

**City of Leawood  
Planning Commission Meeting  
November 24, 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:** Walden, Pateidl, Williams, Elkins, Strauss, Ramsey, and Coleman. Absent: Hoyt. Arrived after the meeting began: Levitan.

**APPROVAL OF THE AGENDA:**

**A motion to approve the agenda was made by Elkins; seconded by Pateidl. Motion carried with a unanimous vote of 6-0. For: Walden, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

**APPROVAL OF MINUTES:** Approval of the minutes from the November 10, 2015 Planning Commission meeting.

**A motion to approve the minutes from the November 10, 2015 Planning Commission meeting was made by Elkins; seconded by Coleman. Motion carried with a unanimous vote of 6-0. For: Walden, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

**CONTINUED TO JANUARY 26, 2016:**

CASE 75-15 – LEABROOKE TOWN MANORS – Request for approval of a Rezoning from RP-3 (Planned Cluster Attached Residential District) to RP-2 (Planned Cluster Detached Residential District), Preliminary Plan and Preliminary Plat, located north of W. 148th Street and west of Kenneth Road. **PUBLIC HEARING**

CASE 131-15 – PARKWAY PLAZA – HUBER DENTAL – Request for approval of a Preliminary Plan and Final Plan, located at the southwest corner of 134th Street and Roe Avenue. **PUBLIC HEARING**

**CONSENT AGENDA:**

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

CASE 129-15 – TOWN CENTER CROSSING – CHARMING CHARLIE – Request for approval of a Final Plan for Changes to the Façade of a Tenant Space, located south of 119th Street and east of Roe Avenue.

CASE 132-15 PLAZA POINTE – CROSSFIRST BANK – PATIO - Request for approval of a Final Hardscape and Landscape Plan, located south of 136th Street and west of Roe Avenue.

CASE 138-15 – LEABROOKE 11TH PLAT – Request for approval of a Revised Final Plat, located north of 148th Street and west of Kenneth Road.

CASE 139-15 – LEABROOKE 12TH PLAT – Request for approval of a Final Plat, located north of 148th Street and west of Kenneth Road.

**A motion to approve the Consent Agenda was made by Elkins; seconded by Strauss. Motion carried with a unanimous vote of 6-0. For: Walden, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

**NEW BUSINESS:**

CASE 61-15 – THE GLYN OF LEAWOOD - Request for approval of a Zoning to R-1 (Planned Single Family Low Density Residential District), Preliminary Plan, and Preliminary Plat, located north of W. 151st Street and east of Mission Road. **PUBLIC HEARING**

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: May I present Case 61-16 – The Glyn of Leawood – Request for approval of a Zoning to Planned Single Family Low Density Residential, Preliminary Plan and Preliminary Plan, located at the northeast corner of 151<sup>st</sup> Street and Mission Road. The property was originally part of the Mission Heights plat, which included 57 single family lots on 77.55 acres, recorded in 1961 and prior to the annexation by the City of Leawood. Excluded from that original plat were approximately three lots at the extreme southwest corner at the intersection of 141<sup>st</sup> and Mission. Since the Mission Heights plat was recorded, lots around the periphery have been constructed. However, interior lots remain vacant, and proposed roads have not been constructed. 43 of those undeveloped lots and the public right-of-way originally platted as Mission Heights re proposed to be re-platted as The Glyn of Leawood. The applicant is proposing to formally zone the property, which is proposed to be part of the R1, Planned Single Family Low Density Residential. The property is currently delineated on the zoning map as R1; however, staff was unable to confirm the zoning ordinance for this development. The zoning classification proposed is consistent with the Low Density Residential designation shown in the Comprehensive Plan. The applicant is proposing 52 detached residential units on 52.88 acres for a density of 0.98 dwelling units per acre with an average lot size of 27,485 square feet. Seven common tracts are proposed for a complying total of 11.97 acres, which shall be maintained by the homes association. The maximum density permitted within the R1 zoning district is 2.90 dwelling units per acre. The development is proposed to have two access points. One entrance is proposed to be off Mission Road, and the second is proposed to be off 151<sup>st</sup>. Adjacent to the north common property line with Ironwoods Park, the applicant is proposing a 15-ft. tree preservation easement. An easement for an existing KCP&L overhead high voltage transmission power lines bisect the development, which will be located within the tract of land, along with a detention basin and a 10-ft. walking trail, which will connect to Ironwoods Park. Within the tract adjacent to 151<sup>st</sup> Street, a retention basin with a fountain is proposed. The public right-of-ways within the development will range between 50 feet and 80 feet in width with several landscape medians. The applicant has requested the high voltage overhead power lines which bisect the development not to be underground, per the attached letter within the Staff Report, for the following reasons: there is a probability that KCP&L will not approve of that project; other residential developments have not been required to bury these high voltage power lines elsewhere, and it is cost prohibitive. Other residential subdivisions in Leawood, such as Leabrooke and Steeple Chase have these high voltage power lines which have not been required to be placed underground. Currently, staff has stated in stipulations that all utilities other than those high voltage overhead power lines bisecting the development be placed underground. Should the Planning Commission or Governing Body wish to require these lines to be placed underground, Stipulation No. 3 will need to be modified. Staff recommends the Planning Commission approve Case 61-15 with the stipulations outlined in the Staff Report, and I'm happy to answer any questions you might have.

Chairman Williams: Thank you. Any questions for staff? Seeing none, we'll hear from the applicant.

*Commissioner Levitan joined the meeting.*

**Applicant Presentation:**

Dan Foster, Schlagel and Associates, 14920 W. 107<sup>th</sup> Street, Lenexa, KS, appeared before the Planning Commission and made the following comments:

Mr. Foster: Also here tonight is Mark Brewer, civil engineer from our project. To the north is Ironwoods Park. To the west and south are Mission Heights lots, which were part of the original plat which was done for this property. There are three un-platted lots on the corner of 151<sup>st</sup> and Mission. To the east is a recently platted and under construction subdivision within the City of Overland Park. As Michelle mentioned in the Staff Report, this property had been previously platted as Mission Heights in 1961. There were three platted streets as part of this development: 150<sup>th</sup> Street, which came out and connected to Mission Road, Falmouth and Canterbury, which connected to 151<sup>st</sup> Street in two locations. It is Low Density Residential R1 on the map, and I imagine that when the city annexed the property, it was given that zoning, which is why there was not a formal rezoning application. We agreed to file the rezoning application as part of this. The proposal is for 52 single family lots, all of which meet the Comprehensive Plan and the zoning. The density, as Michelle mentioned, is .98 dwelling units per acre, which is a really low density for this site. The code allows for 2.9. The estimated value of the homes will be over \$1 million. The average lot size is approximately 27,000 square feet. The average width is around 120 feet with most of those around 130 feet. They measure 130 feet at the setback line, but the actual width at the right-of-way line in the cul-de-sac areas is narrower. The lot depth is around 150 feet, which meets the requirements of the code. All lot sizes exceed the code by at least 10% of what's required. All setbacks meet the code, including the rear yard setback, which is mentioned in the Staff Report as a minimum of 30 feet. To be clear, when we have deeper lots on some of those setbacks vary because it is based on the lot depth. The smaller lots at 150 feet will have a 30-ft. rear setback. There will be two access points on this site: 150<sup>th</sup> Street, which was already platted and what we're calling Canterbury, which is a little west of the existing Canterbury Street is currently platted. All streets will meet the code, including sidewalk widths and distance of the sidewalk from curb. There will be a 5-ft. sidewalk easement, which is standard within the City of Leawood. We provided the streets in a manner that follows the topography. The streets are curved to provide visual interest for drivers. The project does include seven tracts. These are provided for tree preservation and community open space. The high tension power line easement is one of the tracts. There will be a dry detention basin as well. There is a tract at the entrance that will also have a wet bottom detention basin. On the opposite side of the street along 151<sup>st</sup>, there is a tract for a monument sign and community open space that is part of the natural preservation area required for the BMP stormwater control. Around the perimeter on the east and north is a 25-ft. tract for tree preservation. Another tract is necessary to meet BMP code, and the setback didn't allow for the house to be pushed back to create the grand house estate look. The larger tract allows for the preservation of quite a few trees along the edge. Along the southern portion has another area of tree preservation for the same reason. The lots were significantly deep on the original plat. In order to meet the BMP code, we cut them back to the 50-ft. depth and allowed the area to maintain natural trees. The last tract is in the middle of the site, which is where the drainage area is located. Trees are being preserved in that area. It is anticipated that the project will be in at least two phases, possibly three. The first phase will come off 151<sup>st</sup> and will be somewhere around 30 lots on the eastern side. We are anticipating starting in 2016. In Phase One, the tract along the western boundary will have evergreens added. Additionally, grading for the entire site will be done because economies of scale can be utilized.

We held a neighborhood meeting on May 28<sup>th</sup> as required per the code. There were four main concerns that the neighbors had. They were concerned about their view along the southern and western boundary. In order to provide good faith, we are platting a tree preservation area along the corridors, and we're supplementing more trees to provide a smoother transition. The second concern was the connection from 150<sup>th</sup> Street to Mission Road. A couple of the neighbors did not want that access point. As required by the subdivision ordinance, we have to have two access points into the subdivision. The street spacing existing prior was too close for Mission Road, so we need 150<sup>th</sup> Street as it is currently platted to be a street. The third concern they raised was utility locations and utility construction. Some of them are on septic. Currently, a sewer exists on the south side of Mission as well as one in the northwest corner and one midway in Ironwoods Park. We are extending the sewer, so it could be extended to serve them. They would

have to provide easements and petition Johnson County Wastewater to get the sewer. The situation is improving, but they will have to participate in order to get it. The final concern was stormwater runoff. We are providing the tension basins to maintain and handle that, plus the open space tracts. We are meeting the code in terms of our stormwater runoff, which is basically matching the existing flows today. In a lot of the areas, we're actually providing some rear yard inlets to be able to pick up the water before it goes to the adjacent property owner.

We also met with the Parks and Rec staff concerning trail connection, tree preservation and stormwater drainage. We have a trail that runs along the tract through the easement, and we requested that we be allowed to connect to the trail and have the Leawood neighborhood with a trail connection to Ironwoods Park. It is my understanding they have agreed to that. We also have platted a tree protection easement along the boundary. We are going to try to save as many as we possibly can, even on other parts of the site because every tree is value to that lot. There are provisions regarding good forest management in terms of being able to take out the evasive species, such as poison ivy. We are willing to work with the city and staff in crafting the language in terms of how that would occur.

The last item addressed in the Staff Report was that there were some downstream drainage issues the park was experiencing. Our client has agreed to make those necessary improvements on the park tract in order to be able to fix them or attempt to fix them. We are leasing water from our site per the ordinance. We are not releasing any more. This is a step above and beyond what would normally be required within a subdivision, and our client has agreed to do that.

On Monday, we had a conversation with Mark Simpson, the developer to the property to the east. He had concerns about tree preservation along our common boundary. Again, I told him we are intending to save those trees. They are on the homeowners association's tract and mean value to our lots. The biggest challenge is those trees are on the line, so they are part of both sides of the property.

Within the engineering Staff Report, there was an area where we would like to save some trees. We are looking at a couple options. The Staff Report mentioned putting in a pipe. We would like a little more time to work that out through the Final Plan process to preserve more of the trees. I would like to say we appreciate the finite review the staff has given this project. We have spent a lot of time analyzing all these drainage areas and looking at the factors. We are in agreement with all the stipulations, and our client is looking forward to bringing in another beautiful community to the City of Leawood.

Chairman Williams: For the benefit of some of our newer members on the panel, could you address the Fire Department's concerns that you have apparently satisfied?

Mr. Foster: Essentially, all of the streets are built to city standards. There was question with the Fire Department, but these are built identical to Hallbrook in terms of medians and lane widths. They are fine with it now.

Chairman Williams: That also addresses the cul-de-sac turnarounds?

Mr. Foster: Correct; this cul-de-sac is built to city standards.

Chairman Williams: What direction is the runoff going?

Mr. Foster: It goes in multiple directions. From the ridge, the water drains toward Ironwoods Park to the north and south to the adjacent property owners. The large tract and a storm sewer system in the rear yards will address the issue with a detention basin. A portion of the water goes toward the southeast corner, and much of it will be collected with a storm sewer system and taken to the detention basin.

Chairman Williams: There should then be little impact on the surrounding neighbors?

Mr. Foster: That is correct.

Chairman Williams: You mentioned trees that will straddle the property line. How does the resolution of tree maintenance get handled?

Mr. Foster: The plan shows that we are preserving well into our lot as well as within the tract. As far as our side of the fence goes, the HOA will have very strict restrictions on what they can and can't do with regard to care and preservation. If the tree is diseased, they can work with the city to determine if the tree needs to be removed. We have no control of what happens on the other side of the fence. The issue is that it's not necessarily the current developer, as he wants to save the trees. The potential issue is the future individual property owners who can then do what they want. Currently, there is a 10-ft. utility easement on our side. One of the things we've agreed to do is vacate that utility easement, except we had not vacated on this one because we didn't know if that adjacent developer at the time would need the easement. We did on all the other ones. Since he platted a 10-ft. utility easement on his property, we can vacate it on our site. However, because he platted that utility easement right up to the property line on his site, it also gives the utility companies the right to come through and do whatever they want.

Chairman Williams: Is what you're showing as the preserved tree area representative of how dense the foliage will be?

Mr. Foster: Yes, the Tree Preservation Plan shows what will come out for grading to put the houses in. Those are only trees that were 8-10 inches or greater. Our plan is to preserve anything that makes sense to preserve. We know there are some evasive species that create an issue when too many are too close together. Selective clearing would need to be done over time, and it would be covered because it is in the HOA tract. To your point, what I am showing is the minimal number we will save; I am hoping to save more.

Chairman Williams: Thank you. Any additional questions for the applicant?

Comm. Strauss: Can you walk me through sidewalks in the development?

Mr. Foster: Generally, because of the way the sidewalks in Leawood work, half is in the right-of-way and half is within a sidewalk easement, so it doesn't show up very well in our plan. (*shows where the sidewalks run*) At the trail, staff asked us to convert it into a 8-ft. path down to Mission Road to provide a trail connection. We have also got a sidewalk along the west side of the north-south road as well as coming into each of the eyebrows and down each cul-de-sac. I feel like we have a pretty good sidewalk network, and we try to put those on the side that has the highest number of lots.

Comm. Strauss: I know that ultimately, Mission Road and 151<sup>st</sup> will be improved with sidewalks. Are those the responsibility of the city?

Mr. Ley: On Mission Road, the sidewalks would be installed by the city but maintained by the adjacent property owners. There will be a 10-ft. trail on the east side of Mission from 135<sup>th</sup> to 151<sup>st</sup>. Those are anticipated to be installed in 2021 for the section north of 143<sup>rd</sup> and then 2023 for the south portion from 143<sup>rd</sup> to 151<sup>st</sup>.

Comm. Strauss: Any timeline on 151<sup>st</sup> Street?

Mr. Ley: That is 2025.

Comm. Ramsey: Once the detention basins are in, who maintains those?

Mr. Ley: Those are in the HOA tract, so the HOA is responsible. We send out letters every two years for them to do the inspection to verify that the detention basins have the capacity and are still functioning.

Comm. Ramsey: How do they have that inspected?

Mr. Ley: They'll hire an engineering firm that will go out and send us back a certified letter that states that it meets the original design, volume and discharge.

Comm. Ramsey: Do we require the same of all subdivisions?

Mr. Ley: We do with ones that have a detention pond as part of the original development.

Chairman Williams: Any other questions? Thank you very much. This case requires a Public Hearing.

### **Public Hearing**

Mark Simpson, 15145 Windsor Circle, Leawood, KS, appeared before the Planning commission and made the following comments:

Mr. Simpson: I'm with the Villas at Ironwoods, contiguous to the east, and I have spoken with Dan about it. We have a 10-ft. preservation easement on our maintenance provided villa community to the east. We have 12 homeowners who will be building homes there, and they are counting on these trees being maintained. We spent \$21,000 last summer to pay Cartwright Tree Service to take out anything dead. We spent another \$3,500 with Epic because when Cartwright showed up, the barbed wire fence and hard fence had grown into the trees, and they said it was too dangerous for their chainsaws to operate. Epic pulled out wire by hand on both sides of the property line. We have done extensive grooming of the entire tree line, and we have established a 10-ft. tree preservation easement on our side. We doubled our easement for utilities to 20 feet, and the only utility we allow on the back of our property is power. All of our power pods are located between 10-20 feet away from the back of the property line. We're not concerned about anybody getting back there because the power company is not going to drive over a tree when they can drive down a clear 10-ft. path. We would ask that, as part of the stipulations, at least 10 if not 15-ft. east tree preservation area be required to be compatible with what we have. All of our tree line will be maintained by our homes association because are a fully maintenance provided community. None of our residents will be maintaining anything in their yard.

Chairman Williams: Thank you. Is there anyone else who would like to speak to this case?

Shannon Maize, 14913 Mission, appeared before the Planning Commission and made the following comments:

Ms. Maize: I really have more of a question about the landscaping. We're the house that is right next to the 150<sup>th</sup> Street easement. I was curious how wide the street will be as well as the path because our driveway goes parallel to the easement. We are concerned about cars driving in and out next to our driveway and also the tree barrier.

Chairman Williams: We'll have the applicant address your question at the end of the Public Hearing. Is there anyone else?

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

Chairman Williams: Could the applicant address the resident's question, please?

Mr. Foster: In regards to Mr. Simpson's comments, it is good to hear that the plat was changed since I got a copy of it. We can agree to a 10-ft. easement along that side so we're compatible at least on that side. At this point, I need to keep it at 10 feet because there is a swale on that edge that is required as part of the stormwater, and I need to maintain access. In regards to the adjoining property, it is a 50-ft. right-of-way, which is standard for Leawood streets. Per the information contained within the Staff Report, Staff is asking us to provide a 28-ft. street through that section. They are willing to allow us to offset the street to the south in order to accommodate that 8-ft. trail. The trail will be within 1 foot of the right-of-way, which is typical for other communities with a trail in the right-of-way. We would have our street trees as part of our required planting for that edge.

Chairman Williams: One of the concerns was the traffic for the driveway.

Mr. Foster: I would ask David to weigh in on this. A concrete driveway comes almost to the 151<sup>st</sup> Street right-of-way. Then back to Mission Road is an asphalt driveway. At this point, those two intersections are probably 50 feet apart from each other. It is interesting that part of that concrete comes straight out, and then a part going to Mission is asphalt. If they wanted to, they could come and connect to 150<sup>th</sup> Street without any problem, and they would be able to do that since that right-of-way is right there.

Chairman Williams: Thank you. To clarify, the entire driveway is asphalt from the homeowner.

Ms. Maize: Our driveway is asphalt. There is a section that is concrete.

Chairman Williams: Thank you. Any discussion or comments from the panel? Seeing none, I would ask for a motion.

Comm. Ramsey: Do we need to add the 10-ft. tree preservation as part of the stipulation?

Mr. Klein: The Planning Commission has that ability. It is currently not included.

Comm. Ramsey: I would propose that we make that a part of the stipulations since he's in agreement with it. Is that correct?

Mr. Foster: Yes, we can agree to at least a 10-ft. easement. We will try to preserve way more trees than that, but we agree to that.

**A motion to recommend approval of CASE 61-15 – THE GLYN OF LEAWOOD - Request for approval of a Zoning to R-1 (Planned Single Family Low Density Residential District), Preliminary Plan, and Preliminary Plat, located north of W. 151st Street and east of Mission Road – with the addition of Stipulation No. to require a 10-ft. tree preservation easement on the east boundary line – was made by Ramsey; seconded by Strauss.**

Comm. Elkins: I don't know that I understood the answer to the question about the way the entrance to the subdivision may or may not interfere with their driveway.

Chairman Williams: Mr. Ley, could you address the proximity?

Mr. Ley: The driveway can be north of the entrance approximately 40 feet. Although it's not ideal, as they stated, they would have the opportunity to connect to 150<sup>th</sup> Street.

Ms. Maize: But we don't (*Inaudible comments*).

Mr. Ley: The street is not interfering with the driveway.

Chairman Williams: It depends on where you're playing. If you're playing on the property that will now become the roadway for the development, then no.

Ms. Maize: *Inaudible comments*.

Unidentified speaker: *Inaudible comments*.

Mark Maize, 14913 Mission Road, appeared before the Planning Commission and made the following comments:

Mr. Maize: *Inaudible comments*. Our concern is that people will accidentally pull into our driveway.

Mr. Ley: The street is going to be more on the south side. There will be 1 foot of green space, the 8-ft. sidewalk and then approximately 6 feet of green space, and the street will be more toward the southern side toward the southern black line on the right-of-way. There will be green space between the street and the driveway.

Mr. Maize: Our cable line runs through there, and our sprinkler is there as well.

Chairman Williams: If it's on your property, it won't be a problem.

Mr. Ley: If it's in the right-of-way, it would have to be moved.

Mr. Maize: The only other question I have is if we would have first right of purchase to the adjacent lot behind us. We just really enjoy the screen we have, which is the reason we moved out here behind us. We found out tonight they will put up trees, but we have a nice screen there, so we were hoping maybe we could talk with the developer to purchase it before someone else got it.

Chairman Williams: That would be a conversation for you to have with the developer. It is not part of our proceedings here. Thank you. Mr. Elkins, did that answer your question?

Comm. Elkins: Yes, sir.

Chairman Williams: Any other questions. We have a motion and a discussion. Any further discussion? I'll call for the vote then.

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

CASE 134-15 – IRONHORSE GOLF COURSE CLUBHOUSE EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of Bell Drive and west of Mission Road.  
**PUBLIC HEARING**

**Staff Presentation:**

City Planner Ursula Brandt made the following presentation:

Ms. Brandt: This is Case 134-15 – Ironhorse Clubhouse Expansion, located north of Bell Drive and west of Mission Road. The applicant is requesting approval of a Revised Preliminary Plan and Revised Final Plan. The applicant is proposing a 5,754-sq.-ft. addition with 377 square feet on the lower level for a mechanical and storage room and 5,377 square feet on the main level for a gathering space. An open terrace is also proposed along the eastern façade. The building materials being proposed are consistent with the existing clubhouse on the property. With that, I would like to introduce Chris Claxton from the Parks and Rec department for further presentation.

Ms. Claxton: I'm Director for Parks and Recreation. I believe everything was covered in your packet. As Ms. Brandt said, we have worked with the architect to keep the style of the building and everything on the extension matching, including the roof and the stone. We have had our interact meetings. As you might suspect, the biggest concern from the residents who attend was the consideration of noise. They were very pleased with the plan and thought that it was consistent with the current design of the building. They were very excited and asked us to do it right. Some of you may know that it has been 20 years since the building was constructed. At the end of construction, we will repaint the entire building so it all matches. There was discussion about the lighting, which is recessed. The can lighting goes into the 8-ft. eaves on the back side. Underneath is the area that has access to the cart barn where the golf carts are stored. Those carts are taken in and out of the barn by staff, so there is no public back in that area. Those may be lit at night. We will design both the lights for under the deck area and the slab area as well as the eave lights so that, if in the future, we want to turn 50% of them off at night after closing, we can do that. It is similar to what we did for the restroom facility at the park. They can be on a photocell instead of a time clock. I would stand for questions if there are any.

Chairman Williams: The area underneath the building is open?

Ms. Claxton: It is open, and that is the slab that will remain so we can have access to the cart barn.

Chairman Williams: What is the approximate cost of the addition?

Ms. Claxton: We don't know because we haven't bid it. There is a \$2 million budget. Some of it is for contingency.

Comm. Coleman: On the parking, it mentions in the Question and Answer part that the parking was discussed. Did the engineer do a parking study, or was there any consideration for if the facility is rented out?

Ms. Claxton: When the golf course was designed, the clubhouse was designed for 10,000 square feet, but the money at that time was put into the golf course. The parking lot was also designed for that, and it was constructed accordingly. The engineer and operator both feel that the parking is adequate. It is very rare even when we have a full shotgun that we are even close to being full. There is no concern that it will be a problem.

Comm. Coleman: Is it the intent to rent out the facility during the same hours as the golf? I'm concerned if there is a wedding on a nice day when the golf course is full.

Ms. Claxton: That would have to be managed by our management staff; however, the driveway that goes all the way around the perimeter of the parking lot is designed for 2-way traffic even though it is not 2-way traffic. If there were a situation that was of concern, I think we could accommodate additional parking. They are trying to manage it, though.

Comm. Walden: Item 1 under Staff Recommendations says the project is limited to the construction of 5,377 square feet expansion. Is that correct, or should it be 5,754?

Ms. Brandt: That should be 5,754; you are correct.

Chairman Williams: Thank you for catching that. 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 Elkins; seconded by Coleman. Motion carried with a unanimous vote of 7-0. For: Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

Chairman Williams: That brings us to further discussion and a motion.

**A motion to recommend approval of CASE 134-15 – IRONHORSE GOLF COURSE CLUBHOUSE EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of Bell Drive and west of Mission Road – was made by Coleman; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

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

### **Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is case 101-15 – Parkway Plaza – STC Five Wireless Telecommunications Facility – Request for approval for a Special Use Permit, located north of 135<sup>th</sup> Street and west of Briar Street in the Parkway Plaza development. This facility has been in front of the Planning Commission on several occasions. Some of the most recent cases addressing this tower or impact it include:

1. In March, 2012, the Governing Body approved a 2-year extension for the tower and antenna.
2. In March, 2014, the Governing Body approved an amendment to Section 16-4-12.3(c) granting an optional 1-year extension of the Special Use Permit granted in 2012, allowing the applicant to continue to explore solutions to bring the tower into compliance with the Leawood Development Ordinance.
3. In January, 2015, the Governing Body approved a 1-year extension for the tower and associated equipment.
4. On July 20, 2015, the Governing Body approved an amendment to Section 16-4-12 of the Leawood Development Ordinance, incorporating recent changes in federal law regarding wireless communication facilities, limiting the time that a municipality has to approve wireless communication facility applications that do not constitute a substantial change to the physical dimensions of an eligible wireless support structure as determined in 6409A of the Middle Class Tax Relief and Job Creation Act of 2012.
5. On November 16, 2015, the Governing Body approved an amendment to Section 16-4-12.23(G)3 of the Leawood Development Ordinance, allowing legal, nonconforming wireless communication facilities to be exempt from setback and buffer requirements if certain requirements are met, such as not increasing the height of the tower, and antennas are mounted to meet concealment requirements.

The existing tower is 170 feet in height with a 5-ft. lightning arrester at the top. It is an existing, lawful, nonconforming tower. In the time since this tower was constructed in 1990, the Leawood Development Ordinance has been amended to restrict tower height to 150 feet. Currently, the tower is located 108 feet, 6 inches from the residentially zoned property to the west in Overland Park. Many of the antennas on this tower are platform style, which is now prohibited by the Leawood Development Ordinance. Mounted to the tower are antennas for 6 wireless carriers. Verizon currently has a center line of 130 feet. AT&T is at 138 feet and 147 feet. Cricket is at 153 feet. Clearwire is at 91 feet and 95 feet. Sprint is at 167 feet. T-Mobile is at 125 feet. The applicant is seeking approval for the tower at 150 feet with a 5-ft. lightning arrester on top; however, it is the applicant's goal to keep the existing tower at 170 feet with a 5-ft. lightning arrester. The required approval of the current 170 feet includes the one-time 10% or 20 feet increase in height permitted by Section 6409A of the Middle Class Tax Relief and Job Creation Act. Per Section 16-4-12.3, existing lawful, nonconforming towers may be replaced, providing the height of the tower is not increased and the tower will use concealment elements. In addition to the 170 feet on the tower, the applicant will eventually propose to uniformly mount the antennas in such a way as to create a symmetrical appearance, reducing visual clutter, in an effort to comply with concealment requirements outlined in the wireless section of the ordinance, such as mounting the antennas symmetrically to the tower, painting the antennas to match the color of the tower and internalizing coax cable within the tower. Staff is recommending a term of a Special Use Permit of 20 years. Staff recommends the Planning Commission approve Case 101-15 with the stipulations outlined in the Staff Report. I'd be happy to answer any questions you may have.

Chairman Williams: Any questions for staff?

Comm. Pateidl: For the sake of clarification, the tower isn't going to be any taller than it currently is, and the antennas are going to be not the platform antennas but circular, essentially improving the appearance of the tower from what it is today?

Ms. Kriks: That is correct. We can have the tower approved at 150 feet, which is the ordinance. Under federal law, they can come in and do 10% or 20 feet. That gets them back to the existing 170 feet. Then, the applicant is proposing to come back under 6409 to then start slim-lining the antennas and bringing all the antennas symmetrical on the tower to create a more streamlined look.

Comm. Strauss: Didn't we have 3-year Special Use Permit time frames?

Ms. Kriks: It was 5 years.

Comm. Strauss: Did I hear you say you are now proposing 20 years?

Ms. Kriks: That is correct.

Comm. Strauss: Why the change?

Mr. Klein: The reason for the change is what you are approving tonight keeps the tower at the current level of 170 feet. By ordinance, it is not allowed to increase in height. With regard to 6409, the antennas were allowed to go 20 feet out from the tower. They have agreed, as part of the concealment effort, to have a maximum of 7 feet out. The tower really won't change. We don't have the ability to limit the number of carriers who go on, so we think that the concealment effort will remain the way it is and the tower will not get taller. A longer SUP would keep it from having to come back all the time.

Comm. Strauss: As much as I've enjoyed talking about this tower over the years, I was just thinking with the rapid growth of technology, is there a possibility that a different technology could come around? We've

talked about the booster power along street lights. Is there the possibility that something else could come around?

Mr. Klein: I think there is a chance for new technology to come along; however, the way the federal law is currently written, I don't know if it's something the city could require them to switch out and do something different just because as long as they don't create a substantial change under that 6409A, they are allowed to go out 20 feet. We have gotten it to 7 feet because we are using a concealment requirement within the section. Even if new technology does come, I don't think the city has the ability to require them to switch it out.

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

### **Applicant Presentation**

Curtis Holland, Polsinelli Law Firm, 6201 College Boulevard, Suite 500, Overland Park, Kansas, appeared before the Planning Commission and made the following comments:

Mr. Holland: I'm here tonight on behalf of the ownership of the tower and the carriers who operate the antennas from this tower. I'd like to make a couple of introductions. From Crown Castle, who operates and maintains the facility on behalf of Sprint, District Manager Paul Schmidt and Real Estate Specialist Jeff Barnett. They traveled from St. Louis. With Sprint, we have Hazel Morrow with Site Acquisitions. From T-Mobile, we have Managing Corporate Counsel Mike Ostrom as well as Jay Blessing. We have been here many occasions, as you all know. I can speak to technology and questions later. I want to thank you and staff for working with us extensively. This is a culmination of almost four years of work. We have been before you many times. Staff indicated the different SUP terms, and they were shorter. As you recall, we started this process about four years ago with the direction from the Planning Commission and City Council that we would try to improve the aesthetic appearance of the facility. We want to maintain the wireless communications that are currently provided in this area by the carriers. As you know, this particular facility is the single piece of infrastructure utilized by all four carriers in this community and provides service to the area along 135<sup>th</sup> and Nall. It's a very important piece of infrastructure for us. We started out looking for ways to improve the facility, and there were a lot of challenges. One of the main challenges was to get cooperation from adjoining property owners. We would need easements from the adjoining property owners to allow us to do any kind of construction on this property of this kind of magnitude. There is landscaping on the perimeter that is on their property, so we would need landscape easements. We spent quite a bit of time the last few months working through those issues and were fortunate to reach agreements with the property owner to the north to allow for a temporary easement along their southern property lines for us to stage construction. I mentioned that this is the major single piece of infrastructure for all of the carriers in this area. The tower serves a large area. Staff talked about the platforms, and you amended your ordinance to eliminate these kinds of platforms. The proposal tonight is to bring the tower into conformance with your new code, to clean up the site and shrink the antennas so that they are more symmetrical and closer to the pole. Right now, it is so full that we have coax cabling on the outside of the pole, which is not attractive. We will replace the cable and put it on the inside, and we will replace the antennas with a low profile hexagonal platform. It will be a much cleaner look. The antennas and all the equipment are contained in a circumference of about 6 feet, 10 inches. We will meet the code with this change. We will also add landscaping around the base of the compound. In terms of technology, there is federal law that has impact on what municipalities can and cannot do with respect to these kinds of wireless technologies. If there are changes in technology and people want to switch out an antenna, as long as it doesn't make a substantial change to what is here, the cities are forced to approve them. We have agreed that we wouldn't make our platform any bigger than it is today. Any changes in technology would have to comply with this plan and your approval of it tonight. The tower will not be taller in the future. This is more of a permanent type structure until perhaps the technology improves such that we will not need large poles. In terms of the microcells, they have uses, but they are limited in coverage and have much smaller footprints. They are not

designed to take the place of a macro site such as this. As technology changes, it is to our benefit to come back and enhance the services provided. We are in agreement with all the stipulations and stand for questions.

Comm. Coleman: The tower is 170 feet, and you are applying for 150 but will keep it at 170, using the federal regulations to do that?

Mr. Holland: Yes, sir.

Comm. Coleman: Why not just put it at 150 feet to meet with the Leawood regulations, then?

Mr. Holland: We did a pretty extensive study on the height and if we could lower the facility and still maintain the coverage that we presently provide from the various carriers here. As you may know, the carriers are on this facility at different heights. When you lower the tower to 150 feet, the folks that are lower get dropped even more with a significant drop in coverage. We want to maintain or improve coverage, not reduce it.

Comm. Coleman: Why was it lowered from 170 to 150?

Mr. Klein: That happened back in 1997. When the ordinance came into being, the structure was already constructed, becoming a legal, nonconforming tower. The reason was to have a lower height so it was less visible.

Comm. Coleman: Is there a technical reason for the height of 150?

Mr. Holland: It is a pretty standard height for a monopole in an urban setting. The predecessor to this particular tower was built in the '80s. That other tower went down, and this tower was built at 170 to accommodate collocation for other carriers so we didn't have multiple tower structures. All the carriers were attracted to this site and put their facilities on it. The height of 150 came about because other communities had the same standard, so Leawood adopted it years ago.

Comm. Walden: Part of this new construction is going to be painting the tower. How will that be done?

Paul Schmidt, Crown Castle, 545 Nantucket Springs Drive, Wildwood, MO, appeared before the Planning Commission and made the following comments:

Mr. Schmidt: To paint this tower, it will be professionally painted by a crew. The antennas and tower will be painted before it is put up.

Comm. Walden: Will the pole itself be painted grey?

Mr. Schmidt: Correct.

Comm. Walden: How is the painter going to spray it? I'm thinking of the close proximity of the buildings and vehicles that will be around that area.

Mr. Schmidt: These are professional painters. I can't explain exactly how they will do it; we haven't contracted them yet. We will take every precaution for surrounding areas.

Mr. Holland: It's not like we've never painted a tower before, but I understand your question. There is a building underneath it, and we will take precautions to keep any of the paint from spraying off. It sounds like

they climb the tower, which is what our technicians do today to get to the top of it. It sounds like they'll hand paint it.

Chairman Williams: Are there any other questions? Thank you. 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 Elkins; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

Chairman Williams: That brings us to further discussion and a motion.

**A motion to recommend approval of CASE 101-15 – PARKWAY PLAZA – STC FIVE WIRELESS TELECOMMUNICATIONS FACILITY – Request for approval of a Special Use Permit for a Wireless Communication Facility, located north of W. 135th Street and west of Briar Street – with 12 staff stipulations – was made by Pateidl; seconded by Strauss.**

Comm. Elkins: I would be remiss if I didn't record my disappointment on the record one more time. I would start by saying the good news is I feel like I've found a convert in Commissioner Strauss in terms of looking at new technologies that are available to us. In many ways, I feel that this falls in the category of being the best we can do. That is disappointing because we started this process four years ago and gave graduating extensions of the existing Special Use Permit. The articulated purpose by staff and by this commission and by each of the carriers was to permit all of us to engage in a meaningful discussion about what alternatives were out there to this 170-ft. tower and whether there were any technologies or other alternatives available to us. My disappointment lies in the fact that, having sat on this commission for this entire period of time, I truly do not believe that the discussion ever took place. Despite assurances by the carriers, we did not have a work session or a series of work sessions in which the carriers explored with us what technologies are out there. I have reluctantly come to the conclusion that perhaps there are no alternatives, but the fact that, despite this commission extending on three separate occasions the SUP for the purpose of having those meaningful discussions, they never took place. That is something that is extraordinarily disappointing to me. The second disappointment I have is that if the issue is delayed long enough, at some point in time, the federal government will take the rights of home rule away. That is exactly what has happened here. There's not a thing we can do about it. The basic tenant of our municipal governance is we have the right of home rule. Part of what this commission does in advising the City Council is that it assists the City Council in its obligations to serve the community. Don't get me wrong; I'm not suggesting that anybody in this room has failed in their obligations, but the fact of the matter is that it didn't happen. Then ultimately, the federal government takes away our options. We had an ordinance that required certain activities by the carriers and the owners of these towers. Again, it is entirely possible that in this particular time and place, there are no technology solutions available to either eliminate or dramatically reduce the size of that tower, but the federal government took that away from us, tied our hands with what we can do. What we have left here today is the best available to us. I would commend the staff. I would commend the commissioners and, albeit a bit reluctantly, commend the carriers for coming to the conclusions we've come to with this case before us today. The difference is that after the federal government acted, the carriers had the upper hand, and we were limited on what we can do. I guess that falls in the category of the greater good. In this day and age, we all rely upon this wireless technology, and this is, in effect, the price we pay for that. Despite my disappointment, I will reluctantly be voting in favor of the case before us tonight. Thank you.

Comm. Pateidl: I want to echo the comments made by Commissioner Elkins, specifically to notice that the influence of the federal government came under the Middle Class Tax Relief and Job Creation Act of 2012, which begs the question of what we've been doing for the last three years, which is to your point. There has

been at least one, if not two, extensions in that period of time. I agree, but I'm sure glad to see it come to an end.

Comm. Elkins: It's also interesting that cell towers found their way on top of a tax bill, but that's a whole other discussion for another day outside this commission.

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

CASE 102-15 – PARKWAY PLAZA – GLOBAL SIGNAL ACQUISITIONS 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**

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 102-15 – Request for approval of a Temporary Special Use Permit for Wireless Cell on Wheels [COWS] facility, located north of 135<sup>th</sup> Street and west of Briar in the Parkway Plaza development. This application is tied to Case 101-15, just presented to the Planning Commission. In order for Case 101-15 to be completed, approval of this case is necessary. The applicant is requesting a term for a Temporary Special Use Permit of 180 days, which is the maximum time allowed by an easement granted to the applicant from the property owner of Lot 2 of Parkway Plaza. The temporary easement has been granted for the COWS, a crane staging area and a construction access. The proposed location of the COWS shall be in the parking lot north of the existing tower within Parkway Plaza. The easement shall be 220 feet by 58 feet in size and enclosed by a 5-ft. tall chain link fence. The temporary construction access easement shall be 20 feet wide along the western side of the parking lot from 133<sup>rd</sup> Street to the south end of the parking lot, and the south end of the easement shall also be an area for the crane staging area to complete work on the tower. Within the temporary construction easement, the applicant is proposing three COWS with temporary power and temporary equipment. Each COW shall have a maximum footprint of 30 feet by 20 feet, which includes an 8-ft. by 23-ft., 6-in. trailer and support footings. Each COW shall be a lattice-style tower, which shall be mounted on the trailer and be extended to a maximum height of 107 feet. Temporary uses of land are permitted by Section 16-4-3.7(c) of the Leawood Development Ordinance, which allows a temporary use not otherwise permitted in the district in which such land is situated, shall be temporary and shall be removed upon the date of the expiration of the Special Use Permit, which shall be valid for not more than two years. The applicant is proposing a maximum of 180 days for the temporary COW, which should allow time to complete the modifications on the wireless communication tower as described in Case 105-15, including any unforeseen delays, such as equipment and weather. Staff recommends the Planning Commission approve Case 102-15 with the stipulations in the Staff Report, and I'm happy to answer any questions you may have.

Chairman Williams: Any questions for staff?

Comm. Coleman: Is the power on generator?

Ms. Kriks: That might be a good question for the applicant to address.

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

**Applicant Presentation**

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

Mr. Holland: This is a companion application that is necessary for us to make the modifications that we just talked about. A lot of the time we took here was trying to work with the property owners that adjoin this land. After a lot of work, we were able to reach agreement with the owner to the north. It allows for us to access their property and to place temporary towers on their property on the southern end of their parking lot for our crane to get to the top of the facility and remove structures at the top of the tower and replace them with the new configuration we just talked about. This application for the COWS will have towers set up on the adjoining parking lot area so that when we take equipment off, Sprint will continue to provide service. It is very important that all the carriers are able to continue to provide slightly diminished capacity wireless service to the customers in the area. The process will be to replace one carrier at a time, and the COW will cover the carrier being replaced.

With respect to the last application, we got a little bit scolded because we couldn't do better, but one of the things that really hampered us was to have that adjoining property owner to the north give us a permanent construction easement that would allow us to bring a crane in when we needed to do some work on the tower. That would have allowed for us to have antennas closer to the pole itself. We were not able to get that accomplished, but they were nice enough to let us have a temporary construction easement that would allow us to use a crane during the construction project. The plans are in the documents you have, including specifications for the COWS. It will be fenced-in. It will not be run on a generator; we will have an electrical drop to each COW from KCP&L. We are in agreement with the stipulations and stand for any questions.

Chairman Williams: Any questions for the applicant?

Comm. Walden: Are these towers going to be self-supporting?

Mr. Holland: There is a wire tethered to the ground that keeps them balanced. Yes, there is a small guy wire for these smaller tower structures. They are mounted on a platform. The other tower structure, as you know, is set on top of a huge concrete foundation beneath the ground, and we don't have that ability with these, so they are tethered.

Comm. Walden: So, basically, they're guyed wires as opposed to self-supporting.

Chairman Williams: It will be similar to the pictures in our packets.

Mr. Holland: Just to clarify, one of those COWS will be operated by AT&T, and it will be removed when AT&T is done with theirs.

Comm. Walden: I would like to talk about the graph that shows antenna activity versus wind velocity. According to this, these antennas will be able to withstand wind up to 130 MPH. Is that right?

Mr. Holland: I'm not sure I can agree or disagree with you on an engineering question. Maybe our construction guys could, but I would take your word for it. It is able to withstand heavy winds, yes.

Comm. Walden: In the graph, the triangle apparently indicates ½ inch ice, but what does the square represent?

Mr. Holland: My team members are studying the graph.

Chairman Williams: What is your concern from a Planning Commission perspective?

Comm. Walden: Now that I know it's guyed, I feel better about the wind velocity. If this is done through the winter, we could expect ice, and the towers could come down with high wind. It is a safety factor more or less. That is my concern, so I can leave it at that.

Chairman Williams: Are there any other questions? Thank you. 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 Elkins; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

Chairman Williams: That takes us to discussion and a motion.

**A motion to recommend approval of CASE 102-15 – PARKWAY PLAZA – GLOBAL SIGNAL ACQUISITIONS CELL ON WHEELS – Request for approval of a Temporary Special Use Permit, located north of W. 135th Street and west of Briar Street – with seven staff stipulations – was made by Elkins; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

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**

### **Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 130-15 – Leawood Development Ordinance Amendment to Section 16-4-1.3, Permitted Accessory Uses, Buildings and Structures, pertaining to solar collectors. This application was before you at the last meeting. It addresses solar collectors, which are currently listed in the LDO as a permitted accessory use within Single Family; however, it doesn't give much detail besides color of the support material. The current ordinance requires that the solar panels be on the roof; however, if it is not feasible to be placed on the roof, it could be placed in the back yard and meet all setback requirements. In addition, it would have a maximum height of 8 feet with required screening. At the meeting, there was question with regard to the solar panels being mounted on the front of the house. I got with the building department to evaluate what is currently installed in Leawood, and only one is located on the front of the house and the side yard because it is a corner lot (*shows picture*).

Chairman Williams: I think it was Commissioner Strauss who brought up the concern about the panels on the front of the house. Does that address your concerns?

Comm. Strauss: I guess what I was hoping was that you could take some houses and do a rendering so we would have an idea what it would look like. This provides me one example. I think it reaffirms my initial thought that it doesn't look very good. I asked my wife what she thought of solar panels on the front. She's not an expert, but she agreed that the front part of the house that is very public is typically preserved by the City of Leawood. I think it looks industrial. I'm pro-sustainability and doing the right things for the environment, but I think at the cost of the aesthetics of Leawood's neighborhoods, I would be against solar panels on the front roof, facing the public view.

Mr. Coleman: This ordinance doesn't have anything to do with that issue. It has to do with people who can't put it on their roofs because they have a large tree canopy. This has nothing to do with the existing ordinance that allows them on the front of the roof.

Comm. Strauss: I agree that the purpose was to discuss solar panels in the back yard. It came to my attention, though, that solar panels were on the front. I'm proposing that we change the existing ordinance.

Mr. Coleman: We had this discussion last year in a work session dealing with small ones that were ventilator fans, and Planning Commission and City Council agreed that anodized bronze or dark panels were okay. To me, we're trying to deal with this ordinance, so this is something we could deal with separately. Otherwise, I don't see the purpose of bringing it up for this ordinance because it doesn't have anything to do with it. The question is not whether to have solar panels on the roof in this ordinance; the question is whether to have solar panels allowed in the rear yard or not.

Chairman Williams: Rather than address both issues here tonight, you're suggesting a discussion of the back yard.

Mr. Coleman: Yes; if you want to talk about solar panels at another time, we can do that again. This has nothing to do with putting them on the roofs; it is only if you want them or don't want them mounted in the rear yard. There are some houses that don't have solar access on the roofs.

Comm. Coleman: Currently, nowhere does it state that they can be put on the front?

Mr. Coleman: Right now, it is not allowed because there is no place that says a ground-mounted solar panel is allowed. This is to allow them in a specific part of the rear yard if they can't mount them on the roof of their house because of the lack of sun exposure.

Chairman Williams: Per the current ordinance, it can be put on the front, back or side of the roof; but again, this particular ordinance is strictly addressing the issue of whether or not the panels can be installed in the back yard with appropriate screening and setback limitations.

Comm. Pateidl: Richard, you said this would allow them to have ground-mounted panels if sunlight is not available on the roof. This isn't either/or; this is an alternative to the roof. Somebody couldn't come in and say that they really don't want it on the roof even if they have sun.

Mr. Coleman: Correct; if they have the ability to be put on the roof, it would be the first choice. The second choice would be with no solar access on the roof and to put it in the yard.

Chairman Williams: Why would the first choice be to put it on the roof versus giving them the option to put it on the ground in the back yard?

Mr. Coleman: That's where most of them go. That's where people put them because they have better access. If you want to make it so they can put them in the rear yard anytime, I'm okay with that, too. From a practicality standpoint, it's better to put them on the roof because it doesn't require as much wire and is more cost effective. Maybe they need to show they don't have solar access on their roof.

Comm. Ramsey: If you don't like it on the front of the house, what happens if the only place you have it is on the side yard?

Mr. Coleman: Are you saying in the yard itself?

Comm. Ramsey: Yes, in the yard on the side.

Mr. Coleman: The way the ordinance is written, it would have to be in the rear yard. This ordinance only allows ground-mounted panels in the rear yard.

Comm. Ramsey: If we need to do this in order to give us flexibility, it is fine, but as I listened to the last session and thought about it a bit, I noticed homes in the desert last month that have entire roofs that are nothing but solar panels. Some of them look okay; some don't.

Mr. Coleman: Our ordinance is very comprehensive in its simplicity that black or dark bronze units are required.

Comm. Ramsey: I'm okay going forward so that we can have the flexibility and tie this down, and I remember what we were talking about with the bronze and the items before. That was a much smaller installation, if I recall.

Mr. Coleman: That particular one was smaller, but we had a whole session on solar panels.

Comm. Ramsey: I think it would be worthwhile, after we get through this, to go back to the issue on the front of the house and have another discussion about it. I would like to have that discussion again at some point in the future.

Chairman Williams: Any other questions or comments?

Comm. Coleman: In researching solar energy, I had a notion of the big boxes on the roof but found from The US Department of Energy Efficiency and Renewable Energy, a Homebuyer's Guide to Going Solar, I found a lot of different kinds of solar panels. Some blend in with the roof. Most of them aren't the big boxes that Kip and I were thinking of.

Chairman Williams: Could you show that on the overhead?

Comm. Coleman: Sure (*displays diagrams*). The solar panels have to be originated toward the south for maximum exposure. As we get into this in more detail, I think we will have a problem with limiting homeowners who are facing south and not giving them the option to put solar panels out if that is their best direction. That could be another discussion for another time. Also, the Mid-America Regional Council has a person in charge of solar for the entire area. In addition, they put out a report called Solar KC, a Report on the Potential for Solar Energy Initiatives in the Greater Kansas City Area. They also have a survey of different counties and cities in the Greater Kansas City area and what they have for current regulations. It could be another good resource.

Chairman Williams: Staff already has that, I believe.

Comm. Ramsey: In discussion with a neighbor and another friend in Leawood north of me that they were both interested in solar and wanting to utilize the newer technology that looks like a tile, not the framed units.

Mr. Coleman: There are two kinds of electrical solar panels. One includes monocrystal and polycrystal, and they have to do with absorption. There is also amorphous material, which is not as efficient as the monocrystal systems, but in low light levels, it continues to absorb light and convert it to electricity. We would not approve the silver frame around the panels as are shown on the screen now. The ones being used for tile have material that can be fabricated in different shapes very easily. The crystals are silicon-based.

Chairman Williams: In the material being displayed on the overhead, is there anything that speaks more directly to the installation of ground mounted units since it pertains to the case before us tonight?

Mr. Coleman: I don't think there is. The ground mounted basically sit on a single pole in a concrete base that has a frame that holds a number of panels. Because of the height limitations in our ordinance, they would be limited to about eight panels. An average house would probably have 2-3 steel poles that would hold the panels.

Chairman Williams: Since the case before us is for the ground mounted rear yard, perhaps the best place to go through the material that Commissioner Coleman provided would be in a work session in which we deal with the roof mounted units. Are there any other questions for staff on the issue before us?

Comm. Strauss: Would subdivision regulations supersede the city ordinance?

Mr. Coleman: The HOA would have to discuss it with the homeowner. We would issue a permit, and then it would be between the HOA and the homeowner.

Comm. Strauss: The HOA could prohibit ground mounted.

Mr. Coleman: Yes, if they had it in their deeds and restrictions, it could be prohibited through the HOA.

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

### **Public Hearing**

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

Chairman Williams: That brings us to further discussion and ultimately a motion.

Comm. Strauss: I'll go ahead and make the motion. I viewed the discussion of the ground mounted solar panels as an opportunity to review the entire ordinance, but going along with Commissioner Ramsey's suggestion to have a work session to discuss the whole ordinance, I will make a motion for this case this evening.

**A motion to recommend approval of 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 – was made by Strauss; seconded by Elkins. Motion carried with a unanimous vote of 7-0. For: Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey and Coleman.**

*MEETING ADJOURNED*