

**City of Leawood
Planning Commission Meeting
May 24, 2016
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, Levitan, Pateidl, Williams, Elkins, Strauss, Ramsey, and Coleman.

APPROVAL OF THE AGENDA

A motion to approve the Agenda was made by Elkins; seconded by Ramsey. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

APPROVAL OF MINUTES: Approval of the minutes from the April 12, 2016 Planning Commission work session and meeting and the April 19, 2016 Planning Commission meeting.

A motion to approve the minutes from the April 12, 2015 Planning Commission work session and meeting and the April 19, 2015 Planning Commission Meeting was made by Elkins; seconded by Coleman. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CONSENT AGENDA:

CASE 45-16 – TOWN CENTER PLAZA – J.JILL – Request for approval of a Revised Final Plan for a change to the façade of a tenant space, located north of 119th Street and west of Roe Avenue.

CASE 52-16 – HOMESTEAD ASSISTED LIVING – MONUMENT SIGN – Request for approval of a Revised Final Sign Plan, located south of 127th Street and west of State Line Road.

Comm. Walden: I would like to pull Case 46-16 for a question.

A motion to approve the remainder of the Consent Agenda was made by Elkins; seconded by Strauss. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CASE 46-16 – LEAWOOD STATE LINE APARTMENTS – Request for approval of a Revised Final Plan, located south of 136th Street and east of Kenneth Road.

Chairman Williams: Mr. Walden, could we get your question?

Comm. Walden: The zoning on Page 1 shows RP-4, and on Page 3, it is an indication of RP-3. Is that correct?

Ms. Kriks: That should be RP-4. I apologize. I will correct that stipulation. Thank you.

A motion to approve CASE 46-16 – LEAWOOD STATE LINE APARTMENTS – Request for approval of a Revised Final Plan, located south of 136th Street and east of Kenneth Road – was made by Walden; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

NEW BUSINESS:

CASE 47-16 – PRAIRIE STAR MIDDLE SCHOOL – Request for approval of a Revised Final Plan, located north of 143rd Street and east of Mission Road.

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 47-16 – Request for approval of a Revised Final Plan for Prairie Star Middle School for 2,163 square feet for a media center and enclosed mechanical rooms for the school, located north of 143rd Street and east of Mission Road within a district zoned Agricultural. Other school improvements include open air mechanical yards for ground-mounted mechanical equipment and new rooftop mechanical screenings. The applicant is proposing 2,163 square feet of additions within a courtyard and on the east elevation. The applicant is also proposing open air equipment enclosures on the east elevation and equipment screening on the roof. On the south side of the courtyard, the applicant is proposing to expand a media center by approximately 646 square feet. It will be constructed of red and grey brick with a glass storefront system and bronze mullions. On the north side of the courtyard, the applicant is proposing 2 mechanical enclosures, and each will be about 274 square feet with red and grey brick and grey access doors. On the east elevation at the south end, the applicant is proposing a mechanical room addition, which will be 642 square feet. Two open air mechanical yards are proposed on the east elevation. At the north end of that east elevation, another enclosed mechanical room is proposed, which will be 327 square feet. All new screens and enclosures adjacent to the school will be constructed of the same red and grey brick as used within the courtyard and will match the existing material at the school. Currently, two rooftop penthouses, which previously enclosed mechanical equipment, are proposed to be removed. A third rooftop penthouse at the south end of the roof is proposed to be removed and replaced with utility screens. There are 3 existing centrally located rooftop units that are proposed to be removed, and 2 of the screens on the east side of the roof are also proposed to be removed. Your packet indicates that there is a 5-ft. concrete sidewalk, which was originally proposed to be rerouted around the school, around the mechanical

room and open air mechanical yards on the east side of the school. The plan in your packet that was given out last Friday shows the sidewalk to be approximately 6 feet from the building; however, I placed a new plan on the dais this evening that the applicant has provided that has pushed that sidewalk to 10 feet from the building, which now complies with Section 16-4-7.3(d)2 of the Leawood Development Ordinance. Staff does recommend approval of Case 47-16 with the stipulations outlined in the Staff Report, and I'm happy to answer any questions you may have.

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

Applicant Presentation:

Scott Pashia, 10200 Ensley Lane, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Pashia: I'm here representing Blue Valley School District for the Prairie Star Middle School and will be available for any questions you might have.

Chairman Williams: Are you and the district in agreement with the stipulations?

Mr. Pashia: Yes, we are.

Chairman Williams: Any other questions? Thank you very much. Any discussion?

A motion to recommend approval of CASE 47-16 – PRAIRIE STAR MIDDLE SCHOOL – Request for approval of a Revised Final Plan, located north of 143rd Street and east of Mission Road – with 10 Staff Stipulations – was made by Elkins.

Comm. Walden: On Page 4, Item 7 shows the construction hours. Should they be 7:00 rather than 8:00?

Ms. Kriks: With the close proximity of the residential to the north, 8:00 is what staff feels to be an appropriate time, especially during the summer hours.

Comm. Walden: In one of the other petitions with a similar proximity to residential, there is a 7:00 time. We can look at that as we go on.

Motion seconded by Coleman.

Comm. Elkins: In Stipulation No. 7 at the end of the sentence, it says, “. . . and not construction . . .” and should read, “. . . and no construction.”

Chairman Williams: Thank you.

Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CASE 49-16 – PINNACLE II – PARKING GARAGE EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of 115th Street and west of Tomahawk Creek Parkway. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 49-16 – Request for approval of a Revised Preliminary Plan and Revised Final Plan for Pinnacle II, Parking Garage Expansion to add one additional level to the existing parking garage, located directly north of Pinnacle II Office Building. The applicant has stated that the reason for the request is to accommodate a new call center for the tenant. The office buildings have formed somewhat of a campus with structured parking. This proposal adds 187 parking spaces to the garage for a total of 806 parking spaces in the overall development, including the 294 surface parking spaces, which will not change. The parking ratio will be 5.92 parking spaces per 1,000 square feet. Per the current LDO as a requirement of between 3 and 4 parking spaces per 1,000 square feet, this will be in excess of that. The applicant is allowed to provide a parking study that would justify the reason for the addition, which the applicant has done, indicating a call center requires substantially more parking than what it currently has right now. Additionally, the parking garage will match the style of material that currently exists. It will have two different types of bricks and also cast stone. The applicant is also proposing to relocate the parking lot light fixtures that are currently on the second deck. They will be moved to the third deck. The original issue with that was that the fixtures are 22 feet in height, and this project was approved in 2001, which was prior to the current LDO. The current LDO requires that light fixtures are no more than 18 feet in height. The applicant has reduced the pole height, so they will now be 17 feet, 6 inches in height. Staff is recommending approval of this application, and I would be happy to answer any questions you may have.

Chairman Williams: Questions for staff?

Comm. Strauss: This is an operation that will run 24 hours a day. Is that allowed in the LDO?

Mr. Klein: There is no restriction. There are performance guidelines with the noise limit of no more than 60 db at the property line and light of no more than 0.5 foot candles at the property line. The applicant did submit a photometric study that showed the requirements of the LDO are met.

Comm. Strauss: Is there an opportunity with this addition to have some requirements, in accordance with Self-Propelled Leawood, to incorporate amenities to encourage alternative transportation?

Mr. Klein: Staff would be supportive of that. That's a good idea.

Comm. Strauss: Mr. Ley, do you feel the additional 187 vehicles will warrant any kind of traffic study or not because these are off-peak hours?

Mr. Ley: We thought that it would be more off-peak, and we just looked at typical office use for traffic for all those developments.

Comm. Coleman: Mark, is Pinnacle II the old C-Biz building?

Mr. Klein: Yes.

Comm. Elkins: Can you tell me what is involved to help encourage cycling?

Mr. Klein: I would recommend a stipulation that, prior to Governing Body consideration, the applicant provide a revised plan showing bicycle parking to encourage bicycle parking.

Chairman Williams: Are there other questions? We'll hear from the applicant now.

Applicant Presentation:

Nick Lawler, Hoefer Wysocki Architecture, 11460 Tomahawk Creek Parkway, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Lawler: I'm open to any questions you may have.

Chairman Williams: With the proposed addition of the bike parking and the other staff stipulations, are you in agreement?

Mr. Lawler: Yes, we are.

Comm. Coleman: I worked in that building a number of years, and during that time, there were extensive problems with the existing parking garage with stuff dripping down with heavy rains, damaging cars. I know the building owner went through a series of improvements for that. What kind of condition is that building in now?

Mr. Lawler: I know that we have spent time and funding to upgrade the garage and improve the structure. It will be the same thing with that third tier. Obviously, we want to mitigate any future problems. There are various technologies that can be utilized on the top deck to prevent water from seeping in.

Comm. Coleman: To add a deck, will any additional reinforcement be required?

Mr. Lawler: No, the current foundation can handle an additional tier.

Chairman Williams: Any other questions? This case does require a Public Hearing.

Public Hearing

John Nobles, 11345 Buena Vista, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Nobles: I am currently the vice president of The Woods Homes Association and head of the Architectural Review Committee. I'm also one of the residents that lives close to the subject parking lot. Thank you for the opportunity to speak. All of us who live in The Woods are for economic progress. That's how we came to live there. We know that we live next door to an office park. With that, we support the addition of a second deck in this call center, subject to three concerns that we have, which we would like to see addressed. The first concern is that this will go from inconspicuous to conspicuous. What would concern us is if there is a future plan to go to a fourth floor or higher. We could not find in any of the documents anything addressing any potential future plans. The second concern is when this office park first came into being, it was the plan of this group that there would be an extensive rebuild to shield the homes from the office and parking garage. It was put in well. The maintenance of this greenbelt has become an issue. It is not a bad issue but still an issue that needs to be addressed. We think with the addition of this parking garage, maybe some additional greenbelt activities could be used to help shield the neighborhood from the new parking garage. The concern here is that we would like to re-commit to that original plan and make sure the landscaping can be worthy of the separation. Currently, we don't have a direct connection with the Bloch company, and I think a direct connection would help. We're not talking about a lot of money; it is more the commitment and a work process. Additionally, there are several mature trees that we want to make sure live. They are ash trees, so we will have to treat them or they will die from the Ash Borer. There are Scotch Pine trees that have fungus. We have to make sure to treat those. First and foremost, we want to keep the tall trees. If we unfortunately lose one, we would like to replace with a disease-resistant White Pine or something like that. The third concern is with noise. Again, we understand that construction is a noisy business, but 6:00 a.m. Sunday morning is not when we want to hear anything. We would like a good noise abatement plan that is sensitive to the adjacent community as part of the construction plan, it would address our concern. I know it's a bit of an imposition to the construction company. We don't want to hold them up, but I think that would be worthwhile in terms of keeping all the neighbors happy. Those are the three concerns, and I appreciate your time.

Chairman Williams: In terms of the noise abatement, one of the stipulations is that there will be no construction between 9:00 p.m. and 7:00 a.m. Monday through Saturday and no construction on Sunday. Are those hours acceptable?

Mr. Nobles: I think that's fine. I heard someone mention a decibel limitation, and I know that it's hard to enforce. You're saying no construction on Sunday, and it doesn't start until 7:00 a.m.

Chairman Williams: Correct. Typically, the decibel factor comes into play for the actual use and operation of a building. I don't think we actually enforce the limit for construction purposes, do we?

Mr. Klein: The ordinance does not draw a distinction. It is complaint driven, and the neighborhood services officer would measure the noise at the property line.

Chairman Williams: Construction noise varies, and it could continue for days on end. It is not continuous, and when construction is done, it is the daily noise of operation.

Mr. Klein: The intent of the limitation for construction time was to be sensitive to the neighborhood. With regard to an increase of the height of the parking garage, I asked that originally, and the applicant indicated that another level is not anticipated.

Chairman Williams: Could you address the landscaping concerns?

Mr. Klein: The reason landscaping isn't included in the packet is that this is being built in the existing footprint. There was discussion with regard to a landscaping buffer along the north and west side of 114th Street. In fact, at the time it was constructed, there were trees torn out by mistake, and a number of pine trees were planted along there. The applicant met with representatives of the neighborhood to do that. If there is landscaping dying or diseased, we can have a neighborhood services person issue a courtesy notice to make them aware. Currently, the stipulations do not require additional landscaping. If this body would like to see additional landscaping, the case would need to be continued to allow the applicant time to produce a new landscaping plan, or another stipulation that, prior to Governing Body consideration, the applicant would have to provide a landscape plan.

Chairman Williams: I know the city has been very active with these homes associations on the Ash Borer issue. Is there anything to require that the trees are treated if they haven't been treated already?

Mr. Klein: I know the city is very interested in trying to save as many as possible and to educate people that it is coming. They talked about sending out mailings to educate people on how to treat the trees. I don't believe there is anything with regard to requirement; however, the city is always interested in ensuring that the large trees are maintained and in good health condition because it is a shame when a mature tree dies. Obviously, it can't be replaced with a similar size.

Chairman Williams: In this case, the mature trees are instrumental in the screening between the garage and the residents. I'd hate to see those die. We'll talk to the applicant about that. Anything else, sir?

Mr. Noble: No; thank you for your time.

Chairman Williams: Is there anyone else who would like to speak? Seeing none, could I get a motion to close the Public Hearing?

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 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

Chairman Williams: Could the applicant address the questions?

Greg Shannon, 700 W. 47th Street, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Shannon: I represent Bloch Real Estate.

Chairman Williams: Could you address the concern about a future floor?

Mr. Shannon: This garage is not built to add another floor beyond this proposed floor.

Chairman Williams: Thank you. Could you address the question about the greenbelt?

Mr. Shannon: I will check back with our maintenance group and report back to staff to let you know the status on that. I don't know if they have treated the Ash Borer. I would be shocked if they haven't just because of the reputation of good, heavy landscaping.

Chairman Williams: Thank you. Are there other questions? That takes us up to comments or discussion, leading to a motion.

A motion to recommend approval of CASE 49-16 – PINNACLE II – PARKING GARAGE EXPANSION – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of 115th Street and west of Tomahawk Creek Parkway – with 10 Staff Stipulations, adding No. 11 to read, “Prior to Governing Body approval, the plan will be revised to include elements that support Self-Propelled Leawood” was made by Strauss; seconded by Elkins. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CASE 50-16 – PINNACLE V – TRELLISES – Request for approval of a Revised Final Plan, located south of 114th Street and west of Tomahawk Creek Parkway.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 50-16 – Pinnacle V – Trellises – Request for approval of a Revised Final Plan for the construction of two trellises over existing amenity areas with tables and benches. They were approved for the Final Plan for the Pinnacle V development, which is located directly north of Pinnacle II. The applicant currently has paved areas that were approved with the original plan as amenity areas. Within these areas are some tables and benches. The applicant would like to add trellises in order to provide shade protection and also weather protection. The reason there is a difference is

that one is located directly at the southwest corner of the building, and they want weather protection. There will be a blue resin located between the parallel members of the roof structure. That will provide weather protection in addition to shade. The other trellis feature along the west property line will not have the blue resin; it will have open roof girders. If the structure has a covered roof, it is required to meet the setback, which is 40 feet in this district. This is located 9 feet from the property line. As an accessory use, if it has an open roof, it is considered a garden structure and is allowed to go anywhere in the side and rear yard. The structures themselves are approximately 9 feet in height. Staff is supportive of the application, and we're happy to answer any questions.

Chairman Williams: Are there any questions for staff?

Comm. Elkins: It appears to me that there are a certain number of cases that are in blue ink rather than black ink. Is there any significance to that at all?

Mr. Klein: There is not. We have had difficulty with the copy machine.

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

Applicant Presentation:

Craig Shannon, 700 W. 47th, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Shannon: We are in agreement with the stipulations and would stand for questions.

Chairman Williams: Are there questions for the applicant? Thank you. This brings us to discussion and a motion.

A motion to recommend approval of CASE 50-16 – PINNACLE V – TRELLISES – Request for approval of a Revised Final Plan, located south of 114th Street and west of Tomahawk Creek Parkway – with 5 Staff Stipulations – was made by Elkins; seconded by Strauss. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CASE 51-16 – VILLAGE OF SEVILLE – LEAWOOD MICRO HOSPITAL – Request for approval of a Preliminary Plan and Special Use Permit for a Hospital, located north of 133rd Street and west of State Line Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 51-16 – Request for approval of Preliminary Plan and Special Use Permit for a hospital for Leawood Micro Hospital at the northwest corner of 133rd Street and State Line Road. The lot for the project is located at the southeast corner of the development for Village of Seville, adjacent to the intersection of 133rd and State Line. The applicant is proposing a 16,400 sq. ft. single story micro hospital. Access to the lot is

by an internal drive, which is connected to the access drive from 133rd Street. Parking for the project is located north of the building and west of the hospital, adjacent to the internal drive. A circular patient drop-off is proposed on the west side of the building. The ambulance drop-off and a trash enclosure are also proposed at the northeast corner of the building. Three rain gardens are proposed as well. One is proposed on the north side of the building; one is proposed adjacent to State Line Road; one is proposed west of the patient drop-off. The applicant is also proposing a screened emergency generator at the southwest corner of the building, and it will be architecturally integrated into the structure. The existing monument sign for the development is currently located at the southwest corner of the lot, which is at the entrance into the development off 133rd Street, and a 1,000 sq. ft plaza amenity is proposed close to the intersection of 133rd and State Line. Preliminary elevations for the hospital have been proposed for review. The building is proposed to be a single story hospital with a height of approximately 30 feet, 6 inches, which a flat roof with sloped tower elements. The façade is proposed to be a combination of brick, stucco, stone and glass. A covered patient drop-off is proposed on the west side of the building. Ambulance access on the north side of the building will have a canopy over the drop-off, which will extend approximately 12 feet from the façade. The trash enclosure on the north elevation is proposed to be about 9 feet, 4 inches in height and will be screened by solid metal doors. An emergency generator at the southwest corner is proposed to be screened with brick, which will match the proposed materials for the building. Existing oak trees, which were originally provided by the developer, are at 35 feet on center along 135th Street and State Line Road. The applicant is proposing additional shade trees, ornamental trees and shrubs along 133rd and State line. Adjacent to the building, the applicant is also planting a combination of shrubs, evergreens and ornamental grasses. Additional shade trees are proposed from the entry level drive off 133rd. Additionally, the applicant is planning new parking lot light fixtures, which are proposed to match existing fixtures in The Village of Seville. No deviations were requested for this project. All deviations for the development were approved at the time the preliminary plan for The Village of Seville was approved in 2004. The existing monument sign for the development is not currently located within a separate tract of land, which should be maintained by the development association. It is staff's opinion that placing that monument sign in a tract of land will clarify what party is responsible for the maintenance of the sign and associated landscaping. It is staff's opinion that the development association should be the responsible party. Therefore, at Final Plan, the applicant will be required to file an application for a Revised Final Plat, creating a tract for the monument sign, which will specify the development association will be responsible for the maintenance of the monument sign and landscaping. This was included as a stipulation when the plan was originally approved in 2004. Staff recommends approval, and I'm happy to answer any questions you may have.

Comm. Hoyt: I've read all the notes and the assumption that the applicant made that most frequently, ambulances would not have sirens on and so forth. Could you talk a little bit more about how you see this conforming to the decibel requirement, even though it comes in short spurts but would be 24 hours a day, theoretically.

Mr. Coleman: The ordinance doesn't apply to emergency vehicles.

Comm. Hoyt: Even if it doesn't apply to it, it seems like there's potential for a problem with folks who live so close to this because there is a lot of housing.

Mr. Klein: There is housing farther to the west. The current location is as far from the residential neighborhood as it can be. There are also distant buildings that have been constructed, including a pad site along 133rd Street and another in the main center. There will be more construction to the north and more pad sites along there. The thought is that the ambulances would be sporadic. The noise is always a concern, but occasionally ambulances visit residential areas. Staff is comfortable with the fact that it is far enough from the residential area.

Comm. Hoyt: It was mentioned that the interact meeting addressed the issue of synergy, and I didn't see comments related to that. I'm just curious how staff feels this would add synergy to the existing commercial developments, or will there be any synergy whatsoever? I know the shopping center that this is adjacent to has had difficulty with full occupancy.

Mr. Klein: It has been a while since something has gone into Village of Seville, and staff's hope is that more construction will jump-start that development. There is a bank a little farther to the north. A number of businesses have come in and out of the main center. We're hoping for more activity in a struggling center.

Comm. Pateidl: Regarding the emergency generator, I'm thinking back to the issues we've had with the generator at KCOI. Have we looked closely at that equipment and incorporated necessary restrictions within your recommendations, or are you comfortable with what they're proposing that we will not have a similar problem?

Mr. Klein: We are thinking about it. At the time of Final Plan is when they'll have specifications available. We let the applicant know that it would be a concern and that now is the time to address it in order to meet decibel ratings. They are surrounding it with a brick enclosure.

Comm. Strauss: On this application, staff commented about Self-Propelled Leawood in Stipulation No. 6. This stipulation by itself is a little vague, but the comments help make it more clear. Do we need to make it more specific? It could say, "At Final Plan, applicants shall work with staff on Leawood's Self-Propelled site amenities for the project."

Mr. Klein: That's not a bad idea. It could say, "Amenities, including Self-Propelled," so that it speaks to other amenities as well.

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

Applicant Presentation:

Steven Kirkpatrick, Embree Asset Group, 4747 Williams Drive, Georgetown, TX, 78633, appeared before the Planning Commission and made the following comments:

Mr. Kirkpatrick: I'd be happy to answer any questions you have for me.

Chairman Williams: Are you in agreement with the 25 stipulations?

Mr. Kirkpatrick: We are.

Comm. Hoyt: Who is the target market for this?

Mr. Kirkpatrick: There are two main functions of the hospital: emergency department and inpatient nursing. The emergency department will treat lower classified emergencies. It is classified as Level 4 trauma. We'll treat anybody who comes in the door, but we anticipate if there is any high level of care needed, we'll arrange for transport to another facility. On the emergency department side, it would be someone with a spiked fever or something that couldn't wait until morning. On the inpatient nursing side, it would be treatment of minor conditions, end-of-life hospice care, asthmatic reactions, poisoning, burns or general vital sign monitoring.

Comm. Hoyt: With other hospitals already in the area, would it be proximity that would cause someone to come to your facility instead of one a few miles farther down the road?

Mr. Kirkpatrick: Yes, it would be proximity and convenience. Our client will be trying to minimize wait times. We want to be very familiar, something that people drive by every day. We want to be convenient for the immediate community.

Comm. Elkins: Is your facility required to obtain a Certificate of Need [CON] from the Kansas Board of Healing Arts or any state regulatory agency?

Mr. Kirkpatrick: It is not. We do have to go through the state licensure process, but there is not a requirement for a CON in the state of Kansas.

Comm. Elkins: Is it anticipated that the facility will have a pharmacy? If so, will the pharmacy hold controlled substances?

Mr. Kirkpatrick: There will be a pharmacy room monitored by a pharmacy technician with no outpatient pharmacy services. It will be under lock and key and will serve the two main services of the building.

Comm. Elkins: Would narcotics or other controlled substances be in the formulary for that pharmacy?

Mr. Kirkpatrick: Yes.

Comm. Elkins: Are there any specific security measures that you have to take with regard to those?

Mr. Kirkpatrick: Most states require badge access that won't be given to everybody. The pharmacy technician on the site will be the only one with access.

Comm. Elkins: There will be no onsite pharmacist?

Mr. Kirkpatrick: That is correct, only a pharmacy technician.

Comm. Elkins: This concept of a micro hospital is new to me. Are there other similar facilities in the metropolitan area?

Mr. Kirkpatrick: Not that I'm aware of, no.

Comm. Elkins: It just seems like an awfully small hospital with eight beds.

Mr. Kirkpatrick: It is small, but it is the model that my client believes will work well. It does provide the services and knocks down wait time in patient care.

Chairman Williams: Any other questions? Thank you very much. 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 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

Chairman Williams: That takes us to discussion.

Comm. Coleman: I'd never heard of a micro hospital until I looked through here. I pulled something off the internet on the background of micro hospitals that I wanted to pass along for informational purposes. As far as I know, we don't have anything else in this market, but Texas has several of them. They are a growing part of the medical field.

Chairman Williams: Can you give a synopsis of what you found?

Comm. Coleman: It is a recent article from 2016. It had an investment background to it. Micro hospitals have a core set of services, including emergency, pharmacy and rapid imaging. They're all that size with the eight beds. It is just a little hospital that fills a gap in an area. There are a lot of major hospitals in the area, so I can see where they're looking for a niche in the area that straddles the State Line for those who don't want a longer wait time. It is between urgent care and full service ER. It will fill a niche, and it seems to be a growing trend.

Chairman Williams: I would think that part of that market would be rooftops in the neighborhood, but going to the south and even to the east where there are fewer hospitals.

Comm. Coleman: Shawnee Mission is constructing one at 159th and Antioch right now. There is nothing in that area. It will fill a niche. I don't know how successful it will be, but it will be interesting to see.

Chairman Williams: It is not our role to determine how successful a project will be; we just need to determine if it meets the requirements of the LDO and if it fits in our city. Thank you.

Comm. Elkins: I have two reservations about the application, but I don't know if they are sufficient enough to cause me to vote against it. I have a concern about a facility this small in Leawood that would house controlled substances and narcotics in particular in terms of what kinds of risks it exposes our citizens to. It is one thing for a large hospital or a critical care hospital to house those kinds of narcotics. It is an entirely different thing for an 8-bed small hospital on the corner. The second thing that gives me pause is the use of this facility is pretty specialized. While I completely agree with the chairman that it is not our place to question the potential future economic success, I do have a concern about what will happen if the facility is not successful and what the alternative uses could be. Many of our retail or commercial structures have obvious alternative uses. Perhaps a clinic could take the place in the event that it is not successful, though we wish you all success. This is just unusual.

Chairman Williams: It is unusual, and it may be the first in the metropolitan area.

Comm. Hoyt: I would second the concern about the future use possibilities. While it isn't our role to determine how successful something might or might not be, I think about the HyVee property that is sitting vacant. It concerns me a little bit. That is why I asked about target market and wondered if research had been done to gauge interest. Again, I'm not sure that I would oppose it on that ground, but I do have that concern.

Chairman Williams: HyVee is certainly an issue for us, and there are a lot of extenuating factors regarding that piece of property. I would see a property like this being converted into offices or a medical clinic with some interior remodeling. Hopefully, this will help the center become more active.

Comm. Levitan: I guess I compare it to something like iFly at 435 and Metcalf. There's a structure that you don't know what to do with. I second your thoughts on the adaptive reuse to office. It would be very simple.

Chairman Williams: Are there other comments? Could I get a motion?

A motion to recommend approval of CASE 51-16 – VILLAGE OF SEVILLE – LEAWOOD MICRO HOSPITAL – Request for approval of a Preliminary Plan and Special Use Permit for a Hospital, located north of 133rd Street and west of State Line Road – with 25 Staff Stipulations – was made by Coleman; seconded by Ramsey.

Ms. Kriks: Mr. Strauss brought up a possible amendment to Stipulation No. 6.

Motion amended to include addition of the words, “Self-Propelled Leawood” to No. 6 – by Coleman; second by Ramsey stood. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CASE 55-16 – PARKWAY PLAZA – GLOBAL SIGNAL ACQUISITIONS CELL ON WHEELS – Request for approval of a temporary Special Use Permit, located north of 135th Street and west of Briar Street. **PUBLIC HEARING**

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 55-16 – Request for approval of a Temporary Special Use Permit for a wireless Cell on Wheels [COW] facility located north of 135th Street and west of Briar in the Parkway Plaza development. As you may recall, a Temporary Special Use Permit for this project was previously approved by the Governing Body on January 4, 2016 for a maximum term of 180 days from the date of that approval by the Governing Body. That case was associated with the improvements for the wireless tower within Parkway Plaza. Since the time that Temporary Special Use Permit was approved, the applicant has been attempting to obtain landscape easements from the property owners north, west, and south of the tower, which is a stipulation in the Special Use Permit for the tower itself, also approved by the Governing Body on January 4th. This particular case is tied with Case 56-16, which follows this case on the agenda. In order for the improvements associated with that case to be completed, the Cell on Wheels project will need to be approved. The applicant is requesting a term for the Temporary Special Use Permit of 180 days, which is the maximum time allowed by an easement granted to the applicant from a property owner to the north of Lot 2 of Parkway Plaza. However, rather than a Temporary Special Use Permit expiring 180 days after Governing Body approval, staff recommends a Temporary Special Use Permit that expires 180 days after the issuance of a building permit, with the condition that the building permit is applied for within 60 days following Governing Body approval. The applicant has been granted the temporary easement to allow for the Cells on Wheels, a crane staging area and construction access. The proposed location of the COW will be in the parking lot north of the existing wireless tower. The COW easement is approximately 220 feet by 58 feet and enclosed by a 5-ft tall chain link fence. The temporary construction access for the easement is a 20-ft wide access easement along the western side of the parking lot from 133rd Street to the south. Staff recommends approval of this case, and I’m happy to answer any questions you may have.

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

Applicant Presentation:

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

Mr. Holland: Good evening. Thank you for hearing our application. We don't have a lot of comments with respect to this particular application. We have some comments on the next one that you might have some more interest in. This application is identical to what was approved a few months back. Our time has burned off because of our inability to secure a landscape easement from the property owner to the north. We have been delayed in our attempts to move forward. We're here to answer any questions you may have about this application.

Chairman Williams: Any questions for the applicant? Thank you very much. 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 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

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

A motion to recommend approval of CASE 55-16 – PARKWAY PLAZA – GLOBAL SIGNAL ACQUISITIONS CELL ON WHEELS – Request for approval of a temporary Special Use Permit, located north of 135th Street and west of Briar Street – with 7 Staff Stipulations – was made by Walden; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

CASE 56-16 – PARKWAY PLAZA – STC FIVE WIRELESS TELECOMMUNICATIONS FACILITY – Request for approval of an Amended Special Use Permit for a Wireless Communication Facility, located north of 135th Street and west of Briar Street. **PUBLIC HEARING**

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 56-16 – Request for approval of an Amended Special Use Permit for a Wireless Communication Facility, located north of 135th Street and west of Briar in the Parkway Plaza development. As you may remember, a 20-year Special Use Permit for the tower was approved by the Governing Body on January 4, 2016 for 150 feet in height. That approval allows the owner to bring the tower – currently a lawful, nonconforming structure – into compliance, including mounting antennas in such a

manner to create a symmetrical appearance to reduce visual clutter, painting the antennas to match the color of the tower, internalizing the coaxial cable within the tower and enhanced landscaping around the equipment compound. The tower owner has applied for and been approved for a one time, 20-ft. height increase under 6509(a) of the Middle Class Tax Relief and Job Creation Act of 2012. That was approved in February, 2016. A stipulation in that original case approved in January included, "Prior to the issuance of a building permit, the applicant shall provide a copy of landscape easements surrounding outside walls in the equipment compound where landscaping is proposed." In the time since the Special Use Permit for that tower was approved, the applicant has been working with property owners north, west, and south of the towers to carry landscape easements. However, the property owner to the north of the tower compound has not been receptive to a landscape easement or any other agreement which encumber the property. Without those required landscape easements, the applicant has not been able to secure a building permit to proceed with tower improvements. The applicant is requesting that the stipulation be amended to remove the obligation of providing the landscape easement from the tower owner north of the compound. Staff has been out to the site to review current landscape conditions and determine the landscaping provides sufficient screening from 133rd Street. Staff is supportive of this change in the stipulation; however, the applicant will still be required to provide a landscape easement for the property west and south of the tower compound. A memo has been placed on the dais, addressing changes to Stipulation No. 5, which was originally proposed by staff. Staff has been working with the applicant today to work out a compromise to the stipulation, which is included in the memo. Staff recommends that the Planning Commission approve Case 56-16 with the modified stipulations outlined in the memo. I'm happy to answer any questions you may have.

Comm. Pateidl: You say that staff says there is sufficient landscape screening from 133rd Street. Who owns or controls the property where the landscaping is located?

Ms. Kriks: Lot 2 is directly adjacent to the wall of the tower. When the tower was originally constructed in the early '90s, it was an open field. Over time, the developers have sold off the property all the way around the compound. The property to the north, which is Demdaco, is right up against the wall.

Comm. Pateidl: Is it a private property, or is it controlled by the tower operator?

Mr. Klein: The landscaping is on the property to the north, so they're the ones who control everything there. There is an approved landscape plan for Demdaco that was approved with that office building, including the south side of the parking lot, which is in front of this tower. In addition to their landscaping, there are seven mature evergreen trees between 16 and 20 feet in height. Those were planted to provide screening for the compound maybe even before Demdaco arrived.

Comm. Pateidl: I'm sure we'll get discussion on this, but if this landscape is on property not controlled by the tower operator, is it practical to require the tower operator to be responsible for the landscaping?

Mr. Klein: According to their attorney, the tower owners were comfortable for the maintenance of the landscaping because they have been maintaining it this whole time. The applicant could answer better, but it seems like Demdaco also doesn't really have a problem with them maintaining the landscaping. Demdaco's main issue was that they didn't want an easement showing on their property that would encumber their property in any way.

Comm. Pateidl: Is there anything contained within the application that alters the application that was approved in January, other than this landscape easement?

Mr. Klein: That is correct. They can't get their building permit without the easement.

Chairman Williams: Are there 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, appeared before the Planning Commission and made the following comments:

Mr. Holland: I think Mark explained it pretty well, and you zeroed in on the issue well with your questions, but let me add to it. We didn't think we would be back here in front of you this soon. We thought we finished our work, and we were very optimistic that we would be able to secure a landscape easement over some ground that we have been maintaining now for 20 years. In fact, in the tower's history, we've never had a landscape easement over the property around the compound area. Yet, we've always been able to install and maintain landscaping. The owners of the property don't seem to mind. The trees were planted in 1997 or so, and are full and mature, healthy pine trees, especially on the north side of the compound. There is additional landscaping to the north that we didn't install. It was installed by Demdaco. It's pretty adequate. They installed deciduous shrubs and trees with evergreen trees behind them. There is no intention by Demdaco to remove any of those trees. As staff indicated, they have refused to grant an easement over this area. We had many discussions, and they refused to grant the easement for the sole reason that they did not want to encumber their property with any kind of easement. There is really no improvement they could make in that area. We are comfortable with the proposed stipulation that requires us to continue to maintain what we have been maintaining for 20 years. We don't have any reason to believe that Demdaco will interfere with that maintenance. The property owner to the west and south hasn't had an issue, and we obtained an easement to maintain the landscaping on those two sides. The easements were never required for prior SUP approvals. There has always been a stipulation requiring maintenance on the landscaping, which we have always done. In this instance, we are unable to secure the easement in writing. There is a benefit to having the screening that they have installed on their property. It is more than adequate. They have been cooperative in all other respects, including a Temporary Construction Easement for the COW. They are in support of the facility; they just are opposed to granting the easement. With that, I would stand for questions.

Chairman Williams: Are there 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 Coleman. Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

Chairman Williams: This brings us to discussion and a motion.

A motion to recommend approval of CASE 56-16 – PARKWAY PLAZA – STC FIVE WIRELESS TELECOMMUNICATIONS FACILITY – Request for approval of an Amended Special Use Permit for a Wireless Communication Facility, located north of 135th Street and west of Briar Street – with 12 Staff Stipulations as amended in the referenced memo – was made by Elkins; seconded by Strauss.

Comm. Pateidl: I'd like to address Stipulation No. 5 just a little further and not necessarily recommend a revision of this particular stipulation in its wording. Earlier, when we were talking about the addition to the garage and had the representative from The Woods, he talked about the desire of the Homes Association to have an agreement with the owner to bring the landscaping of the greenbelt back to what was agreed to at the beginning of the project. This begs the topic of enforcement of our provisions inside of these applications. No. 5 says, "Should this landscaping fail to meet requirements, the owner shall bring the landscaping up to the requirements within 60 days." There is very little in terms of a clear definition of what is expected and what is required. What I would recommend to the staff in conjunction with this is that there is a clear understanding documented in the file as to what defines minimum requirements not only for the benefit of the applicant but also for the benefit of the city as we direct our people to enforce these stipulations. Unfortunately, we let a lot of ambiguity go through in the past. This, particularly given the fact that there is another owner involved, can further compound the issue. If we do have a clear definition and the owner can get the information through public record, it just cleans it up. I would just encourage some more specifics as it relates to that requirement.

Chairman Williams: I think you bring up a good point. When I read this earlier, I didn't quite read it the way you are noting. On second reading, I see your point. We are asking the owner, who is the applicant's STC5 to take care of the landscaping, replace it or shut down operations. Yet, they cannot get a landscape easement. Technically, legally, they may not be able to take care of that material. Certainly, they can't replace it without the approval of the property owner. Are we going too far with this and leaving the property owner out of the equation?

Mr. Klein: We struggled with this a lot. In fact, the legal department worked very hard on it. Originally, staff wanted the easement. The ambiguity is gone at that point. The fact

that Demdaco will not grant it complicates the issue. We couldn't require Demdaco to screen the tower because it's not their responsibility. Ideally, we would want them to have an easement to do that, but it wasn't a possibility. This is the compromise that we came up with. It does stipulate that the SUP can be revoked if they don't maintain it. The applicant feels comfortable enough because of their relationship and communication with Demdaco that they would be permitted to maintain. There was a great deal of negotiation regarding this.

Chairman Williams: The relationship with Demdaco is fine, but what if Demdaco sells the building in five years and we have a new owner who is not aware of this landscape issue? Where does that put these folks?

Mr. Klein: Admittedly, it would not be a great situation, but the applicant is aware that it is a possibility.

Comm. Elkins: Our interest as a commission is to have the facility screened. We have made that requirement. With these unusual circumstances, there is a concern about enforcement, but staff has put an enforcement mechanism in. If the screen doesn't continue as it is, they're subject to losing their SUP. My view is if the applicant is willing to take that risk, we have what we need from a planning standpoint.

Comm. Ramsey: There is the side issue along the same line of when the landscape becomes mature and certain parts are lost. How do we determine if it is fulfilling its original screening requirement if not all elements remain? Is it a rigid rule that everything must be put back?

Chairman Williams: The city would use the approved Landscape Plan for enforcement.

Mr. Klein: We would look at the Landscape Plan. Obviously, if a mature tree dies, a new tree would not match its caliper. If the commission wanted to be more definitive on replacement, it could be stated in the stipulations.

Chairman Williams: Any other comments? We have a motion and a second.

Motion carried with a unanimous vote of 8-0. For: Hoyt, Walden, Levitan, Pateidl, Elkins, Strauss, Ramsey, and Coleman.

Comm. Elkins: I arise to a point of personal privilege. As the commission knows, and for public record, tonight brings to the close 13 years of service by our chairman to both this commission and the community of Leawood. Obviously, the last 3 or more were served as chairman. Before that, it was long and distinguished service to our community. I want to take this moment as a matter of personal privilege to thank the chairman for all the work he's done, for the able, professional knowledge and perspective that he has brought to the commission as a result of his profession. It is a perspective that has been extraordinarily helpful to me personally, to the commission generally, and more important, to the community of Leawood as we look after the planning needs of the city.

Beyond that, he has become a close personal friend. With that, I would thank the chairman for his many years of service to us and to the community. Thank you.

Chairman Williams: Thank you. It's been an honor to serve with all of you. The 13 years have gone by quickly. It's been a real honor to work with all of you. Over 13 years, I have gotten to work with a lot of good people that came to the commission, gave it their full attention, hard work and dedication. You all certainly are some of the best. I appreciate that. I appreciate the faith that you have bestowed upon me these last few years to be your chair. I will miss that. I'd also like to thank the staff for their diligent work. It's been a privilege to work with you over the years. I've obviously gotten to work with some of you longer than others, but still nonetheless, we are blessed to have good staff in the planning department, community development department, engineering department. That certainly makes our jobs as commissioners easier. I've had the opportunity to present cases to other metropolitan communities, and it's a mix. Again, we're blessed to have a good group of people here. I've certainly got to thank staff for closing out our last meeting with our favorite case topic of cell towers. Last week, I sent Mark an email asking about the agenda, and I asked for no cell towers and no signage. Sure enough, the last case was a cell tower. How fitting. I've always felt that the work we do here is important. It helps to define the character and the livability of the city we all call home. It's an important role. Future generations may curse us because they disagree with what we've done, but I think for the large part, they're going to be thankful for the work we do here. This really is a unique city. I've been here now 21 years. One of the reasons our family moved here is because it was a little bit more definition of a city than a suburban sprawl. Things have come a long way even in those 20 years. It's been good. As a result, it certainly is not a place we plan to move out of. Hopefully that's true for the rest of you. Again, thank you all very much. I also thank staff for an agenda that didn't take us to 10:00 tonight. Remember as you leave here to feel as if you've done your best for the city. Also, remember that the Leawood Police is out there watching. Always use your turn signals when you enter and exit off public right-of-way. Don't take wide turns, and certainly come to complete stops at stop signs and red lights because they will stop you. I speak from experience. I was looking at the prospect of \$500 in fines. Being on the Planning Commission doesn't cut you any slack. I think the young officer had a little mercy for an old man and let me go with a warning. Of course, a pretty good driving record didn't hurt, either. Be careful out there. Get home safe. Again, thank you very much. Good luck to you in the future. I look forward to seeing great things come from you all.

Mr. Coleman: We will have a reception after the meeting on the 14th. Also, if you could let me know if you can attend the luncheon at the Mid-America Regional Council by the end of the week, it would be appreciated.

MEETING ADJOURNED