question. We've seen retail along 135th Street failing already. I, for one, would like to see more flexibility for the developers than tying their hands to 10%.

Comm. Strauss: I think there is still a lot of discussion to have about this, and I like Commissioner Pateidl's idea that maybe a work session is warranted to have further discussions to make sure we're all on the same page.

Chairman Williams: Any further questions or comments?

A motion to continue schedule Case 137-14 in order to further discuss the case in a work session (date to be determined) was made by Ramsey; seconded by Strauss. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 139-14 – LEAWOOD DEVELOPMENT ORDINANCE TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to window signs. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 139-14 – Leawood Development Ordinance to Article 9, Definitions, pertaining to window signs. The amendment is to define window signs as being within 3 feet of the window area, which would include any signs placed upon the window or within 3 feet of the window. Anything beyond that would not be considered a window sign. Currently, the LDO defines a window sign as anything that is visible from the exterior of the building. That has been difficult to apply because perspective makes a big difference.

Comm. Ramsey: I thought we had already done this, or did we just have the discussion?

Mr. Klein: We talked about it before. We had a discussion at a work session with regard to window signage. This would make the determination of a window sign much more objective. This would also help encourage the softening of the window with signs placed farther from the window while still meeting the store owners' intent. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Chairman Williams: Earlier, I asked if you could provide us with examples of offenders to this. Were you able to come up with any?

Mr. Klein: (*Shows pictures*) Signs applied directly to the window would qualify as window signs. The application following this speaks to a limit on the window signs, which staff is proposing to be a maximum of 5% of the window area. This used to be in the LDO and was removed at one point. We are trying to put it back in.

Comm. Levitan: Mark, is it mullion to mullion, or are you talking about the whole face?

Mr. Klein: As far as the definition, it has to do with the proximity to any window. With regard to the next application with the 5%, it applies to contiguous window area. A bank of windows separated by mullions would be one contiguous set of windows. If a brick column separates the windows, they would not be contiguous.

Chairman Williams: These signs would take the place of a wall sign?

Mr. Klein: Yes, and based on the next proposed ordinance, they would be allowed 5% of the window. Hours and addresses would not go away.

Chairman Williams: The window sign is anything that is, in essence, visible from the window, so it would have to be back 3 feet.

Mr. Klein: Correct; currently, anything is a window sign. For instance, if a sign is visible from the exterior and was located in the back of the store, it is a window sign. This makes enforcement difficult because the line is not clearly defined. The amendment would make it much less subjective.

Chairman Williams: I drove by Macy's today, and they have windows with a big star. Those would have to go away because there is not a 3-ft. depth in those display alcoves, and those would technically be windows.

Mr. Klein: I don't know the percentage of the window.

Chairman Williams: They cover everything. The placard is on the back wall of the alcove, but it is not 3 feet deep.

Mr. Klein: It could be used for display, I would imagine.

Comm. Levitan: Dick's is the same way, right?

Mr. Klein: I believe that is about 4 feet away, so that would actually not be considered a window sign with the new definition.

Chairman Williams: Why is the city concerned about this?

Mr. Coleman: We have a Sign Ordinance to enforce, and we don't have a good definition to enforce.

Comm. Ramsey: Theoretically, if it's on the back wall and is visible on a good day, it is a window sign right now; whereas, if it is within 3 feet of the wall, it is a window sign; if it is not, it is not a window sign. I think it's a good idea.

Mr. Klein: We were trying to address visual clutter and still allow the retailers to have the promotions.

Chairman Williams: Has there been a public outcry over this visual clutter in commercial shopping centers?

Comm. Ramsey: Is there ever an outcry over signs?

Chairman Williams: I'm going to guess no. It doesn't disturb the buying public, and people continue to shop there. Some like some signs better than others, I suppose. Town Center has a variety. There are some bad offenders, I will admit. There is a temporary Halloween store that has a window sign on the outside of the window. But in the case of Macy's, it is not an offensive sign. Most of the retailers have signage that is not offensive even though it might be 1-2 feet away from the glass. Some of these are small shops. If the signage is forced back 3 feet, they have lost real estate. Take the signs away, and they have no way to advertise the sales or promote the products.

Comm. Pateid: You're starting to get me confused now. If it's any sign that is 6 inches to 3 feet, it is considered a window sign. If it is beyond 3 feet, it is not considered a window sign.

Chairman Williams: Correct; we're talking about pushing these signs farther into the stores.

Comm. Ramsey: They can still be on the window.

Comm. Pateid: Right now, if you can see it from the window, it's a window sign, so you're limiting the restriction of the ordinance.

Comm. Ramsey: You are.

Chairman Williams: I'm trying to give retailers the flexibility on where they put their signs.

Comm. Ramsey: That's exactly what this does, though, because that means beyond the 3 feet, they can plaster the walls in signs if they want.

Comm. Jackson: A few years ago, there was an issue about temporary signs. Where does the Halloween sign fall in all of this?

Chairman Williams: And where do the sandwich board signs across all the retailers in Town Center fall?

Comm. Jackson: If it's a temporary Halloween sign, what ordinance does that fall under?

Ms. Shearer: To be honest, I need to look it up because I think the way we have defined temporary signs is they are detached. I'm not sure, so I'll look it up.

Comm. Pateidl: One of the concerns you have that I share as well is the difference between a window sign and a window display. If you go through Town Center and all the different clothes shops, you have the mannequins and signage with it. It may be greater than 5%, but quite candidly, that's what window displays are meant to be. If we're going to try to hone in and monitor signage, perhaps we need a definition for window displays or something of that nature to give the retailers flexibility, particularly the smaller retailer.

Chairman Williams: Have retailers been included in this review process or notified of the Public Hearing?

Mr. Klein: We notify in the paper just like we do with all the amendments, but we have not specifically contacted the retailers.

Mr. Coleman: We took a clue from Dick's Sporting Goods because they have the 20-ft. graphics in their windows, but they're 4 feet back from the window. You can see them plain as day in the nighttime. Their entire façade is one giant graphic.

Comm. Levitan: I think scale has something to do with that. My issue is from a practical sense. If retailers are going to pay top dollar to be in Park Place, they need to be able to advertise their wares. Granted, I don't want something that's obscene, but this is their chance to really market themselves to the pedestrians. If they can't pull those people in, they're not going to be in business and the development will fail. I think retailers need to have a voice. It needs to be tasteful, but I think with some of these newer developments, the developers are going to drive a lot of that. If I'm a developer and own Park Place and signage gets out of hand, I'm going to be in the retailer's space saying, "This doesn't work."

Comm. Strauss: Developments like Town Center have their own Sign Criteria, also. This is overarching, but we have many developments around the city with Sign Criteria.

Mr. Klein: Correct, but typically, we don't see anything with regard to window signs, or if they do, they try to reflect the LDO.

Ms. Shearer: I'm going to jump back in. A temporary sign is defined as a sign that is intended to be posted for a temporary period of time on public or private property and is typically constructed from non-durable materials, including paper, cardboard, cloth, plastic and/or wallboard and does not constitute a structure subject to the city's building code or this ordinance. I think you raise a good point, but in this context, because it is affixed to a window, at this time, the way the code is written, staff would interpret it per the window sign regulations.

Chairman Williams: If we're talking about something that would be closer to the window than 3 feet, it wouldn't necessarily be affixed to the window.

Ms. Shearer: But it would be internal to the store and not displayed outside.

Chairman Williams: You're saying temporary only applies to signs outside?

Ms. Shearer: I'm saying the way the code is currently written, we would have no choice but to interpret it under the window sign regulations. I think Ms. Jackson brings up a good point that we should clarify the definition of temporary signs.

Comm. Elkins: This is a hard one. The challenge, as Commissioner Levitan noted, is that we all want tasteful signs, but it is hard to regulate taste. The only tools we have available to us are objective, physical limitations. It is difficult because I certainly view Town Center as an upscale, positive shopping center; yet, because they have temporary space, they have a Halloween thing in there. I know the sign you're talking about, and I don't view it as a tasteful sign. The only tools we have are these objective tools. I don't know what the right number is. The Macy's sign covers the entire window and is very tasteful. I don't know where I end up with all that. I still land on the side that it is appropriate for us to regulate window signs, and it seems like this is a proper way to do it. Currently, it is a difficult ordinance to enforce with the current definition being so broad. I'm leaning toward some sort of limitation.

Mr. Coleman: We've always regulated window signs; it's just that we want to have something that is more objective. We don't want to write tickets to XYZ because they have a banner in their window and ABC objects to it and now we have to enforce everybody down there. That has occurred in other parts of the ordinance. We thought 3 feet gave the retailers the ability to have some type of signage back in their store without it being stuck up in the front and taking up the entire window.

Comm. Levitan: I'm curious how you came up with the 5%.

Mr. Coleman: That has been in the ordinance for twenty years. The only thing we added was the distance from the window. The 3-ft. distance allows someone to easily walk through.

Chairman Williams: Has the 5% actually been for window signs?

Mr. Coleman: It has been 5% for window signs for years.

Chairman Williams: Are there other comments? 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 Jackson; seconded by Ramsey. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

Comm. Jackson: I come down on needing to clarify a little more. I think staff's proposal here does that and does it in a good way.

A motion to recommend approval of CASE 139-14 – LEAWOOD DEVELOPMENT ORDINANCE TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to window signs – was made by Jackson; seconded by Ramsey.

Chairman Williams: Does this become retroactive?

Mr. Klein: When this is published and passed, it will go into effect.

Chairman Williams: As soon as it goes into effect, city inspectors can knock on doors in Town Center with notices that signs need to change?

Mr. Klein: With regard to this particular ordinance, it is less restrictive than the current definition. The next ordinance is the one that would do that.

Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

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

CASE 138-14 – 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 window signs. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 138-14 – Leawood Development Ordinance Amendment to Section 16-4-6.13, pertaining to window signs. This application proposes to limit window signs of no more than 5% of the contiguous window area. This was in a past ordinance, and we are trying to add it back in. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Chairman Williams: Can you provide us with a sample of what 5% on a window sign would look like?

Mr. Klein: (*Shows photo of AMC*). The sign could be broken up into multiple signs that don't exceed the 5%.

Comm. Pateidl: You're defining the contiguous window area as the entire frontage of the building and not pillar to pillar, correct?

Mr. Klein: Yes; if it is separated by a mullion, we would consider it to be contiguous. If a storefront has 2-3 sides, the window sign from each side couldn't be added together with one sign on one façade that was the total of 5% of all the windows.

Chairman Williams: If this sign is 11 feet, 5 inches for that whole glass area, an average retailer at Park Place or Town Center might have a storefront glass area that could be 11-12 feet wide, 8-9 feet high. That ends up being a pretty small sign.

Comm. Strauss: Mr. Chairman, you said you thought 50% of the signs at Town Center exceeded the 5%.

Chairman Williams: Under the definition of being within 3 feet.

Comm. Strauss: I just wonder if that is representative of the entire city. Do we think at least half the window signs in the city are more than 5%?

Mr. Klein: We just changed the definition of what a window sign is. Under the current definition, most are probably over 5%.

Mr. Coleman: AMC doesn't have any window signs on it right now.

Chairman Williams: If you go back to the Papa Murphy's and take their two Sale signs they have, they clearly exceed the 5%. Those will have to be 3 feet back, which they can't do because they don't have the room to do it. Those signs would go away or be substantially reduced. It's pretty small signage for any retailer to try to work with.

Comm. Ramsey: What do you think the solution is?

Chairman Williams: For me, I think it goes back to the case we just passed. I think the 3 feet was too large. I think it should have been smaller. Again, if we're going to talk about anything within that zone as a window sign, then 5% is way too small of a number.

Comm. Ramsey: What I'm asking is if not 5%, then what?

Chairman Williams: I'd have to do some math like staff did. I don't have a magic number right now.

Comm. Pateid: Recognizing that the 5% had been on the books for years and also recognizing that years ago, we had very little commercial space in the City of Leawood and typically was smaller shops and restaurants, I can see where maybe the 5% made some sense. At this particular point in time, maybe we need to bring ourselves up to the 21st Century and see what some of our peers are doing in other cities with respect to limitations on window signs to get a sense of comparability.

Chairman Williams: I think it would be a mistake for the city to be far more restrictive on retailers than the surrounding community.

Comm. Pateid: And at the same time, trying to promote retail with our developers. Some of this comes back to some opportunities during the implementation of our plan on 135th Street in thinking about what is right for our commercial residents in the city and creating some opportunity. I understand you want it back in there because it was there a long time ago, but what I'm sensing is my fellow commissioners are wondering if it is right today, and I agree.

Comm. Ramsey: To be fair, we asked staff about the 5%, and they said it was in the ordinance for some time. They weren't trying to address that, but if we're not comfortable with the 5%, then I think it's a good idea to find out what some of our other Johnson County cities are doing and get a better feel. I think most of the strip center retail in Leawood today is in violation.

Chairman Williams: I think it wouldn't hurt, either, to potentially get input from retailers and the people who do signage designs for their storefronts and see what they need to promote their business and come to a compromise that would work for both the city and the retailers.

Mr. Coleman: Don't forget they already have a wall sign, a blade sign and numerous other signs. These are usually just poster signs that they print out and block the windows.

Chairman Williams: But we're including them in the wall signs. They're not considered temporary signs.

Mr. Coleman: They fall under window signs. I think the 5% was put in place a long time ago to reduce the window clutter because Leawood wanted a higher standard for their retailers than other cities.

Comm. Ramsey: That may be all well and fine, but I would urge you to start driving and turn your inspectors loose.

Mr. Coleman: The reason we haven't done that is we would have to start issuing citations to any sign we could see throughout the store because of how the definition read. Now, we have a new definition that is 3 feet within the window, so we can legitimately look at them.

Comm. Strauss: I agree that this needs to be reevaluated. We'll have a lengthy work session.

A motion to continue CASE 138-14 – 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 window signs – in order to discuss at a work session (date to be determined) – was made by Strauss; seconded by Pateidl.

Public Hearing

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

Motion to continue Case 138-14 passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

A motion to continue Case 132-14 – Lord of Life Lutheran Church – Sign Criteria – to the October 28th Planning Commission meeting - was made by Jackson; seconded by Pateidl. Motion passed with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

Chairman Williams: Before I adjourn the meeting, I would like to offer all the best to Franki Shearer.

Ms. Shearer: Thank you very much. This was not an easy decision, but I think it's the best thing for both my family and future career opportunities. I've had a great time living here. I've made great friends, and this has been a wonderful job. Thank you to all of you.

Chairman Williams: We certainly have enjoyed having you as part of our team, and we will miss you.

MEETING ADJOURNED