

**City of Leawood
Planning Commission Meeting
April 28, 2015
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 Strauss. Motion carried 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 March 24, 2015 Planning Commission meeting and the April 14, 2015 Planning Commission work session.

Comm. Walden: The vote on the bottom of Page 4 should include Commissioner Pateidl in the vote.

A motion to approve the minutes as corrected from the March 24, 2015 Planning Commission meeting was made by Elkins; seconded by Jackson. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

A motion to approve the minutes from the April 14, 2015 Planning Commission work session was made by Elkins; seconded by Jackson. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CONTINUED TO THE MAY 12, 2015:

CASE 45-15 – CENTENNIAL PARK – HEARTLAND SERVICES BUILDING 3 - Request for approval of a Preliminary Plan and Final Plan, and Revised Final Plat, located north of 143rd Street and east of Kenneth Road. **PUBLIC HEARING**

CONTINUED TO MAY 26, 2015:

CASE 33-15 – MYERS RESIDENCE – SPORT COURT WITH LIGHTING – Request for approval of a Special Use Permit, located at 14600 Mission Road. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 46-15 – CENTENNIAL PARK, BUILDING 23 – THIRD PLAT - Request for approval of a Revised Final Plat, located north of 143rd Street and east of Overbrook Road.

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

OLD BUSINESS:

CASE 61-13 – RANCH MART - Request for approval of a Revised Preliminary Plan, located north of 95th Street and east of Mission Road. **PUBLIC HEARING** (Remand from the Governing Body)

Staff Presentation:

City Planner Ursula Brandt made the following presentation:

Ms. Brandt: This is Case 61-13 – Request for approval of a Revised Preliminary Plan for Ranch Mart, located north of 95th Street and east of Mission Road. The Planning Commission last heard this case on July 23, 2013. At that meeting, the Planning Commission gave a recommendation of approval to the Governing Body. This case was then later remanded back to the Planning Commission. From the previously recommended plan, the applicant is proposing the following changes:

- Parking lot islands and trees are being removed from the northeast portion of the site.
- The stone wall and metal fence are being removed along the public right-of-way and replaced with a landscape buffer. The purpose of the fence and wall is to block the headlights from the parking lot as well as provide a buffer between the parking lot and adjacent street.
- The western parking lot is no longer being realigned, and parking lot islands are not being added.
- There is a decrease of two parking spaces.
- Open space provided is being reduced by 1.24%.
- A pedestrian connection has been added from the perimeter sidewalk to the cemetery.
- An additional 525 square feet will be added to the former post office building.
- 1,659 square feet will be removed from the basement of the main center, which results in a 1,134 sq. ft. decrease for the overall development.
- Relocation of the northernmost curb 3 feet to the south, additional parking lot islands along the northern portion of the property and reconfiguration of the parking lot spaces of the area are no longer being proposed.

The applicant appeared before the Board of Zoning Appeals for a variance from the Leawood Development Ordinance lighting requirements. The BZA continued the application to May 27, 2015 at the March 25, 2015 meeting. Staff is recommending denial for Case 61-13, due to the reduction in improvements and upgrades from the plan that were previously recommended. The reductions include the fence along the arterial road because it provides a substantial barrier between the parking lot and the street and the parking lot improvements, which would provide improved internal traffic circulation and additional green space. If the Planning Commission does recommend approval for Case 61-13, staff recommends the stipulations stated in the Staff Report.

Chairman Williams: Can you share with us what the lighting variance was?

Mr. Coleman: The applicant is asking for a variance to the requirement of the LDO of the maximum height of 18 feet for lighting poles.

Chairman Williams: The staff's objections are the site improvements that are different than the original plan that was submitted?

Mr. Klein: Correct. The Planning Commission recommended approval of a plan that included improvements. Rejection of this plan leads us back to the last plan, which staff supports. That plan also had a section of the lights that is a little taller. We would like to see them reduced to 18 feet in height.

Chairman Williams: Can you share why this was remanded back?

Mr. Klein: It was remanded back at the applicant's request. There was no direction from Council with regard to specific items.

Chairman Williams: Questions for staff? We'll hear from the applicant, then.

Applicant Presentation:

John Petersen, Polsinelli Law Firm, 6201 College Boulevard, Suite 200, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Petersen: Otto Westerfield, Director of Real Estate for the Regnier properties and Henry Klover with Klover Architects are here with me. I'd like to give a bit of background of this project. We appreciate approval of the Preliminary Plan at the time. Moving the plan forward in the context of redevelopment presented many challenges. One of those challenges was cost related to the extent and parameters of the Community Improvement District [CID] funds that could be available based on city policy. Additionally, site constraints caused a need for change. A Final Plan is currently approved for Ranch Mart. The original Preliminary Plan was in 2010 and dealt with façade improvements. It was less extensive than the currently proposed improvements. The vast majority of the elements from 2014 remain in the current plan. The goal of the developer is to work in the spirit of Ranch Mart South and create a cohesive shopping district of equal quality. Parapets will create a more exciting sign band. The roof will be synthetic slate. The columns will create a rich, high quality feel for the center. More of the project improvements include pedestrian connections, relocated drives to make the parking fields more efficient and safer, increased setbacks around the perimeter, a new 5-ft. sidewalk on 95th Street and a sidewalk along Mission Road.

The first of the proposed changes deals with the northeast corner. In essence, the parking lot landscaping is being removed in that corner because of cost, lack of visibility from the street and potential building expansion of the bank in the area. The second change deals with improvements along 95th Street and Mission Road. The previous plan included a wrought iron fence system with pillars; the current plan proposes to replace those treatments with heavy landscaping and shrubbery. This should improve aesthetics and will also shield lights from the parking lot. With regard to the fence along Mission Road, a wall cannot be placed there because of a 10-in. water line. In place of the wall will be 37 trees and 332 shrubs to create an aesthetic buffer. Redesigning the parking lot adds 2 ½ feet of green along 95th Street. In terms of 95th Street, the fence will be replaced with a landscaping buffer that includes 77 trees and 398 shrubs. The current parking is undisciplined; the proposed plan addresses this with angled parking and better flow. Additionally, landscaped islands will be added as well as a few more feet of green area along Mission. Trees will be planted along the storefront as a result of the angled parking.

The final issue involves parking lot lighting. This caused two months of delay because of the way the city interprets its code. The only way to get a deviation from something in the code is to go to the BZA. The maximum for lights is 18 feet. Today, there are 6 poles that are 30 feet high in front of Price Chopper and 22 poles that are 27 feet. They are functional and safe. They meet the requirements of foot candles, illumination and hot spots. The proposal is for a fixture that is identical to a fixture at Ranch Mart South. From the ground to the bottom of the proposed fixture is 23 feet. With the 5-ft. variance, the lights can meet all lighting requirement in terms of safety and illumination with 26 evenly spaced poles. If the poles are 18 feet, the number of poles jumps to 71 poles. If this is ultimately required, to offset the cost, the fixtures will be basic fixtures that do not coordinate with Ranch Mart South. The BZA members wanted to know what the Planning Commission had to say on the issue, so I requested a continuance. You can't approve this tonight, but I would like to get an indication of what you feel is appropriate in the area. I believe that the city has recognized that the maximum height of 18 feet doesn't always fit. The new Justice Center has lights that are 21 feet, 1 inch high.

Moving on to stipulations, No. 6 ties in to stipulations from prior applications, and it goes to the parking lot improvements in the northeast portion that I referenced. No. 7 references the height of the light pole. We would request that you move us on to the Governing Body. I would be happy to answer any questions.

Chairman Williams: Any questions from the panel?

Comm. Jackson: In the northeast corner, what does it look like from the residences behind?

Mr. Petersen: Exactly like it does today.

Comm. Ramsey: The Site Plan shows some landscaping along the eastern and northern edge of the green space of the northeast parking lot. Is that still Ranch Mart Property?

Mr. Petersen: Yes; we added those as part of the post office building redevelopment.

Comm. Ramsey: The point is there is landscaping between the Ranch Mart property and the homes.

Mr. Petersen: Yes, and I would say that it is a solid buffer.

Comm. Jackson: Since these are all cost considerations, what is the benefit from the CID, and what types of costs are you saving by doing it this way?

Mr. Petersen: Before I answer that, I would like to address the stipulation that calls for burying the power lines along 95th Street, which would be \$1 million and would require a 15-ft. easement. This will prevent the shrubs and trees from going in. Overall, the savings with the proposals would be approximately \$3.4 million, which is roughly 9-11% of the total project costs.

Comm. Jackson: Where is the water line?

Mr. Petersen: It runs back of curb along Mission Road to the parking lot.

Comm. Jackson: I thought that was the reason you did not want to put in the fencing along 95th Street?

Mr. Petersen: If I said it was 95th Street, I misspoke; it is along Mission Road. The fencing on 95th Street would be removed to remain consistent on all sides. It is a cost-saving device, and we think we can be more effective with landscaping.

Comm. Jackson: And your proposal is to keep the power lines above ground.

Mr. Petersen: That is correct. It just doesn't work, and it is not a requirement for the approved Final Plan.

Comm. Pateid: The northeast corner of the parking lot looks like it is totally void of light. The alternative lighting also was void of light. Why is that?

Mr. Petersen: We would propose to leave the existing fixtures. I hope we don't find out that city staff would determine the lighting is not compliant with code. It is lit. The poles are higher, and it is not as bright as it is in front of Price Chopper. We like the fact that it is toned down because it is not necessary, and the property interfaces with single-family homes.

Chairman Williams: The bottom of the light fixture would be 20 feet?

Mr. Petersen: It is 23 feet to the top.

Comm. Strauss: I'm not clear on the relocation of the northernmost curb.

Mr. Petersen: The area that interfaces with Cure of Ars originally proposed to bring the entire curb line out 3 feet and re-landscape the entire area along the back of the center. We have eliminated that. We have put some landscaping and some parking nodules out.

Comm. Strauss: I also feel like the northeast area and part of the northern section is void of light. Is there a way you could include that as a future phase?

Mr. Petersen: On the lighting plan, there is discussion of an expansion of the bank. We would have an F.A.R. issue of density. There is no sense to get a building footprint approved unless there is a tenant that makes sense. We would like to preserve it for that.

Comm. Strauss: Does your plan include reuse of the old bowling alley?

Mr. Petersen: There is a use in there now. The goal is to continue to upgrade the tenants and bring different opportunities to people.

Comm. Strauss: You talked about creating a synergy between the north and south. Can you tell me what kind of perimeter is along Ranch Mart South?

Mr. Petersen: In parts, they have a wall for grading purposes. It is the same landscaping scheme and the same lighting that is being proposed tonight. The goal is to make them similar but not exactly the same.

Comm. Strauss: Is there a fence?

Mr. Petersen: On top of the retaining wall, fencing may be required because of the drop. The north side does not have the grade issue.

Comm. Strauss: They have the 23-ft. lights that you are proposing?

Mr. Petersen: We are proposing identical lights on the north side.

Comm. Levitan: You mentioned you would finish the improvements in Overland Park with the CID. Is that for the outparcel building?

Mr. Petersen: It is the east building and the concrete surface near it as well as behind the façades on the north side. Structural improvements to the parking are maintenance items and will not be covered by the CID.

Comm. Strauss: Did the previously approved plan call for utility burial?

Mr. Petersen: As I recall, we made the same comment about cost, and it will most likely be a decision made by the Governing Body.

Chairman Williams: Going back to the wall issue, the originally approved plan included an open wrought iron fence.

Mr. Petersen: It had pillars and some spacing.

Chairman Williams: You are proposing a shrubbery screen in place of the fence.

Mr. Petersen: Exactly.

Chairman Williams: going back to the parking, is there an issue with diagonal parking versus perpendicular parking from your professional perspective, Mr. Strauss?

Comm. Strauss: There is not. I think that the diagonal parking can be safe. There is a calculation on efficiency, and I didn't have a problem with the parking angle.

Chairman Williams: I may have misunderstood, but by doing the diagonal parking, do you gain parking spaces?

Mr. Petersen: We picked up a couple, but the flow is more efficient. We also picked up room to do more landscaping along Mission Road and also in front of the storefront, which creates interest.

Chairman Williams: I agree; the landscaping is a nice touch. Are there any other questions? This case requires a Public Hearing.

Public Hearing

Marty O'Meara, 9500 Manor Road, appeared before the Planning Commission and made the following comments:

Mr. O'Meara: I'm right down the street from the shopping district. The reason I came here tonight is I was concerned about the parking lot, the landscaping and the curbs because as they redid the one on the south, they incorporated a lot of landscaping and a lot of curbs. While it looks nice and made the center more inviting to a lot more people, the parking is very difficult. I appreciate their plan that leaves out some of the curbs and landscaping on the new proposal, especially on the northeast corner. I've lived there for years. They don't need to do anything there. I like their lighting structure. It's a parking lot, and I don't think you need a lot of obstacles in a parking lot. I was at Metcalf South the other day, and I noticed they have very few islands. They have markings with urethane paint. My feeling is people didn't run into each other much back then. I don't think we need a lot of islands and structures in a parking lot to avoid people today.

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

Comm. Elkins: I would be curious for staff to comment on the water line that Mr. Petersen has described along Mission Road.

Mr. Klein: This was the first we were aware of the water line. If the easement doesn't allow a wall on it, then you can't put a wall on the water line. A row of parking was removed, so there may be an opportunity for a buffer. It is actually more of a column with wrought iron fence. We would have to evaluate the width of the easement. With regard to the south side, the fence and columns are perhaps due to the grade change, but it does go to the consistency of look between the two developments.

Comm. Elkins: If there is a water line that runs there and KCP&L has the easement, would staff disagree that it becomes a practical impossibility to put that feature in that spot?

Mr. Coleman: It would have to be engineered. The footings couldn't go over the line itself, but there is already construction in the easement already. The footings aren't going to be deeper than 3 feet. Fences and small structures are in utility easements all over the city.

Comm. Elkins: In the event that significant maintenance would have to be done on the water line, what happens to the fence?

Mr. Petersen: They throw it in the parking lot, and we would have to put it back.

Mr. Coleman: That is true any time there is maintenance. Right now, they would tear up the parking lot.

Mr. Petersen: It is a 10-ft. easement and a 10-in. water line. The easement isn't just where the pipe is; it is where they go in to replace it. Based on my experience, whatever is in the easement is torn out.

Comm. Elkins: Mr. Petersen, what is along the western boundary of Ranch Mart South? If there is a wall, how is it technically feasible to put it there and not on the north side of 95th Street?

Mr. Petersen: There is no fence or wall along Mission Road.

Comm. Strauss: Are you still able to put the sidewalk in along Mission Road?

Mr. Petersen: Yes, and because of the added efficiency of the angled parking, we are able to put in a 5-ft. sidewalk and a landscaped area. Commissioner, I don't have my CID files, but since we're reapplying and going back through, this is about a 10% cost savings, so it is right at \$1 million.

Comm. Levitan: What is staff's opinion on the number of light poles and what it would do aesthetically to the center if there are more?

Mr. Klein: The city had another lighting plan reviewed by an independent lighting consultant, and they came up with significantly fewer light poles than 76. It didn't seem any different than most other commercial developments.

Comm. Levitan: It sounds like you want to achieve continuity with Ranch Mart South with the barrier. Is it important to have continuity with the lighting fixtures as well?

Mr. Klein: Yes, but part of that goes to decorative light fixtures that come in different heights. The city would like to see consistency and a more decorative light fixture, as does the applicant; however, we would also like to see consistency within the site itself. Currently, they are proposing to leave the 33 light poles in the center. I also would like to address the possible expansion in the northeast corner. Right now, they are at .27 F.A.R., and the maximum allowed in the zoning district is .25. In order to do that, they would have to remove building area elsewhere or come up with bonusing to earn the floor area.

Comm. Levitan: I'm trying to understand the issue with the height. Why is it an issue if they went with 23-ft. lights?

Mr. Coleman: It is in the ordinance, and in Town Center Crossing, the poles are only 12 feet tall. That is perspective on the height issue for the poles.

Ms. Bennett: The Board of Zoning Appeals did not continue the case to get your opinion; they asked for it knowing that your job is separate from theirs. They have five statutory factors that have be considered for a variance. At that point, they were curious because Mr. Petersen brought up the picture showing the 70 yellow circles. The board asked staff if it was accurate; staff had not seen it. The BZA cannot grant the approval of the height of the light poles; only the BZA can do that. If the commission has comments, I would suggest that those comments apply to all properties in Leawood.

Mr. Petersen: At the BZA, I did not solicit the commentary about the opinion of the Planning Commission from the BZA. They asked what the Planning Commission thinks. It is logical because the Planning Commission looks at elements of an application within the context of the entire design and application. Unfortunately, when a piece is isolated in front of the BZA, it is logical for them to wonder how it fits in the entire plan. My presentation was not on the overall plan. I got criticized by staff because I had not shared the lighting plan with the city. Tonight is the first I have heard of the city's lighting plan. I still think double the poles is too many. With the utmost respect to the City Attorney, I don't think the commentary addresses the height of the poles for the entire city. The context of the discussion is if it's something that should be considered in the context of a specific application and if it is open for some modification, just as was the process for the Justice Center. As far as 12-ft. poles, the parking lot at One Nineteen looks has them and looks strange.

Chairman Williams: I would ask staff how the Justice Center poles are 20 feet high.

Mr. Klein: They were approved for 20 feet. We haven't had a chance to measure them at this point.

Comm. Ramsey: Could the staff now give a summary of issues in terms of what we can decide versus what is out of our purview. I know the height of the lighting has to go to the BZA. Does the requirement for the underground utility lines come from the LDO?

Mr. Klein: Staff is recommending denial of the application because there is an application that has been recommended previously. The light fixtures must go to the BZA. The underground utilities are a requirement from the LDO. The Governing Body is the only body that can override that decision. The site improvements are part of the plan. Because this is an existing site, they don't have room to create a 25-ft. parking buffer; therefore, in an effort to meet that same intent, we talked about a wall or fence. This proposal was their proposal. With regard to landscaping, one street tree per 35 linear feet on center is required as well as one ornamental tree for every 12 linear feet and one shrub for every five linear feet. Because space is limited, we requested street trees and accent shrubs to screen headlights. The fence also creates a physical barrier between the parking lot and the busy street.

Comm. Strauss: Was an Interact Meeting required for this?

Mr. Klein: It is not required as a result of a remand.

Comm. Strauss: I didn't read the old Interact Meeting notes.

Comm. Ramsey: In the City Council meeting, they agreed to do a new Interact Meeting.

Mr. Petersen: We didn't have anybody show up at the other three we did. Mr. Chairman, I forgot to mention what I think is an oversight by staff. I apologize. McDonald's went to a dual lane that is 1 foot, 8 inches too narrow. Originally, staff asked to remove the lane, but the Planning Commission agreed that it wasn't necessary; however, the stipulation is back in the report. Thank you.

Comm. Strauss: If McDonald's is being brought up for discussion, I have issues with the circulation. Is that being discussed here?

Mr. Klein: We talked with the applicant about it, and this is more of a reference plan. As they come back for Special Use Permit, we can discuss it.

Mr. Petersen: We should remove the stipulation.

Mr. Coleman: The stipulation addresses all the drive aisles and doesn't reference McDonald's specifically. McDonald's will be addressed during the Special Use Permit application.

Comm. Strauss: My comment is related more to the drive aisles. I have had concerns about traffic at the northwest access point. At 119th and Roe, the entrance closest to Roe is an ingress; the one farthest away is an egress. That is an example of concern about a potentially unsafe condition with someone pulling out of McDonald's into the turn bays. I could imagine a different configuration that would provide safer circulation.

Chairman Williams: I understand your concerns. In the context of the plan before us with McDonald's being a separate issue for later detailed discussion, are you advocating something now that should be added to the plan?

Comm. Strauss: This is related to the drive aisles of the development, so it impacts the plan being proposed. That is why I bring it up now.

Chairman Williams: I would ask Mr. Ley to comment on that.

Mr. Ley: We discussed that in 2013, and the only solution we came up with was to reverse the north side to go eastbound, but that pushed considerably more traffic to the front of the center. *(Places display on overhead to illustrate)*

Comm. Strauss: You're not concerned about cars exiting the northern egress and positioning themselves up to exit the development when there could be a queue of a few vehicles?

Mr. Ley: There is the potential.

Mr. Petersen: There is also an option to circle back eastbound into the parking lot and approach the left turn that way. We are working with McDonald's and will evaluate it one more time when the SUP comes through for McDonald's.

Comm. Ramsey: At the northwest break, if it were made into a right-in, it would then force all the traffic down to make only right-hand turns onto 95th Street. I don't know if this would pass the test if it were coming in today.

Mr. Ley: If this were a new development, we would require more of a throat distance. We worked with the developer, and on the north side of McDonald's, the west parking lot entrance will be closed off to eliminate conflict.

Chairman Williams: Any other questions for staff? If not, I would open it for discussion, leading to a motion?

Comm. Jackson: On Page 3 of the packet, there is list of criteria the city is trying to uphold for the aesthetics for the community, very few of which are being brought into compliance. The community is giving up tax dollars, and in my mind, the aesthetics of the shopping center don't match the aesthetics of the community, and there are a lot of homes in that area. Maybe the northeast corner doesn't impact anybody, but the overall look of the shopping center does. I don't know what they could do, but I feel like they could work a little harder to make the area around the mall look better than it is, even with the easement issues. The utility lines don't look good, and Leawood is trying to bury as many as possible.

Chairman Williams: Are you not satisfied with their proposed landscaping in lieu of the wrought iron fence?

Comm. Jackson: What Leawood has tried to do is not have parking about the major streets because it looks bad. My guess is that there is more that can be done here. They agreed to an initial plan that had more thought to it, and now they would like to take that away. What will come instead to make the project look better? Maybe take the extra land in the back and add something that is useful for the community. The community is giving the developer quite a bit on this; what is coming back?

Comm. Pateidl: I'm on the opposite end of this spectrum. The structural changes being suggested are very reasonable, particularly as it relates to the fence versus the shrubs. Having had my children attend Cure of Ars, I know the walk along Mission Road was dangerous. To have a 5-ft. sidewalk buffered with landscaping to keep the kids away from the street is a big community contribution in my mind. The area along 95th Street is similar. Frankly, I think the landscaping would be more practical and more of a light barrier than a wrought iron fence, which begs the issue of public safety and drivers on Mission Road as well. Somebody is looking for comments on the light pattern. I would point out that it happens to be a part of Leawood with a lot of elderly people. They can hit 26 poles easily. If the LDO provides for the consideration of a variance and recognizing that the variance is governed by the BZA, certainly that is not in our purview, but in deference to a decision about 18 feet throughout the City of Leawood, I think the BZA has a purpose, and this may be one of them. Personally, I think the continuity of the development north to south will benefit the area.

Comm. Levitan: I think I'm the only commissioner that lives north of 435. This center is near and dear to me. We don't have a problem with home values; in fact, it is the inverse. I drive past the center multiple times a day, and I'm willing to spend the 1% of my ticket at Price Chopper if it means an upgrade. It's horrible. I don't really see anything that they're proposing to be out of line. It is an older center that was designed at a different time. Some of these infill centers need to be evaluated differently and given the benefit of the doubt. I'm in support of their plan. I'm a big fan of what was done at Corinth Square.

Comm. Strauss: I want to agree with Commissioner Levitan. I like the plan, but just not as much as I liked the previous plan. I feel like it has taken a slight step back, but I think the benefits outweigh the tradeoffs. I'd like to see improvements at this site, also. I am in support of the plan.

Comm. Elkins: It seems that we are in new territory for this commission, this staff and the City of Leawood in that we have had the good fortune over many years to be building on green space. This is one of our first efforts at redevelopment, and it is new to all of us. I think it is important to look to what our LDO requires and what we want to accomplish, but we also have to add a healthy dose of pragmatism and practicality. The center could remain as it is as a legal, nonconforming center. The 2013 plan was closer to conformance, but it didn't get all the way. What is being proposed tonight gets us further than the 2010 plan and not as far as the 2013 plan. It could be said that we are not providing the leadership we could by insisting that we get all the way to what the LDO mandates, I am of a mind that this is probably a situation that might be in the best interest of our community. This is our opportunity. I agree with Commissioners Levitan and Pateidl. I will be supporting the plan as presented tonight with appropriate modifications to the stipulations that are required by LDO or that were proposed by staff. As to the lighting, I agree with Commissioner Pateidl. With all due respect to the City Attorney, I would add that because this is on the edge of Leawood, I don't subscribe to the idea that we have to apply the recommendation of the light pole height to the entire city. I feel it is appropriate to have continuity between both sides of 95th Street.

Comm. Ramsey: One issue I see is that City Council will deal with the applicant on the appropriate finances. I'm not too concerned about cost as opposed to what meets the requirements and what doesn't. We have the water line on the west side. Having dealt with Water One in the past, I know it will be difficult to put any structure anywhere within that easement. The underground electric is a quandary because if City Council requires the lines to be put in, a fence cannot be put in the same place. I think the answer is to do the landscaping. I am good with the BZA addressing the lighting. I would like to see the uniformity in terms of the fixtures. This is a rehab project, which presents a set of challenges.

Comm. Walden: The easement for the water line could be larger than 10 feet. I'm surprised that your Site Plan doesn't show the water line. I'm fascinated by this, too, because Leawood is landlocked with Prairie Village and Overland Park. Maybe we do want to be compatible.

Chairman Williams: I would open for a motion.

A motion to recommend approval of CASE 61-13 – RANCH MART - Request for approval of a Revised Preliminary Plan, located north of 95th Street and east of Mission Road – with 15 staff stipulations but striking Nos. 6B and 6C – was made by Elkins.

Chairman Williams: Mr. Coleman, could you clarify the LDO requirement on No. 6A?

Mr. Coleman: There are requirements for internal landscaping for parking lots and lighting that the proposed plan does not meet.

Mr. Petersen: Those are design guidelines and are not set in code.

Mr. Coleman: They are in the LDO. It would have to go to the BZA.

Mr. Petersen: That is not true.

Chairman Williams: It is not this body's ability to debate whether it is or is not in the LDO. For the time being, the stipulation will remain. I would like to add a correction to No. 6A in the first sentence: "Shall be" instead of "Shall me"

Friendly amendment accepted by Elkins; second by Ramsey. Motion carried with a vote of 6-1. For: Levitan, Pateidl, Elkins, Strauss, Ramsey and Walden. Opposed: Jackson.

NEW BUSINESS:

CASE 01-15 – MARKET SQUARE – BANK OF BLUE VALLEY – CLEARWIRE WIRELESS ANTENNAE – Request for approval of Special Use Permit for a wireless antennae and associated equipment, located north of 135th Street and east of Mission Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Ursula Brandt made the following presentation:

Ms. Brandt: This is Case 01-15 – Special Use Permit for Clearwire, located north of 135th Street and east of Mission Road on the rooftop of Bank of Blue Valley in the Market Square development. The applicant is seeking a Special Use Permit to allow continued use of 7 antennas and 2 rooftop equipment cabinets. The antennas and cabinets are completely screened, and no modifications are being proposed with this application. Staff is recommending approval of Case 01-15, and I would be happy to answer any questions.

Chairman Williams: The existing screening stays, and all the equipment is behind the screening?

Ms. Brandt: Correct.

Comm. Elkins: As a point of clarification, as the case is identified on our agenda, it is for a Sprint wireless antenna; the packet before us is for Clearwire. Can you clarify, please?

Ms. Brandt: Clearwire is on this application. Sprint came forward before proposing modifications, and they decided not to do them. The renewal is just on the Clearwire. (*modification made*)

Applicant Presentation:

Curtis Holland, Polsinelli Law Firm, 6201 College Boulevard, Suite 500, Overland Park, KS, appeared on behalf of the applicant and made the following comments:

Mr. Holland: This is a relatively simple application with a renewal from 5 years ago. The equipment is all screened, and we agree with all the stipulations. I'd be happy to answer any questions.

Chairman Williams: Any questions for the applicant? 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 carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

A motion to recommend approval of CASE 01-15 – MARKET SQUARE – BANK OF BLUE VALLEY – CLEARWIRE WIRELESS ANTENNAE – Request for approval of Special Use Permit for a wireless antennae and associated equipment, located north of 135th Street and east of Mission Road – with 5 staff stipulations - was made by Jackson; seconded by Elkins. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 47-15 – CAMELOT COURT – Request for approval of a Revised Final Plan, located north of 119th Street and east of Roe Avenue.

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: The first bullet point in the History section should be 2014 and not 2017. This is Case 47-15 – Request for a Revised Final Plan for Camelot Court, located north of 119th Street and east of Roe Avenue. Camelot Court has been presented to the Planning Commission and Governing Body on two other occasions over the past year. In 2014, the Governing Body approved a Revised Final Plan on March 17th for improvements to the development, which included an increase in square footage, improved pedestrian circulation and increased open space and parking. This approval was followed up with an approval for a Community Improvement District [CID] funding on June 16, 2014. On October 20, 2014, the Governing Body approved a Revised Final Plan for the applicant, requesting modifications to the approved plan. Some modifications included a new tenant space with a tower element at the northeast corner of Building H, which was formerly the Earl May building, updated elevations for Buildings R and S, which are adjacent to 119th Street, and a phasing plan. The applicant is proposing the following changes to that approved plan with this application:

- At the northeast corner of Building H, the applicant is requesting to keep this corner in its original condition with none of the updates approved with the previous case.
- At the northwest corner of Building H, an outdoor dining patio is proposed where a previously approved drycleaner drive-through was to be located. The canopy, which was approved in conjunction with that drive-through, shall remain, and the patio is to be enclosed by a 2-ft, 10-in. black galvanized steel fence with red brick columns and case stone caps.
- Pedestrian connections between Buildings L, M and the main center, which are all adjacent to Town Center Drive, are proposed to be removed from the plan. The applicant is proposing a new pedestrian connection to connect to Town Center Drive at the northwest corner of Building L.

- The applicant is proposing to update the brick for the Hen House. In front of the Hen House, the applicant is also proposing 13 new bollards, which are proposed to be 6 feet apart and 36 inches high.
- The rooftop utility screening on the east and north elevations of the main center are proposed to be modified. The previous design had the screen braced to the façade. The new screen will be braced on the roof, so it will not be visible from street level.

Staff is recommending denial of Case 47-15, due to the fact that staff does not support the tower element at the northeast corner of Building H, which was already approved by the Governing Body to be removed from the plan. This tower element was to match others approved in the development. It is staff's opinion that removing this feature from the plan conflicts with Section 16-2-10.1(h) of the LDO, which states that all 4 sides of a building shall be contracted to the same standard of design and maintain consistency in architecture. In other words, the building will no longer be representative of 4-sided architecture with the removal of this feature. Should the Planning Commission approve this application, please consider the recommended stipulations outlined in the Staff Report. I'm happy to answer any questions you may have.

Chairman Williams: What is being done on the back side of the building as part of this redevelopment to make it 4-sided?

Ms. Kriks: They are not proposing any improvements. They are screening along the back with a significant number of trees and vegetation.

Chairman Williams: Is there a corresponding tower at the opposite end of the development?

Ms. Kriks: All the other corners of the building have the tower element.

Chairman Williams: That element was to serve a tenant on that corner?

Ms. Kriks: That is correct. In October, they had a tenant for that space, but the lease fell through.

Chairman Williams: With no tenant, there would be no required construction for a tenant, so the tower would simply be an appliqué on the corner?

Ms. Kriks: Yes.

Chairman Williams: Staff's recommendation for denial is solely on this one issue; is that correct?

Mr. Klein: There are a number of changes that affect that recommendation. Some pedestrian walkways were removed because it was difficult to make them ADA accessible.

Chairman Williams: There are a few things you don't agree with, but it appears to me that they are adding back a number of items that seem positive, such as outdoor dining space and removal of the drive-through.

Mr. Klein: I understand that, but staff looks at each elevation and tries to apply direct requirements of the ordinance.

Chairman Williams: Again, we are dealing with an existing building.

Mr. Klein: That is correct. Part of the issue is that it was shown on the plan previously.

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

Applicant Presentation:

John Petersen, Polsinelli Law Firm, 6201 College Boulevard, Suite 500, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Petersen: Caprice James, Director of Construction is here, and our civil engineers from Lutjen are here as well. The first issue is the entry point. It appears we are debating 4-sided architecture. The Preliminary Plan was approved in 2013; the Final Plan was approved in February, 2014. The city approved the CID in June, 2014. As new tenants come in, revisions are made for the Final Plan, which is what happened in October, 2014. At that point, the drive-through element was eliminated, and Pie Five was added. This precipitated the outdoor dining area. At the same time, because of the configuration of Pie Five, there is dead space in the back. There is a unique tenant that could use that space in the back for a catering business, but it would require a door. That tenant went away, as did the door. We couldn't pull a permit without the door, though. Now, the discussion is about 4-sided architecture. The plan approved in 2013 with a CID included a finding by staff, Planning Commission and Governing Body that we had met the requirements of 4-sided architecture. The tower element they have brought up is actually a door and is not in balance with the other towers designed for the center. We would ask to build what was originally proposed and not have a door element. It was a very odd tenant that would utilize that space, and we don't foresee it happening again. If it does, we would come in for a revision.

Staff referenced the pedestrian walkways, and I know they are critically important, functional issues. We have talked extensively about ADA connections. Connections between the buildings would require steps and would therefore not be ADA compliant. The connections are not required to comply pursuant to ADA. When the steps were being put in by Korner Bakery, the city inspector said they had to be ADA compliant. If the city would like them to be ADA compliant, we will remove the connections, as there is not enough room to make them ADA compliant. We would prefer to leave the stairs.

The last issue deals with construction time. We accepted the stipulation in 2013 that called for no construction between 10:00 PM to 7:00 AM. We proposed a stipulation for this plan that would allow us, with staff discretion, to work overnight on a few occasions. The parking lot has to be milled and overlaid, which is extremely difficult and dangerous to do during business hours. It could be done over the course of 2-3 nights, which would be chosen carefully. With that, we would be happy to answer any questions.

Chairman Williams: Mr. Petersen, in light of staff's comments, if we were to approve this, what stipulations would you see potentially changing, if any?

Mr. Petersen: No. 20 would include, "except when otherwise agreed upon by staff and the developer."

Chairman Williams: There is no stipulation No. 20.

Mr. Petersen: No. 20 references prior stipulations from the previously approved plans. I am asking to modify that one. No. 4 talks about the corner feature. I don't think there was a stipulation about the ADA compliance, but I thought we should discuss it and make sure what we are doing is approved.

Comm. Elkins: Staff, can you comment on the ADA issue? I'm a little confused.

Mr. Klein: The building official indicated that the pedestrian paths have to be ADA compliant. There is a grade change there that makes it challenging; however, my understanding is that the walkways need to be ADA compliant.

Comm. Elkins: Do we need a circumstance with one set of stairs installed and approved by the inspectors and then another pedestrian crossing with the ADA rule?

Mr. Coleman: The stairs brought up the issue of the ADA compliance with the building official. Under the code, which incorporates provisions of the ADA, if a route is provided for an able-bodied person, it must comply with ADA and provide a route for a disabled person. Mr. Petersen talked about removing the stair, which removes the route and also the route for ADA.

Comm. Elkins: My point is that a stair has apparently passed inspection.

Mr. Coleman: It hasn't passed inspection, but it has been constructed. It was shown on the plans.

Comm. Ramsey: Were the plans approved?

Mr. Coleman: The issue was brought up by the field inspection.

Mr. Petersen: Apparently, the city has changed its mind because when the plan was approved in 2014, these stairs were part of the plans and the construction documents.

Comm. Ramsey: But the interpretation of the regulation is between you and this inspection staff. Whether it was on the plans or not doesn't negate the rule of the law. We don't have the authority.

Mr. Petersen: It is not the law that every point of pedestrian way has to be compliant with ADA. There is no facility in American that complies with every point. No stairs could ever be allowed. I'm sorry to do this, but we will remove the stairs from the plan, which is unfortunate. I hope the City Attorney can work with the inspector and get back to the law. I believe we will find that the inspector is incorrect. In order to move the plan forward, we will remove the plan.

Chairman Williams: I think that is the only thing we can entertain. Any other comments or questions? Any discussion from my colleagues?

Comm. Elkins: I would be remiss if I didn't raise this again, but the commission may recall that I had many reservations about the parking field that serves this shopping center. I remain disappointed, especially after some of the creative solutions we've seen with some of the other developments around Leawood in terms of promoting and assisting pedestrian safety. As recently as this week, I've seen 2-3 near misses in that parking lot, and this would have been an opportunity for us to fix that. I also would make the record that I remain confused about this ADA issue. There is even some confusion, it appears, about whether the first set of stairs was inspected and allowed. I understand the law as well as anybody in terms of the ordinance and our code trumping whatever may be in the plans, but this is another example of this particular parking field not promoting the public safety in terms of vehicles versus pedestrian with the removal of the stairs. I would suggest that what we approve at least leaves the flexibility that the city and the developer could come to an agreement about what is permitted. I'm not sure I follow staff's logic on the tower element on the corner. As I understand the presentation, it is a little tower if it could even be called that. I am in full support of the applicant with respect to that particular issue.

Chairman Williams: I think you bring up a good point about leaving the door open on the stairs. Again, it is not within our purview to change applicable laws. Perhaps No. 15 could say, "All sidewalks shall be installed per street construction standards." I don't know if that addresses the issue, but I agree that we need good pedestrian pathways while complying with ADA.

Mr. Petersen: We would welcome a stipulation that would allow the sidewalks as they were originally approved. Those who are experienced with shopping centers would recognize that it isn't feasible to make it ADA compliant. I think there is a reasonable chance we can get on the same page as the city.

Chairman Williams: Perhaps it could read, "Prior to submittal to Governing Body, applicant and city staff shall review and try to work out issues related to pedestrian stairs and walks as shown on the current plans."

Mr. Petersen: I would like to make one point of clarification: we will do our best to get this done before Governing Body, but this is holding up building permits. We will do our best.

A motion to recommend approval of CASE 47-15 – CAMELOT COURT – Request for approval of a Revised Final Plan, located north of 119th Street and east of Roe Avenue – with the following modifications to staff stipulations for a new total of 20 stipulations:

- **Remove No. 4.**
- **Add a stipulation to read: "Prior to submittal to Governing Body, applicant and city staff shall review and try to work out issues related to pedestrian stairs and walks as shown on the current plans."**
- **Add a stipulation to permit construction outside of the standard working hours on a limited basis with the agreement of staff.**

was made by Elkins; seconded by Ramsey. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

5-minute break

CASE 52-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of "commercial". **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is case 52-15 – LDO Amendment to Article 9, Definitions for commercial use. This is related to the next case as well. I can discuss them together so you can hear how they work together. With regard to this application, staff is recommending approval of a modification to the definition of commercial development. Currently, it is defined as all development other than office, recreational, open space, multi-family or other residential housing units. As you may recall, the Mixed Use district has come before the Planning Commission, and Commissioner Pateidl asked if it was the intent for commercial development to exclude office. We found that the term "commercial" was being used for everything that wasn't residential. It was listed in many areas with regard to buffers between residential and commercial development. It didn't seem to make sense to have it exclude office, because then there would be no need for a buffer between an office development and a residential development, which wasn't the original intent. Staff would like to remove the office exemption. The definition would read, "All development other than recreational, open space, multi-family or other residential housing units." This helps it to fit more consistently within the LDO.

In light of that, Case 137-14 discusses a mixture of uses in Mixed Use. Not less than 25% of the floor area shall be designed for residential use and not less than 30% of the floor area shall be designed for commercial use. Given the current definition, this didn't make sense. We decided to address the MX-D district's goals of a minimum percentage as far as office and retail and then a minimum percentage of residential. There are many other uses that don't fall within office or retail. They would still be allowed within the MX-D zoning district; however, a minimum percentage of the total floor area would be required to be retail and office. Staff is recommending that the ordinance in Section 16-2-6.4 – MX-D read under Required Uses, "Not less than 20% of the total floor area within the development shall be designed for residential use, and not less than 10% of the floor area shall be designed for retail uses. Overall, not less than 30% of the area shall be designed for office and retail uses." Staff is recommending the amendments, and I'll be happy to answer any questions.

Chairman Williams: In Paragraph A of 16-2-6.4, your second paragraph read for retail, office and striking out commercial. It includes cultural uses, single structure, etc. Does that get eliminated from the required ratios?

Mr. Klein: I don't believe so. I believe the intent was to allow everything that is allowed within the MX-D district per the Table of Uses but include the minimum requirements.

Chairman Williams: Should reference be made to include the approved uses for the district?

Mr. Klein: That would be fine.

Chairman Williams: By the level of definition and percentages, if a development has 30% commercial, if it is all retail, will office be required if the rest of the development is residential?

Mr. Klein: I think they would be allowed to actually have retail as their component. It would require that a minimum percent of that commercial would be retail.

Comm. Pateid: I'm getting confused on these percentages because if the 30% is all retail, would it be in compliance with the requirement for office?

Mr. Klein: Maybe a way to clarify it would be "10% of the floor area shall be designed for retail uses overall. Not less than 30% of the floor area shall be designed for office and/or retail. That way, the minimum is still 10% retail. Other uses shall be permitted as listed in Section 16-2-7 in the Table of Uses for the MX-D district."

Comm. Walden: In the second line, did you add the word "than" at the end?

Mr. Klein: We'll correct that.

Chairman Williams: Could you tell us what the paragraph should read?

Mr. Klein: Under Required Use Ratios, "Not less than 20% of the total floor area within the development shall be designed for residential use. Not less than 10% of the floor area shall be designed for retail uses. Overall, not less than 30% of floor area shall be designed for office and/or retail uses. The remainder of the development may consist of other uses as designated by the ordinance."

Chairman Williams: What I understood you to say was that after the 30% for the office and/or retail, the balance of the development would be the other approved uses. What we talked about a few minutes ago was that commercial uses were including cultural uses, etc. Are you saying that those would not fall under the former commercial category?

Mr. Klein: Under the second paragraph it reads, "This section establishes the zoning classification which permits planned developments that include a mixture of residential, retail, office and other uses as permitted."

Chairman Williams: Your language you just gave us is fine, then. Are there 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 carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

A motion to recommend approval of **CASE 52-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS** – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of “commercial” – to reflect the changes indicated in the memorandum proposed by staff – was made by Elkins; seconded by Ramsey. Motion carried 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**

Public Hearing

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

A motion to recommend approval of **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 – as indicated with the attachment to the case with modification to the section that was quoted to us by Mr. Klein – was made by Elkins; seconded by Ramsey. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

Chairman Williams: At the conference that several of the commissioners and staff were able to attend, one of the issues dealing with density and Mixed Use development was talking about retail. There was some reference in the work session we had about number of bodies but also amount of money that supports retail. Though we’re calling out for a percentage in these developments, would it be prudent for the city to look at what our financial demographics are to support retail in this city?

Mr. Coleman: We’ll do another market study, but we have a report from two years ago from Nielsen on sales in the corridor. It includes Leawood and parts of Overland Park. It gives a good picture of the discretionary income of the area and how much is spent on what products.

Chairman Williams: I was interested by how much discretionary money it takes to support a square foot of retail.

Mr. Coleman: We can get that on a national average.

Chairman Williams: Maybe getting a handle on the national average would be helpful.

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 – LDO amendment to Section 16-4-6.13 – Permanent Sign Regulations pertaining to window signs. The Planning Commission has had a work session on this. Staff would like to add a requirement that was previously included and was inadvertently removed. Currently, staff is recommending that within each of the districts in the Table of Permanent Signs, a section should be added that addresses window signs and a maximum of 5% of contiguous window area on which the signage is location. At the time of the work session, there was a request for a visual. (*Shows exhibit*) The window area, excluding the columns and doors, is displayed.

Chairman Williams: For example, if the retail store wanted to put signage in each of the windows, it would be slightly different in size on smaller window panes.

Mr. Klein: We tried to show an example of 5% of the window area bound by the mullions. A contiguous window area, however, would present differently.

Comm. Levitan: If these were individual storefronts with multiple retailers, how would it work?

Mr. Klein: Each retailer would be allowed the 5%.

Comm. Levitan: The reason I am asking is the size of the example is nothing. If I'm not mistaken, Overland Park is 50%.

Mr. Klein: Actually, Overland Park doesn't regulate the window signs.

Comm. Levitan: As an analogy, imagine there is a center that is 25% occupied with many vacancies. If the tenants are fighting for survival and are only allowed the small window sign, it doesn't do anything. I have a hard time getting behind that.

Comm. Strauss: I don't know if we have any storefronts that are that small, though.

Mr. Klein: This would be a very small storefront.

Chairman Williams: There are a number of small retailers in Town Center.

Comm. Levitan: I would be more interested to see an example of that, not to belabor it. I know one of the storefronts discussed was the video game store, which probably overdoes it, but it would be interesting to see an example of a multitenant building.

Chairman Williams: I took the liberty of driving through Town Center Plaza and Town Center Crossing. Based on what is being proposed here, we are looking at 80% noncompliance with existing retailers, and that includes Macy's, Chico's, Panera and Helzberg Diamonds, which has a simple sign with a band. Based on a rough calculation, they are exceeding the maximum by close to 15-20%. There are many retailers with signage on the glass from the inside that are promoting sales or showing the name of the company. From our work session discussion, that whole sign would count as a block. Not one of them was 5%. The average was 20%. Game Stop is a whole different story because the entire glass front is filled with something.

Ms. Kriks: I apologize for interrupting, but it is almost 9:00, and we have to take a vote to extend.

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

Chairman Williams: What are we trying to achieve, really? We talked about trying to eliminate clutter. I'm sorry, but I find most of the signage at Town Center to be tasteful. They're advertising their product. Some is artwork to enhance the image of their store. All of this will go away. It doesn't leave the retailer with much. Are they going to then leave Leawood and go somewhere else? They don't have to go far to get retail and still serve Leawood customers. I understand wanting to reduce some of it, but I think 5% is way too low, especially when you consider the piece that we passed some time back about a window sign being anything within 3 feet of the glass. Many of the stores can't do that.

Comm. Levitan: To a certain extent, it is a matter of the developer or the owner of the center policing it as well. They want to attract tenants that will pay high rent. If it starts to get really cluttered, the owner has a hard time attracting those tenants. It is partially incumbent upon the ownership, which is a leap of faith, I know. In most cases, I have not seen signage in the city that is appalling. Game Stop could probably be addressed. There is probably a happy medium.

Chairman Williams: The Halloween store last October was worse than Game Stop.

Comm. Levitan: Yes, and it goes back to competitiveness. Do we want to be seen as business friendly? I know we don't get into the economics of our decisions, but it's a competitive issue in my opinion.

Comm. Pateidl: One of the things I did in reviewing this was to go online to view a number of communities and their window signage regulations. We alluded to Overland Park, which has zero restrictions. Olathe has 10-20%. I couldn't figure out Prairie Village and Lenexa. I found that only one in a very restricted area had a percentage of 5%. They ran anywhere from 10-50%. Often times, cities would have variation. We are looking at "one size fits all". It would serve us well to consider our issues: small retailers, large stores, small buildings and large buildings. If we think this through, we can establish a more educated approach to allowing signs of a meaningful nature that are good for retail and minimize the clutter. The ordinance needs to be clear so that it can be enforced. I'm not ready to make a decision on what we have before us. I'd like to see a little more research and some schematics. I'd like to see alternatives that are more retailer friendly and then make some decisions.

Chairman Williams: We could vote on the proposal, and if it doesn't pass, we go back to the drawing board.

Comm. Ramsey: I'm not sure we're ready to send this to Governing Body one way or the other.

Comm. Strauss: Could we table it and talk about it at the next work session?

Comm. Pateidl: Is it our purview to grant a continuance, or is it the applicant's decision?

Chairman Williams: I'm going to guess it is staff since they're the ones proposing it.

Comm. Elkins: I think Commissioner Strauss has a point from a procedural standpoint. We could table it on our own. I don't know how staff wants to handle it.

Mr. Colman: This started with just trying to put the 5% in the table. It is already in the ordinance. If you want to change it to 10%, 15%, 20% or 30%, we'll have to change the other section of the ordinance.

Comm. Ramsey: I'm not prepared to say that we should stay with 5% or go to another percent. I would like to have another session where we could discuss this.

Chairman Williams: The example was helpful. It would also be helpful to get pictures of various shops that would be considered excessive. There are many examples in Town Center that have large signs, including

Allen Edmonds and Helzberg, both of which could be good examples of how 10% could look appropriate. I agree to table this and see some examples. I don't think 5% is retail friendly.

Comm. Ramsey: If we advertise the fact that we are discussion this, we would have a room full of people in the Public Hearing.

Chairman Williams: I would like to hear from the retailers.

Comm. Ramsey: I don't think I would want to be a staff member trying to enforce 5%. I don't know how it could be done.

Ms. Bennett: My understanding is that the 5% has been in the code for some time, and it still is in a section of the code. I believe it has been enforced in the past.

Chairman Williams: We use the 5% for the building signage.

Ms. Bennett: The 5% on window signs has been in the ordinance for some time. The only reason it is being discussed tonight is it got dropped out of the table when the sign regulations changed. This is putting it back where it was.

Chairman Williams: Maybe this is a good opportunity for us to revisit what a retail friendly percentage for window signs would be.

Mr. Coleman: I don't think it has been driving retail out of Leawood, and it has been there for 20 years.

Chairman Williams: At least 75-80% of the retailers in Town Center would be in noncompliance, given the small percentage that is allowed.

Mr. Coleman: We haven't been enforcing it because of this error of leaving it out. It probably has been growing over the past year or two.

Chairman Williams: Again, I think it gives us the opportunity to correct what was not a good number and certainly isn't what retailers are using and would like to use. If they say they are happy with 5%, then we'll leave it at 5%.

Public Hearing

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

A motion to continue Case 138-14 until July 14th work session was made by Ramsey; seconded by Elkins. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

CASE 56-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the addition of limousine service to the definition of "Business Services". **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 56-15 – LDO Amendment to Article 9, Definitions – pertaining to the addition of limousine use to the definition of business services. At the last Planning Commission meeting, there was a case that dealt with limousine use. At that time, it was recommended by the Planning Commission that limousine use did fit within the definition of business services, which is allowed within the Planned Business District. City Council approved the recommendation. This amendment would add limousine services into the definition. Staff will be happy to answer any questions.

Chairman Williams: Any questions for staff? Thank you. Any comments?

Public Hearing

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

A motion to recommend approval of CASE 56-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO ARTICLE 9, DEFINITIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the addition of limousine service to the definition of “Business Services” – was made by Jackson; seconded by Ramsey. Motion carried with a unanimous vote of 7-0. For: Levitan, Pateidl, Jackson, Elkins, Strauss, Ramsey and Walden.

Chairman Williams: Ms. Bennett, after a meeting, are we allowed to talk about a case as we are going out the door, or should we not have discussion except in the full body or designated numbers?

Ms. Bennett: *Inaudible comments.*

Chairman Williams: The point they made at the conference is that it could come back.

Ms. Bennett: *Inaudible comments.*

Chairman Williams: So, it is best for us to keep our mouths shut about what we talked about in the meeting.

Comm. Elkins: In my view, the conversation we just had falls in the category of attorney/client recommendations, so I would ask that it not be included in the record for tonight.

Ms. Bennett: *Inaudible comments*

MEETING ADJOURNED