

**City of Leawood
Planning Commission Meeting
October 27, 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: Hoyt, Walden, Pateidl, Elkins, Strauss and Ramsey. Absent: Williams, Levitan and Coleman

APPROVAL OF THE AGENDA:

Ms. Kriks: The only amendment I'd like to draw attention to is the updated Staff Report for Case 112-15 – Leawood Country Manor. The applicant has reduced the size of the sign, as is reflected in the Staff Report.

A motion to approve the amended agenda was made by Ramsey; seconded by Pateidl. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

APPROVAL OF MINUTES: Approval of the minutes from the September 22, 2015 Planning Commission meeting

A motion to approve the minutes from the September 22, 2015 Planning Commission meeting was made by Ramsey; seconded by Strauss. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

CONTINUED TO NOVEMBER 10, 2015:

CASE 75-15 – LEABROOKE TOWN MANORS – Request for approval of a Preliminary Plan and Preliminary Plat, located north of W. 148th Street and west of Kenneth Road. **PUBLIC HEARING**

CASE 116-15 – LEABROOKE 10TH PLAT AND PLAN – Request for approval of a Revised Final Plat and Revised Final Plan, located north of 148th Street and west of Kenneth Road

CASE 130-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-1.3, PERMITTED ACCESSORY USES, BUILDINGS AND STRUCTURES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to solar collectors. **PUBLIC HEARING**

CONTINUED TO NOVEMBER 24, 2015:

CASE 61-15 – THE GLYN OF LEAWOOD - Request for approval of a Rezoning, Preliminary Plan, and Preliminary Plat, located north of W. 151st Street and east of Mission Road. **PUBLIC HEARING**

CASE 101-15 – PARKWAY PLAZA – STC FIVE WIRELESS TELECOMMUNICATIONS FACILITY – Request for approval of a Special Use Permit, located north of W. 135th Street and west of Briar Street. **PUBLIC HEARING**

CASE 102-15 – PARKWAY PLAZA – CROWN CASTLE CELL ON WHEELS – Request for approval of a Temporary Special Use Permit, located north of W. 135th Street and west of Briar Street. **PUBLIC HEARING**

CASE 108-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-12, WIRELESS COMMUNICATION TOWERS AND ANTENNAE – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to wireless communication facilities. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 112-15 – LEAWOOD EXECUTIVE PARK – TRICOM TECHNICAL SERVICES MONUMENT SIGN – Request for approval of a Final Sign Plan, located at 11115 Ash Street.

CASE 115-15 – TOWN CENTER PLAZA – YOGA SIX – Request for approval of a Final Plan for a change to the façade of a tenant space, located north of 119th Street and east of Nall Avenue. CASE 127-15 – LISCHER RESIDENCE – Request for approval of a Revised Final Plat, located at 2915 W. 94th Terrace.

CASE 127-15 – LISCHER RESIDENCE – Request for approval of a Revised Final Plat, located at 2915 W. 94th Terrace

A motion to approve the Consent Agenda was made by Strauss; seconded by Hoyt. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

NEW BUSINESS:

CASE 99-15 BI-STATE – CENTRAL STATES WAREHOUSE ADDITION – Request for approval of a Revised Preliminary Plan, Revised Final Plat and Final Plan, located east of Kenneth Road and north of 143rd Street. **PUBLIC HEARING**

Staff Presentation:

City Planner Ursula Brandt made the following presentation:

Ms. Brandt: This is Case 99-15 – Bi-State – Central States Warehouse Addition, located east of Kenneth Road and north of 143rd Street. The applicant is proposing a 53,323 sq. ft. building addition on the Central States Beverage Warehouse facility within the Bi-State Business Park. The site and existing building straddle the Kansas and Missouri state line, and therefore, the building addition will also straddle the state line, with a total of 53,323 square feet within the City of Leawood and an additional 27,386 square feet in the City of Kansas City, MO. The applicant is also proposing a parking lot expansion to the west of the building addition. The parking lot will be used primarily for trucks with access to existing and proposed loading docks within the warehouse. The property within Leawood is currently divided into four separate lots, and the applicant is proposing to re-plat the property into one single lot with 461,568 square feet. The original warehouse building is constructed of precast wall panels, and there was an addition approved and constructed in 2011 using an insulated metal wall panel in a color that matched the original warehouse. The applicant is proposing to use the same metal wall panel on the entirety of the proposed addition. Downspouts are currently proposed along the southern elevation, which is consistent with the existing warehouse, but it is the city's policy that all non-single family buildings shall have internalized downspouts, so Stipulation No. 7 requires the applicant to internalize the downspouts on the new part of the building. Also, per the LDO, a contiguous building façade longer than 100 feet shall have a building element, such as an entrance courtyard, arcade or other element dividing the façade visually. It is in staff's opinion that the seams of the building material do not meet this requirement, nor do the downspouts, so staff added another stipulation stating that the applicant must revise the plans to meet the requirement of adding an element every 100 feet prior to Governing Body consideration. Staff is recommending approval for Case 99-15 with the stipulations stated in the Staff Report, and I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for Ms. Brandt or the staff? Seeing none, we'd invite the applicant to approach the dais.

Applicant Presentation:

Judd Claussen, Phelps Engineering, 1270 N. Winchester, Olathe, KS, appeared before the Planning Commission and made the following comments:

Mr. Claussen: With me tonight are Mr. Eric Hughes with Strickland Construction, the design builder and Mr. Mike Meyers, with Hernly Associates, the architect for the building. Both Eric and Mike worked on the previous expansion, and we felt it would be great to have them here at the meeting tonight. I have a PowerPoint to go through the project with you.

The project is half in Kansas on the west side and half in Missouri on the east side. The proposal is to remove the shop building on the south side. The new shop building will be over to the northeast on the two pad sites on the Missouri side. Once the shop building is removed, the area is open to do the warehouse and cooler expansion. They also would like to have additional parking for the delivery vehicles on the west side of the building to the west of the existing parking lot.

The Landscape Plan shows a lot of detail about the Site Plan and the trees being put in. The expansion is on the south side of the existing building. The part that is in Kansas is a square part, and a triangle part is in Missouri. We are adding landscaping as required by ordinance along the south side as well as the west side along Overbrook. In both locations, we are adding the required street sidewalks. On the Missouri side, landscaping and sidewalks continue. There will be a lot of sidewalks out there that hadn't ever been built, and a good portion of them around the site will be finished with the completion of this warehouse.

The two items we would like to discuss with you are Nos. 6 and 8. That has to do with the downspouts and the building elements. We would like to request that the city not require those two items for a couple of reasons. Both Mike and Eric are available to discuss that in further detail as well. This is a non-public area. This is workers and truckers that see that. The distance from this expansion to Overbrook is about 480 feet. With the addition of the landscaping as well as the fact that this whole property sits much lower than Overbrook makes the building difficult to see. We think the landscaping adds visual interest to help buffer that area. There is a 10-ft. grass area between the new expansion and the curb line, so it provides some opportunity for green space. There are trees in that space as well. These are the efforts to address the comments about the downspouts and the breaking up of the building. Additionally, this is not a place where the public will be right up around the building. We are in agreement with all the other stipulations.

Eric Hughes, Strickland Construction, 720 Rogers Road, Olathe, KS, appeared before the Planning Commission and made the following comments:

Mr. Hughes: We did this project in 2011, and we have a great relationship. We do a lot of buildings with internal downspouts, and we own several buildings with external downspouts, but this building is really designed for exterior downspouts. Whenever there is ice and snow, internal downspouts can be a real problem. Gaskets can come loose, and water gets down inside. The MR24 roof is one of the best roofs in the industry today with a standing seam. It comes with a 30-year water tightness warranty, and it doesn't lend itself to an internal gutter. We would really like to stay with what is there now. As far as the breaking up of the façade, we feel that we didn't do it the last time, and we have a lot more landscaping this time. We are excited to move the project forward.

Chairman Elkins: If there is nothing more, questions for the applicant? Seeing no questions, I note that this matter requires a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Ramsey; seconded by Pateidl. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

Chairman Elkins: That takes us to discussion, which would hopefully lead to a motion.

Comm. Walden: I would like to hear from staff regarding items 6 and 8.

Ms. Brandt: As far as the downspouts, it is not currently in the LDO, but it is city policy that all the buildings that are not single family have internal downspouts, so that is the reason for the suggestion on this project. The contiguous building façade issue is part of the LDO, and there is no deviation. One of staff's suggestions was to internalize the downspouts as well as create undulations within the façade by building around the downspouts.

Comm. Strauss: What does it mean that it is a policy but is not part of the LDO?

Mr. Klein: It has always been a policy of the City of Leawood with regard to internalizing of the downspouts on non-single family homes. It is not specifically listed in the LDO.

Comm. Strauss: I have seen it a lot, but is there a reason it was never put in the LDO?

Mr. Klein: It wasn't included when the LDO was originally done. It could be that part of it was to offer some flexibility. At this point, we have been consistent as far as requiring it within stipulations.

Comm. Strauss: When they came to the city in 2011, was it included in those stipulations?

Mr. Klein: I believe we discussed it, but it was not included.

Comm. Ramsey: We let them have exterior downspouts in the last project, but now we are requesting that they go inside.

Mr. Klein: We're just trying to be consistent with what we've done on all the commercial buildings. Again, our recommendation really was to try to address both issues by covering the downspouts to create the bump-outs that would break up the façade. I believe the applicant wanted the seams to act as the architectural elements, but they are fairly flat. Staff is looking for something that projects out.

Comm. Ramsey: Is the break-up required as well?

Mr. Klein: There must be something that breaks up a façade that is longer than 100 feet. Usually, most commercial buildings have enough undulations that it's really not an issue; however, this one is longer than the 100 feet.

Comm. Ramsey: I'm a little bit troubled by the fact that we let them do it one way one time, and they are coming back with the exact same type of building and we're now requiring them to do something else that is not in the LDO. I do agree with the suggestion and compromise. It sounds like it might be a reasonable thing to do. Has the applicant indicated willingness to do that?

Mr. Klein: We discussed it with the applicant, and my understanding is the applicant would prefer not to do it.

Comm. Pateidl: On the 100-ft. break-up of an architectural structure, do we have the purview to grant a variance to that?

Mr. Klein: There is no deviation listed for that part of the ordinance. It comes down to what you feel is an actual break-up of the façade. Again, staff's position is that it needs to project or recess in order to provide that. The applicant has indicated a desire to have the seams fill that requirement. They also indicated they would like to have the downspouts be the break-up as well, which is part of the reason staff offered that suggestion to compromise.

Comm. Pateidl: To be perfectly clear, what we are talking about is either side or rear views of this building? Nothing is being done to the front of the building with regard to its posture to the public? Additionally, there is a lot of landscaping in an Industrial Park.

Mr. Klein: Yes, and they agreed to those requirements, which are included in the LDO.

Chairman Elkins: Mr. Claussen, could you put up the south elevation photo? (*photo displayed*) This is the existing building with external downspouts. With respect to this break-up of the architecture, is it your position that the seams in the façade would be sufficient to meet the requirement of breaking up the façade?

Mr. Claussen: We were looking at ways to try to address it. It does have a seam that is not as visible at this angle. We have the downspouts as well. We are trying to be consistent with what was already built out there four years ago.

Chairman Elkins: Staff, the LDO requirement for the architectural element dividing the façade was not in the LDO back in 2011 when this building was built?

Mr. Coleman: It was, but part of this building existed at the time.

Chairman Elkins: You're saying that whole south elevation was part of the 2011 addition?

Mr. Claussen: Yes.

Chairman Elkins: That raises an obvious question for staff. Mark, do you have any records that would offer clarification of that issue?

Mr. Klein: No; we discussed downspouts. As was stated before, that was not included in the LDO but is city policy. I'm not sure if it was discussed and decided that it would be acceptable.

Chairman Elkins: My point is that if this south elevation was part of the 2011 addition and the break-up was required at that time by the LDO, apparently, a group of us concluded that what we had was adequate to meet the ordinance at that time.

Mr. Klein: Yes, that was approved at that time.

Chairman Elkins: Just to clarify, while the ordinance requires that something in the nature of an architectural element breaks up the façade every 100 feet, we have some discretion as to what constitutes and architectural element and whether it is sufficient to recommend to the Governing Body that it is sufficient to meet the requirement of breaking up the façade every 100 feet.

Mr. Klein: There are examples, but you are correct that it doesn't say it has to be something specific.

Chairman Elkins: Thank you. Any other comments?

Comm. Strauss: I'm on the same page as you. I'd be interested in reading the meeting minutes from 2011 to better understand what the Commission was thinking on approving the plan as we saw it, but on the other hand, I want to be true to the LDO. The downspouts are not in the LDO, but the architectural element is. There are those two issues to consider.

Comm. Hoyt: Are there similar buildings elsewhere in Leawood?

Mr. Klein: I can't think of anything that is quite as large.

Mr. Coleman: Probably US Toy that was built probably in the '60s or '70s.

Chairman Elkins: There are no other warehouses in the area?

Mr. Coleman: There are, but they are smaller.

Comm. Walden: Are you opposed to setting the downspouts on the outside of the building and then bumping them out to show them as being enclosed?

Mike Meyers, Hernly Associates Architects, 920 Massachusetts, Lawrence, KS, appeared before the Planning Commission and made the following comments:

Mr. Meyers: We considered adding elements on top of the downspouts. We could cover them up, but as an architect, I have an aversion to sticking things on to cover up a system like that. It just didn't look that good. Part of the issue is the continuous parapet wall on top above the gutter system, and in order to not complicate matters, the covering would stop down low. From any distance, the gutters will match the wall panel and blend. Covering them is not warranted, in my opinion, especially considering the considerable landscaping.

Comm. Ramsey: I want to make sure you understand the quandary we're in. With the LDO, there is no choice or no appeal process. We can't recommend something that goes against the ordinance. What we're trying to work through here is maybe a way that we can meet in the middle to help you get this project through. Otherwise, we may have to force something on you that you don't really want.

Chairman Elkins: Although, as I pointed out earlier, we do have the discretion to determine what is an architectural element and if it does break up the building. While it might be a stretch, we could conclude that the downspouts or the seams are architectural elements that meet the letter of the LDO. Your point is still well taken; we are trying to find a compromise.

Comm. Ramsey: The issue will be what is amenable to the Governing Body.

Chairman Elkins: You're absolutely right.

Mr. Coleman: Mark has some clarification on this issue.

Mr. Klein: We looked at the resolution for the approval in 2011. It does have a stipulation that requires the downspouts to be enclosed, which means that they are in violation at this point. Maybe that was part of the reason the other part wasn't mentioned because it was, perhaps, the undulation.

Chairman Elkins: This is an instance with an unenforced nonconformity with the approved plan.

Mr. Klein: That is correct.

Mr. Coleman: One of the issues was that we hadn't required this prior, and we actually did require it.

Chairman Elkins: Although, we haven't enforced it for over five years.

Mr. Coleman: Apparently not.

Mr. Hughes: I understand the situation you're in with the ordinance. What we could do if you are amenable would be to work it out with the staff. We would like to stay with the external gutter because it is way too expensive, and this roof is designed for external gutters, but we could go with the downspouts and maybe put a little chase around them with stone or something. We looked at different things, but it didn't look as good. We were prepared to say that if it's what you really want and what we need to do to make it work, we'll do it. We want to come up with something that is architecturally pleasing. We'd like to work with staff to come up with something so it doesn't slow us down.

Chairman Elkins: Mr. Hughes, as I read the requirement and the stipulations for the downspouts, the external gutter is not part of that.

Mr. Klein: That is correct. The gutter is almost always exposed.

Chairman Elkins: We're only talking about the downspouts. In that case, it would seem to me that we could probably leave Nos. 6 and 8 in place and move forward, and you could work with staff to resolve the issue.

Mr. Hughes: I think we can work that out, as long as the gutter is outside the building.

Chairman Elkins: With that clarification, I would entertain a motion.

A motion to recommend approval of CASE 99-15 BI-STATE – CENTRAL STATES WAREHOUSE ADDITION – Request for approval of a Revised Preliminary Plan, Revised Final Plat and Final Plan, located east of Kenneth Road and north of 143rd Street – with all staff stipulations stated in the Staff Report – was made by Ramsey; seconded by Walden. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

CASE 110-15 – VILLA MILANO – GATE AND ACCESS ROAD – Request for approval of a Revised Final Plan, located south of 135th Street and east of Mission Road.

Staff Presentation:

City Planner Ursula Brandt made the following presentation:

Ms. Brandt: This is Case 110-15 – Villa Milano Gate, Access Road and Retaining Wall, located south of 135th Street and east of Mission Road. The applicant is requesting approval of a Revised Final Plan to address three issues. First, the applicant is requesting to add safety mesh or a black chain link behind the picketed moving gates to meet a safety requirement, which is that a 2 ½-in. sphere is not allowed to pass through the openings. Staff is not supportive of the safety mesh and is recommending additional vertical pickets between the existing pickets. We believe it would be more aesthetically pleasing. Secondly, the applicant is requesting removal of a drive off Mission Road, which was part of the Final Plan as a future road. Public Works and the Fire Department are both fine with the removal of the drive, as it does not provide crucial access into the development. Third, the applicant has not built a retaining wall located in the southeast portion of the development according to the approved plan. The approved plan shows the

retaining wall flush with the face of a reinforced concrete box with sod behind the retaining wall and no additional rock added. The applicant has installed the retaining wall shorter in length and behind the box, while adding crushed rock above and around the box. Staff is not supportive of the currently constructed plan and is recommending that the wall be built according to the previously approved plan. Staff is recommending denial for Case 110-15 for the previously mentioned reasons. If the Planning Commission does recommend approval, staff recommends the stipulations stated in the Staff Report, and I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for Ms. Brandt?

Comm. Pateidl: To staff, the issue of the spacing on the spokes on the gate is related at ASTM2200. Can you explain to me how that American Society for Testing Materials standard intertwines with our LDO and why that standard is applicable to these gates?

Mr. Klein: I talked to the building official for clarification, and he indicated that often, a building code will reference an ASTM standard. It is actually in a separate book. That is the reason they had a third party do the testing to confirm that what was shown met the qualification. Staff is opposed to the mesh behind the gate for two reasons. One is primarily the aesthetics of it. The applicant indicated a need for both horizontal and vertical members to keep something from passing through. Our understanding is that the requirement is to prevent a 2 ½-in. caliper ball that must be prevented from going through. The additional members would address that. Because it would be vertical, it would be difficult to climb as well.

Chairman Pateidl: Your report says that the mesh should be black in color to match the wrought iron fence and the gate that are currently approved and installed. Could you expand on what you mean by "approved"?

Mr. Klein: The gate was approved with the vertical members. You can ask the applicant, who may be able to elaborate more. The mesh was added behind to meet the ASTM standard, so I don't believe it was shown on the original plan.

Comm. Pateidl: My real question is was the approval with the understanding that the ASTM standards would apply?

Mr. Coleman: The applicant provided a design showing the vertical wrought iron gates, and it was recommended by Planning Commission and approved by City Council. There is another organization – Consumer Product Safety Council – that deals with these operable gates, and within the last 18 months, they came out with this ruling because kids have gotten caught in these automated gates. That requirement is part of the Building Code and not the LDO. Mr. Oddo realized that his gate didn't meet the new Consumer Product Safety Council requirement. Also in the code is the general handrail to prevent falls. The maximum width on fences around pools is to prevent a 4-in. sphere to pass through. This is more restrictive. This came to our attention on the gates when Mr. Oddo put chain link vinyl fence up on the wrought iron fence in order to meet the new requirement. The chain link fence was not approved by the Governing Body, which is why he is here now to ask for the chain link fence.

Comm. Pateidl: To be clear, the chain link fence has already been installed.

Mr. Coleman: It was installed in the last month.

Comm. Pateidl: I don't know that you answered my question. We say that the gate was installed as approved, and why do we have this problem if it was approved?

Mr. Coleman: The gate that was approved didn't meet the Building Code standard.

Comm. Pateidl: Was that our fault?

Mr. Coleman: No.

Chairman Elkins: There is an overly of requirement here that everything we do from an LDO standpoint is subject to the Building Code, which has also been adopted by the City Council. It sounds like this Building Code provision adopted ASTM standards, which apparently changed very recently. It is almost like the rules have been changed subsequent to the approval of the plan.

Mr. Coleman: It is really a question of how you comply with the code. If you recommend to allow the chain link fence to remain, it would probably meet the requirement. Staff's opinion is that the aesthetic of the gate should remain generally as it was approved with the vertical pickets. In our opinion, they could just add intermediary pickets to resolve the issue.

Comm. Pateidl: To follow up on the content of the report as it exists today, since the chain link fence has already been installed, the comment that the gates that are currently approved and installed are acceptable is a bit erroneous. I might also add that I went by the facility, and the chain link fence on the eastern gates is on the front side of the gate. Again, it is just a matter of clarification. Whether it should or should not remain is something we will discuss, but I wanted to be sure that I understood what "approved" meant, and I wanted to be sure that everyone understands that when we say it is done as it is installed, right now, it is installed on a basis that you are not recommending.

Mr. Coleman: We are recommending a different solution to the opening issue.

Comm. Strauss: Is this an issue the city needs to deal with on all gates in Leawood?

Mr. Coleman: For sliding and hammerhead automatic gate openings, yes, so it could come up in the future, too.

Comm. Strauss: There are quite a few developments that are gated.

Chairman Elkins: Although, wouldn't this fall in the category of legal, nonconforming use if the gates are already there?

Mr. Coleman: It will probably be a legal question because the Building Code still needs to be met. It is a safety product issue that has to do with the operation of these automated gates.

Chairman Elkins: Generally speaking, does either the Building Code or the LDO speak to chain link fences?

Mr. Coleman: Black vinyl chain link fence is an allowed fencing material in the City of Leawood.

Comm. Pateidl: To be clear on the question you just raised, it states that a second fence made of PVC chain coated link is permitted when a split rail wood fence is already installed. That is in the LDO, and yes, the chain link is permitted, but when it is a second fence, it is permitted on the back of a split rail fence.

Chairman Elkins: Other questions for staff? If not, I would invite the applicant to step forward, please.

Applicant Presentation:

Rick Oddo, 15431 W. 100th Terr., Lenexa, KS, appeared before the Planning Commission and made the following comments:

Mr. Oddo: I have a slightly different scenario of the whole situation. I disagree with the scenario. First of all, it is not a chain link fence; it is a safety mesh behind a secondary fence. I also believe it was always approved and built to plan because it was always part of the plan to meet codes and to meet ASTM2200. We knew about it two years ago when we built it, and we knew it had to go on. The area between the gates would have been so small it would not have shown up on a drawing. You can't see the safety mesh from 20 feet away. It does require that a 2 ½-in. sphere cannot pass through it, but the intention is to keep a kid's hand from going through it. It is not like a fence to keep a whole head and body out. We don't want a 7-year-old boy putting his hand through and having it damaged. It can't be done with one additional vertical picket; it would have to be horizontal pickets every two inches as well. It becomes a totally different animal. Staff indicates it was not shown on the plans; I believe it is just part of the plans by code and therefore is approved. I shouldn't even have to be asking for anything, in my opinion. To meet the idea of what the city staff suggests is pickets every 2 inches in both directions. When I add one more row of verticals and two more horizontal rows, it becomes a solid wall of wrought iron. It becomes a safety hazard with no visibility on the other side. A kid who might jump in would not be visible, nor would a car that will cut the corner too short. It would never be allowed from a design point of view because it would obscure visibility so much. Additionally, if you were to consider the aesthetics, I think a solid wrought iron wall that goes 90 feet across would look very good. The other issue is the weight of all these additional pickets, which could not be supported by the gate. It would need 9-in. I-beams to support something that heavy. The motors can't support it. Lastly, these are sensitive to the touch. When they start to close, if they hit any type of resistance, they bounce open. The weight of something like this would not work. There is no way we can get this system to work. The cantilevers would break due to the weight; the motors couldn't work, and it would be beyond ugly, and I would not want it to obstruct the view of the buildings behind it. Additionally, sometimes safety mesh is used, but the design behind needs to still be visible. You used this same safety mesh on your bridge at 435 and Roe. We put this on when we made the gates operable six months ago, so it was up and running for several months before staff noticed it. From the street, I promise you can't see it. I believe we met code, and this shouldn't be an issue. What staff suggested isn't physically possible.

The second issue should be easy. We are proposing to remove the future entrance off Mission Road. We would use it as an open dog park. Originally, we were getting ready to put it in, and Public Works didn't want it on the Mission Road side. I was happy to comply. We knew the Fire Department was supportive of the removal because they don't need the entrance to the area. They also won't dive fire trucks on the pavers. Besides not wanting a street to nowhere, city code does not allow for an entrance so close to 137th Street. The code requires entrances off major streets, arterial streets to have access points greater than 660 feet. Additionally, the future 138th Street would be within 500 feet.

The last issue is the retaining wall. We have over 38 walls on the site, and we moved one of the walls 10 feet. The wall is in the southeast corner of the property. Once again, it had been up for a year. At the end of every project, I was told to be sure to mark any changes and give them to Travis Torres at the end of the project because there are always site changes. I thought that meant if we had site conditions that required any minor changes, not only did I have the right to do it but that it was kind of my obligation to make changes that we see fit that need to be made for special reasons and not just because I wanted to. The special reason is quite obvious. The original plan shows the wall right at the water's edge. The modular wall can't be built there. The ground is not suitable to hold the weight of a modular wall. The contractor immediately told us it couldn't be done, so we backed it up. We also didn't realize that we had a very thick wall of ledge rock occurring naturally. We had to build it on top of the RCB, which is not visible from the street. The only reason someone saw it is they were walking on my barn at the south end of the property and noticed that it had been moved. I cannot build the modular wall in the much. If I did put the wall on the ledge rock, nothing would grow. What we did was backed up the wall so that we could set it on top of the ledge rock and then put just enough dirt on top of the rock to grow grass. We tried to make it look as pretty as possible while being structurally sound. Our engineer sent a letter to Travis explaining the reason for moving the wall. For the record, the other two ponds have their retaining walls back 10-15 feet as well from

the water's edge for the same reason. It was just a mistake that we drew it in the water's edge and not back 10 feet. We don't feel we had a choice on it, and it looks very nice from the street.

I wish you would accept the location of the new wall. We dressed it up the best we could. Second, please let us remove the access road from Mission, and lastly, please allow the safety mesh that does not obscure the drivers' view and meets the code. I'm happy to answer any questions.

Chairman Walden: What is the size of this box, and is it double channel?

Mr. Oddo: I believe it is, and the RCB is 7 x 9.

Comm. Strauss: Does the manufacturer give options for meeting the new safety code? Is this one of their recommended options? Do they give multiple options?

Mr. Oddo: They gave me one other choice where I had a 1 x 1 mesh behind it, and that really stands out. The 2 x 2 is preferred. This is what most use. When we added the additional weight of this one, it started to affect the motors, and the 1 x 1 is heavier.

Comm. Strauss: The material is the same?

Mr. Oddo: It is the exact same material. In a 1 x 1, more would be visible. We went with the most innocuous safety mesh we could find. We knew that adding pickets would break the fence, obscure view and simply not work because it would be horizontal. The manufacturers would not turn the gate on unless it was vertical as well as horizontal. Another manufacturer gave me the exact same answer. The third party that did the inspection told me the same thing.

Chairman Elkins: Other questions for Mr. Oddo? I have a couple of questions. Can you tell us what is intended to be on the back side of the lake that will face the retaining wall?

Mr. Oddo: That is natural habitat all the way around that. It is required by code to have so much natural habitat. We also wanted to keep it natural. We didn't just put crushed rock on top; we placed 4-6 in. river rock so it would have a nice color to it. It's about 8 times more expensive than crushed rock, but it looks better.

Chairman Elkins: It looks like there are houses in the background. What are those buildings?

Mr. Oddo: That is Tuscany. No one has a clear view of anything from there because of the tree lines.

Chairman Elkins: Do you have a picture of what the retaining wall looks like from the lake side? (*picture displayed*) So, that is the river rock that you just described?

Mr. Oddo: Yes, and you see the ledge rock with river rock in front. We capped the top of the ledge rock with river rock at an angle to prevent weeds and encourage drainage.

Chairman Elkins: Isn't there something you could do to better deal with the RCB? Frankly, it looks a little like a machine gun pillbox sticking out there. I realize there are not many people looking at it from that direction, but I'm curious.

Mr. Oddo: I am very open to suggestions because I'm sensitive to what you're saying. We moved the wall not for looks but because of structural issues. If we put dirt over it, I can take it out and put dirt back in, but I'm not so sure I have enough to grow anything other than weeds. I am open to suggestions.

Chairman Elkins: On the issue of the fence, I heard you state what the manufacturer told you. I'm challenging the logic of that a bit in terms of the need for the horizontal elements of the fence. If the safety requirement is that a 2 ½-in. sphere cannot pass through the gap, as long as the vertical gap is no narrower than that, the horizontal shouldn't be necessary to meet the requirement.

Mr. Oddo: I asked the exact same question because stairs need every 4 inches, and the difference is trying to prevent a hand and not a full body. If the pickets are in one direction, even an adult hand can pass through. Both manufacturers would not turn on the gate unless they did it in both directions.

Comm. Ramsey: According to the report we were provided, it appears that, for whatever reason, the retaining wall is not as long as what was originally called for.

Mr. Oddo: I don't know if I agree with that. It is as long; it is just not as deep because there is natural ledge of rock.

Comm. Ramsey: I'm talking about the fact that it appears that you altered the design from what was approved.

Mr. Oddo: The drawings are different scales. The wall, to my knowledge, begins and ends in the same place.

Comm. Ramsey: Who do the lakes belong to, and who will maintain them?

Mr. Oddo: The development, and we will maintain them like we always do.

Comm. Ramsey: The same goes for the retaining walls?

Mr. Oddo: Yes, and we own our properties long-term. I don't sell these things in six months or a year like most developers. I really care about long term viability. We placed it where we knew it would last long term.

Comm. Strauss: On the gate, I assume from the bottom horizontal part, there is a minimum distance from the ground that is required. Can you talk about that? It looks like the gate was installed, and the mesh goes below it. Was that placed there to meet the minimum threshold?

Mr. Oddo: It goes down to where the pickets end. The gate slides on the horizontal bar behind it. We have to set the gate above curb height.

Comm. Strauss: The pickets go to the bottom, flush with the gate. Thanks.

Chairman Elkins: Anything from Mr. Walden or Ms. Hoyt?

Comm. Walden: I'm okay with the mesh fence. I did read the UL and ASTM discussion, and the mesh certainly looks to be smaller than 2 ¼ inch. The retaining wall is what I'm wrestling over. I would agree that it looks pretty ugly; however, if it is structurally difficult to relocate the RCB, I'm not so sure what kind of solid area would be available for drainage of the water. I presume that the water flows down the gutters of the subdivision streets and they empty into the lake.

Mr. Oddo: That is correct. There is a series of three lakes.

Comm. Walden: It must be quite a bit of water that goes through there because these channels and two boxes are pretty large. I don't know about requiring the retaining wall to be installed per the former plans. I'm not sure about that.

Mr. Oddo: This site now takes all the water from the 29 acres. It takes about 8 acres from the ground to the south, and it takes all the 20 acres to the north. It even takes water from Price Chopper to the north on the other side of 135th Street. It is taking in water for 60+ acres. We're very aware that this becomes the final silt detention pond for the area, and we want to make sure it's really protected.

Chairman Elkins: Mr. Klein, once a plan has been approved and then conditions that are incompatible with the plan arise during the construction process, what is the city's response?

Mr. Coleman: Normally, what happens is the contractor submits a request for change to the building department, and we review it. That didn't happen in this case.

Mr. Oddo: I'm very sorry that didn't happen. I wasn't aware that I needed to do that.

Chairman Elkins: Additional questions for Mr. Oddo? Then we'll move on to discussion. It looks like we have three issues to consider. Is there any discussion relating to elimination of the access point from the development of the project to Mission Road?

Comm. Pateidl: I would like to have some discussion on that matter. Unfortunately, we don't have the record of the approval of the Final Plan when we got into this discussion at great length, and I'm a little surprised to hear certain requirements of distance before we can have this entrance. But that didn't come up before when Mr. Petersen was here. I'm a little dubious of that. To be clear, right now, the ingress and egress from Villa Milano is all onto 137th Street. If you want to go to 135th Street and go west, you go west to Mission Road and then to 135th Street and turn, or you go down to Pawnee to 135th Street and turn. The light on Pawnee, during heavy traffic times, might let three cars through at a time. The whole reason we even talked about this access point on Mission Road was a concern that once occupancy is full and the density that was higher than what the City of Leawood wanted in the first place, there is potential for difficulty of moving traffic in and out, particularly during peak rush hour times. I don't recall from our conversation when we went through the approval as to the timing for the installation for this area. As Mr. Ley points out, if that is done prior to Mission Road being expanded, we have a problem as to the right-in, right-out control. I agree with that. Again, I'm not sure that there was a requirement that this entrance be made at any given point in time. My concern is if we take this out, we'll never get it back. If we don't require this entrance to be built today, the area can be used as a dog park. That is not a problem. As far as paver bricks are concerned, this hasn't been built, and if the time ever comes, we can come up with acceptable materials. Furthermore, if that is really a valid concern, I guess we're not going to put out a fire at 133rd and Roe, where there are paver bricks on the entrance of those big condominiums. I really don't understand that, and it wasn't in Chief Hunter's letter with respect to that. Yes, I have a problem with eliminating this. I believe that we've not been able to evaluate the impact of the density of this complex because it's not full and because 143rd and Mission Road has been under so much construction and closure that we really don't know what the traffic pattern is going to be. Additionally, there is another big safety issue that bothers me a great deal, and that is the fact that right now, for children to walk to the school roughly 3-4 blocks from their residence, the only way they get out is through 137th Street. The only way to get to a sidewalk is to cross an uncontrolled intersection and walk for two blocks in a ditch before they get to a sidewalk. If we had nothing more than a pedestrian gate where we are talking about now, at least we would have access for these kids to come out and a sidewalk. For them to get to a controlled location, they have to walk two blocks in the ditch to get to 135th Street. It's ridiculous. Once again, that access point holds merit for more reasons than just automobiles.

As long as we're making comments, regarding the gate, our LDO says that the intent of the provision is to preserve the traditional and unique look of open space in residential areas established throughout the City of Leawood. The chain link mesh that is on this makes the gate look like it belongs on a service gate at the Leavenworth Penitentiary. It just is not in the tradition of Leawood. I don't know what the answer is. I don't know how the problem developed, and I don't think it's our job to have the answer. Our job is to have an opinion and to evaluate our LDO. In the LDO, we specifically address the use of that material as a second fence on a split rail fence, not attached to a metal gate. Additionally it is on the front of the gate, there are too many things that are problems here. For true consideration, particularly of the ingress and egress, I would prefer to have a presentation from staff on what our original approvals were. As to the variance from approved plans, I would ask if this was constructed in accordance with tradition as far as what we would expect a contractor and a developer to do. If not and if this truly is asking for forgiveness rather than permission, I think we need to look at it for what it is.

Chairman Elkins: Any comments on the retaining wall?

Comm. Pateidl: I fully agree that it's ugly. It should be built in accordance to what was originally proposed. Quite frankly, I'll take Mr. Oddo's word that it has construction problems, but I can't believe that it can't be built.

Chairman Elkins: Does staff have any comments with respect to the traffic issues around the ingress and egress?

Mr. Ley: From memory, the original stipulation for that access out to Mission Road was when Mission Road was going to be widened, the city would build an island down Mission Road south of 137th Street and then construct the entrance into Milano. That would be restricted to right-in, right-out. But between now and the time the city reconstructs Mission Road, it was going to be an emergency access only. The issue gets into grass pavers. Fire will not drive on grass pavers. The issue with Public Works is that we do not want a concrete or asphalt driveway between now and when we widen it because we don't want it to look like an access where people pull into if they are heading south on Mission.

Comm. Ramsey: What if we stipulate that it doesn't have to be built until Mission Road is improved?

Mr. Ley: That can be done. We have a temporary easement for this drive. When Mission Road is widened, we can look at the traffic study at that time. When we do that, we will look at putting signals at 137th and Mission. That would be in 2021 approximately.

Chairman Elkins: Mr. Ley, did you say it was your recollection that the drive was not to be built at all until Mission is widened?

Mr. Ley: The permanent access was not; that is correct. The temporary was to be grass pavers, and that is the concern with the Fire Department.

Mr. Klein: The stipulation is to construct a right-in, right-out onto Mission Road. The access drive would be for emergency vehicles only until Mission Road is reconstructed to four lanes. Mission Road is not currently listed in the five year Capital Improvement Program. Future Mission Road between 137th Street and 138th Street will be constructed with an island to limit access drive to right-in, right-out.

Chairman Elkins: Thank you. Mr. Oddo, it is a little out of order, but given the conversation, I will entertain your comments.

Mr. Oddo: I'm happy to give you a permanent easement on this. That is not a problem for me. If you deem it necessary at a later date, so be it. We are fully occupied out there, now, so the traffic there now is the traffic you will have.

Mr. Ley: I would say that if it is something you are considering stipulating, you will also have to include who will pay for it. Public Works did not want to try to match the gate, so that is something that would have to be part of the conversation. In the future, if the road is built, someone would have to construct the gates.

Chairman Elkins: Thank you. Additional comments on any of the three issues?

Comm. Ramsey: Regarding the access, I like the idea of the developer finalizing some agreement with staff concerning future access when Mission Road is developed. There doesn't seem to be any reason to push the envelope at this point. I'm a little disappointed that the engineer, the contractor didn't come back in on the retaining wall and work with staff to work that out. I think there are measures that could be taken to deal with something like that. I'm not surprised at all that you had these issues come up. You can do a field adjust; I'm not opposed to that, but this is more than a field adjust. This is a significant deviation from what we approved. I'd rather have someone come in and request permission instead of forgiveness on these things. This body has taken the position to not look very favorably on these requests for forgiveness. But, I am also open-minded to the point that these things happen. I would be inclined to request the developer to go back in with staff to see what other improvements could be made to the RCB box with the retaining wall because it doesn't look very good. The intent was for the retaining wall to be flush with the RCB box so the look would be better than what is there now. With that intention, I would hope they could go back and rework this with a better outcome. I'm thinking landscaping and not reengineering the wall. I don't know what to think on that gate. It's a catch-22 type of thing. They put it in, in good faith, and an issue of liability comes along. In this day and age, they don't dare not deal with that. I don't know that what staff is asking them to do is a solution. I agree with Commissioner Pateidl that I'm not excited about the mesh, but I don't know what else they could do at this point. I'm open to anything on that gate.

Comm. Strauss: I had some comments, but they are in line with Commissioner Ramsey's, so they don't need to be repeated.

Comm. Hoyt: I would say the same thing. My opinions come down the line of what was just stated.

Chairman Elkins: With that discussion, the chair would entertain a motion. Quite frankly, it sounds like the most expeditious motion would relate to a motion to recommend denial, but certainly, it could be in the form of a motion to approve with the stipulations included or with some modification.

A motion to recommend denial of CASE 110-15 – VILLA MILANO – GATE AND ACCESS ROAD – Request for approval of a Revised Final Plan, located south of 135th Street and east of Mission Road with the suggestion that the developer work with staff to develop a revised proposal – was made by Ramsey; seconded by Hoyt.

Mr. Coleman: Are you suggesting a continuance?

Comm. Ramsey: No. Of course, if we deny it, it still goes to the Governing Body, but our comment to the council is we would hope that some alterations might be able to be made by way of discussions between the developer and staff prior to getting to Governing Body. What do you want us to do?

Mr. Coleman: Staff's recommendation is to uphold what the plan was originally approved as. If you're saying that they should do something different, maybe you should say what that is.

Comm. Ramsey: Is staff saying they ought to tear out the retaining wall?

Mr. Coleman: Staff is saying they should extend the retaining wall to the face of the RVC as it was originally planned and approved by Planning Commission and Governing Body. We don't agree that because they just decided to do it this way that it should be done this way. It was not what was approved originally, and we are recommending to uphold what was originally approved.

Comm. Ramsey: By us denying his request, in effect, that's what we're saying.

Mr. Coleman: That's correct.

Chairman Elkins: If we recommend denial, is there opportunity for staff and the developer to further amend the plan as presented to Governing Body, or if there are changes, does it have to come back to us first?

Ms. Bennett: The applicant could work with staff between now and Governing Body. It would then be a council override of the Planning Commission decision, requiring a super majority. It could result in a remand back to Planning Commission for further consideration.

Comm. Ramsey: We're really not holding up any part of the project at any point, are we? We're not causing something not to be built because everything has been built.

Mr. Coleman: You're not holding up the project.

Chairman Elkins: We have a motion recommending denial and clarification of process from staff. Any additional comments?

Comm. Strauss: I feel like some of the commissioners feel the same way. I think the biggest problem with the retaining wall is just the landscaping. I can understand that you found that you could not construct the retaining wall up to the lake. The plans should have come back to the city, but they did not. I think a good landscape architect could clean that up. I feel that we don't want the retaining wall to be rebuilt; it just needs to have improved landscaping.

Motion carried with a vote of 4-1. For: Hoyt, Pateidl, Strauss and Ramsey. Opposed: Walden

CASE 117-15 – TOWN CENTER CROSSING – SUIT SUPPLY – Request for approval of a Final Plan for a change to the façade of a tenant space.

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 117-15 – Town Center Crossing - Suit Supply – Request for approval of a Final Plan for a change to the façade of a tenant space, located at the southeast corner of 119th Street and Roe Avenue. The applicant's retail space is centrally located within the main center of the development at the street level of a 2-story section of the shopping center with an office tenant located above. The existing storefront is characterized by brick columns on either side divided by a single brick column feature, which vertically spans from the street level through the upper story office tenant space above. This column equally divides the glass of the existing storefront, creating a punched opening consistent in this section of the main center of the development. Over the window system and spanning the storefront is a beige aluminum panel strip, which is proposed to be replaced with an updated strip of the same material and color with no change to the whip. The applicant is proposing to remove the existing central brick column in the storefront area only and the storefront window system. A new glass window storefront is proposed with clear glass and

black aluminum framing, and a new 6 ft 1 ½ in. x 3 ft 1 ¾ in. alcove is proposed for a new double glass front door. Staff does not support the removal of the brick column for the following reasons: First, it is staff's opinion that removing the column from the applicant's tenant space will eliminate a punched opening look of the storefront, which is characterized in this section of the main center of the development. Secondly, removal of the brick column within this space will create a floating column over the applicant's lease space. Within the section of the main center, which is a 2-story section as I previously noted, the façade is broken up by five equally spaced architectural column features, which extend the full height of the building. Finally, removing a column will disrupt the balance of the façade within this location. Therefore, staff does recommend that prior to Governing Body consideration, the applicant revise the plans to preserve the center column of that tenant space. Staff recommends approval of Case 117-15 with the stipulations outlined in the Staff Report, and I'm happy to answer any questions you may have.

Chairman Elkins: Thank you. Comments or questions for staff? Seeing none, I'll invite the applicant to step forward. I would ask you to provide name and address and to address the issue of the floating column.

Applicant Presentation:

Richard Rosa, Kenneth Park Architects, 360 Lexington Avenue, New York, NY, 10017 appeared before the Planning Commission and made the following comments:

Mr. Rosa: We are the architects for Suit Supply. They are a Holland-based men's suit and accessory company which is just beginning to establish an identity in the US. Many of you are probably not very familiar with them. (*Shows pictures*) They have stores in Montreal and Singapore. They have Denver, Chicago, Miami, Dallas and Seattle. This should give you an idea of their prototype and image. In reference to the floating column, for them, storefront exposure is paramount and is key to building their identity and being recognized. We would kindly recommend being able to proceed with our storefront with the removal of the column. The existing tenant currently compromises all four bays. The landlord has demised the space, giving us the two right bays, and Z Gallery, who is in the space, will remain in the left side. They will also have to do modifications. I understand the comments on removing the column and disrupting the balance, but we feel that the canopy breaks up the vertical continuity, and we also are staying within the two bays of our element. Back to the prototype, it is a black storefront with clear glass. It is very linear and vertical with not many wide expanses. Some expanses, they have been able to do in Singapore and Holland, but moving to the US, they are more of a vertical, linear storefront, which is what our design proposes. The column removal is proposed to open up the width of the store. We are planning on making one continuous storefront. We are staying within the two bays above us. As I said before, exposure of storefront is paramount for them. We would kindly ask the commission to let us proceed with our design. I'm open to any questions.

Chairman Elkins: Thank you. Questions for Mr. Rosa?

Comm. Hoyt: Currently, there is an awning?

Mr. Rosa: Yes, there is an awning that comes out 6-8 feet. It will remain. We are hoping the canopy could disrupt the continuity of the pier.

Chairman Elkins: Are there more questions? Thank you. That leads to discussion, hopefully leading to a motion.

Comm. Walden: I know how important it is for a developer to want to preserve identity. I think one of the most common restaurant is McDonald's, and they've always wanted to preserve that identity, but several years ago, some cities required McDonald's to adjust to city standards. Slowly but surely, that arch is disappearing. A good example of that is at 43rd and Rainbow Boulevard. McDonald's razed their existing

restaurant and rebuilt it. It doesn't look like a traditional McDonald's. McDonald's corporation did bend, and they made an attractive building to the specifications of the city. I feel that Leawood can do the same here. We can say that we want this building to stay as it looks now. Suit Supply will have to deal with it.

Chairman Elkins: Thank you. Other comments? Seeing none, the chair would entertain a motion.

A motion to recommend approval of CASE 117-15 – TOWN CENTER CROSSING – SUIT SUPPLY – Request for approval of a Final Plan for a change to the façade of a tenant space with the stipulations outlined in the Staff Report – was made by Walden; seconded by Strauss. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

CASE 118-15 – PLAZA POINTE – MAO LEAWOOD – Request for approval of a Preliminary Plan and Special Use Permit for a Medical Outpatient Facility, located north of 137th Street and east of Briar Street.
PUBLIC HEARING

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 118-15 – Plaza Pointe – MAO Leawood – Request for approval of a Special Use Permit for a Medical Outpatient Care Facility and a Preliminary Plan, located at the northeast corner of 137th Street and Briar. The applicant is proposing a 14,614 sq. ft. single-story medical outpatient care facility to be located on Lot One at the southwest corner of the Plaza Pointe development. Lot One is the last remaining vacant lot for this development. The applicant is proposing three uses for this facility: a surgery center, physical therapy and urgent care. An existing retention basin is currently located adjacent to the western property line, which is located within a private drainage easement and shared with the lot to the north. The building is proposed to be rectangular shaped, oriented north to south and shall be located east of this retention basin. The applicant is proposing 51 parking spaces for the facility, and those will be located on the north and east sides of the building. A 1,300 sq. ft. plaza shall be located on the west side of the building between that building and the retention pond. A trash enclosure is proposed to be located south of the building, and pedestrian connections are proposed down to 137th Street and connect across the parking lot to Lot 5 directly to the east. The facility is proposed to be a height of 28 feet, 8 inches with a mansoured metal seam roof and tower elements. The façade is currently proposed to be a combination of brick, limestone and stucco. The applicant is requesting a deviation to the interior parking setback. Per Section 16-2-6.1 of the LDO, interior parking setbacks are a minimum of 10 feet; however, a deviation may be granted which allows the interior parking setback to be reduced to zero. The applicant has presented the trash enclosure to be detached from the building. Section 16-2-9.2(H)3 of the LDO states that enclosures must be architecturally integrated into the building. Therefore, staff has stipulated at the time of Final Plan, the trash enclosure must be screened from public view with a 6-ft. solid masonry structure to match the materials used in the building and shall be architecturally attached to the individual building and accented with appropriate landscaping. Staff recommends the Planning Commission approve Case 118-15 with the stipulations outlined in the Staff Report, and I'm happy to answer any questions you may have.

Chairman Elkins: Thank you. Questions for staff?

Comm. Walden: I have a comment on Sheet C.0. It is the Vicinity Map, and it shows 137th Street as a collector street. Is that correct, or is it an arterial street?

Mr. Ley: That street is defined as a collector.

Comm. Hoyt: When I read the Fire Department Report, a reference is made to the need to have standby power, but there is no generator shown on this. Has that been remedied?

Comm. Kriks: Staff posed that question to the applicant, and they stated that there is no generator proposed for the facility. They will have to have some sort of backup power at the time of Final Plan and Building Permit.

Comm. Hoyt: That's not anything we need to concern ourselves with at this time?

Ms. Kriks: This is just a Preliminary Plan.

Mr. Klein: As it comes in for the Final Plan, we'll look at that. We have noted it as a concern because we have had that on other ones as well. It is not typically until Final Plan that a lot of these issues get put in. They could put it on this one, but it doesn't mean that it wouldn't change.

Comm. Hoyt: And then also the business of having the urgent care entrance marked differently is something that would happen later on as well?

Mr. Klein: The signage, building materials and elevations are approved at the time of Final Plan. This is to show you the Site Plan and generally what the elevations are going to look like as well as the layout and use.

Comm. Walden: On Page 5 under the Golden Criteria, it refers to 137th Street as an arterial.

Ms. Kriks: I will correct that.

Chairman Elins: Other questions for staff? Then I would invite the applicant to step forward.

Applicant Presentation:

Patrick Joyce, BHC Rhodes, 7101 College Boulevard, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Joyce: Most of the project has been covered here. I'll take this as an opportunity to introduce Mid-America Orthopedics as well as what we intend to do on the site. Part of my team who could not be here tonight is Eric Whitman. He's from SBT Architects out of Wichita. I am the engineer of record for this project, so any questions you have, you can direct to me. Mid-America Orthopedics is who we're building this building for. It is an organization which has several locations benefitting the Wichita area currently. This project represents the client's desire to have an all-in-one service, expanding their operations into Leawood, not only offering a clinic, a physical therapy area, but also providing a surgery center and urgent care to the residents of Leawood and the surrounding areas. The Site Plan shows the 14,615 sq. ft. building as it is oriented on Lot One of Plaza Pointe. The floor plan shows three distinct areas. The building and staff will function as one. Acting as the hub, the clinic, which is in the middle, will also be the physical therapy area and takes up the majority of the space. It shares spaces with waiting rooms, casting rooms, x-rays and procedure rooms. The urgent care was placed to the north side of the building. This area shares spaces with the clinic area. Not only does this allow the two areas to share rooms, but it also allows the urgent care to have a secondary, more secluded entry to the north, which is needed. It also allows it to share parking

that is closer for easier access for patients. Knowing patients requiring the surgery center would need their own waiting area, it was given a more prominent entry on the east side of the clinic, fulfilling the separation requirement need for the surgery center. It also shares administrative space with the rest of the building. MAO Leawood will be the name of this facility. Their specialty is orthopedic surgery. They specialize in bone fractures, knee and shoulder injuries, major joints, overuse syndromes, joint replacement for knee and hip. They will also specialize in onsite diagnostics. They use open MRI and x-ray technologies for that. Onsite rehabilitation, they employ physical therapists to evaluate and rehabilitate surgical and non-surgical conditions. They also specialize in sports medicine and sports injuries as well as physical therapy for sports injuries.

The overall style of the project was developed by looking at other projects in the development. The elevations in this particular project were meant to inform the visitor of its entries and uses through massing and tower elements as well as provide a pleasant façade on all four sides. Metal awnings over the entry also help accentuate the entry while providing cover during inclement weather. Not only did all of this avoid a big box look, but it helped create a village feel found in Plaza Pointe. Exterior materials include natural stone, brick and stucco, all in natural tones. The tower elements would be metal standing seam. There is also a metal standing seam mansoured on the rest of the roof to aid in the village feel as well as a screen on any mechanical equipment on the roof. Exterior wall sconce lighting also highlights the architectural features and also provides safety. This facility, when in operation, will need four doctors, seven nurses including scribes, three physical therapists and one aid, all of which they are looking to hire from local sources. The site is a 1.4 acre site, currently vacant. We are looking at placing 51 parking stalls with an asphalt lot, curb and gutters with enclosed storm sewer. We are looking at shared access with the north property as well as shared entrance with our neighbors to the east. Currently, the site drains from east to west into the aforementioned retention basin. We do not intend to alter that. We also have a Landscape Plan which meets the requirements of Leawood, but we feel that it also helps add to the existing landscaping that is already out there in Plaza Pointe. We don't disagree with any of the staff comments. We are perfectly happy to abide by everything they have suggested. I'm happy to take any questions.

Chairman Elkins: You're good with the issues raised by staff related to the trash enclosures?

Mr. Joyce: Yes, we are fine with all stipulations.

Chairman Elkins: Thank you, Questions for Mr. Joyce? Thank you. This matter does require a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Strauss; seconded by Ramsey. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

Chairman Elkins: That takes us to comments by the commission. I would note for Commissioner Hoyt that Stipulation 21 references the Fire Marshal's memo in requiring the applicant to address the issues raised in the memo, so we are covered there. Additional questions or comments?

A motion to recommend approval of CASE 118-15 – PLAZA POINTE – MAO LEAWOOD – Request for approval of a Preliminary Plan and Special Use Permit for a Medical Outpatient Facility, located north of 137th Street and east of Briar Street – with the stipulations outlined in the Staff Report – was made by Strauss; seconded by Ramsey. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

CASE 108-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-12, WIRELESS COMMUNICATION TOWERS AND ANTENNAS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to wireless communication facilities. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 108-15 – Leawood Development Ordinance Amendment to Section 16-4-12 – Wireless Communication Towers and Antennas pertaining to setbacks and buffers of existing cellular towers. This particular application is before you with allowing a legally nonconforming tower to continue to exist at the site. An example would be at 135th Street and Nall. Currently, for a wireless communication tower to be installed, it would have to have a 500-ft. setback from all residential areas. That would include Mixed Use Development. It would have to meet all the setbacks required in that zoning district. In addition, it would have to have a maximum height of 150 feet. The proposed ordinance takes into consideration an existing tower located there. For instance, in the case of the one at 135th Street and Nall Avenue, at the time the tower went out there, it was basically vacant land. That piece of property later developed from what was a grass pad into Parkway Plaza and became MX-D at that point. As it exists, it doesn't meet the 500-ft. setback from residential. This particular LDO amendment would allow the existing tower with the covenants that no antenna would be mounted higher than the tower itself. The height of the tower would not be allowed to increase. The colors of the antennas would be painted to match the color scheme of the tower. The cabling running to the antennas would be inside the tower itself. All landscaping would have to be provided. Staff is recommending this amendment, and I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for Mr. Klein. I have one question. The regulation that we propose to impose through this amendment to our LDO, is it within our jurisdiction as circumscribed by the United States Congress? Can we apply these regulations?

Ms. Bennett: There is always the chance that someone would argue contrary to this, but yes.

Chairman Elkins: Thank you. Other questions or comments? This case does require a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Pateidl; seconded by Strauss. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

Chairman Elkins: That takes us to discussion. Any comment? Seeing none, the chair would entertain a motion.

A motion to recommend approval of CASE 108-15 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-12, WIRELESS COMMUNICATION TOWERS AND ANTENNAS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to wireless communication facilities – was made by Strauss; seconded by Ramsey. Motion carried with a unanimous vote of 5-0. For: Hoyt, Walden, Pateidl, Strauss and Ramsey.

MEETING ADJOURNED