

**City of Leawood  
Planning Commission Meeting  
February 28, 2017  
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:** Belzer, Hoyt, Levitan, Elkins, Strauss, Ramsey, Coleman, and Block. Absent: Pateidl.

Chairman Elkins: I have received formal notification from the City Clerk that Commissioners Levitan and Strauss have appointments by the Mayor for new terms. Both have been approved by City Council, with terms to begin on June 1<sup>st</sup>. Congratulations, commissioners. With that, we will move to approval of the agenda. Does staff have any revisions?

Ms. Kriks: There are no changes to the agenda.

Comm. Coleman: I would like to note that Case 08-17 says it is continued to the March 28<sup>th</sup> Planning Commission meeting. I thought we had a work session with City Council that night.

Ms. Kriks: We will have a regularly scheduled Planning Commission meeting after the joint work session with City Council.

**APPROVAL OF THE AGENDA**

**A motion to approve the agenda was made by Coleman; seconded by Ramsey. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

**APPROVAL OF MINUTES:** Approval of the minutes from the January 10, 2017 and January 24, 2017 Planning Commission meetings.

**A motion to approve the minutes from the January 10, 2017 Planning Commission meeting was made by Ramsey; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

**A motion to approve the minutes from the January 24, 2017 Planning Commission meeting was made by Ramsey; seconded by Strauss. Motion carried with a**

**unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

**CONTINUED TO THE MARCH 14, 2017 PLANNING COMMISSION MEETING:**

CASE 13-17 – TOMAHAWK CREEK WASTEWATER TREATMENT FACILITY EXPANSION – Request for approval of a Special Use Permit for a Public Utility Facility/Wastewater treatment Plant, Revised Preliminary Plan, and Preliminary Plan, located south of I-435 and east of Mission Road. **PUBLIC HEARING**

**CONTINUED TO THE MARCH 28, 2017 PLANNING COMMISSION MEETING:**

CASE 08-17 – THE RESERVE AT MISSION WOODS – Request for approval of a Zoning to R-1 (Planned Single Family Low Density Residential), Preliminary Plan and Preliminary Plat, located south of 103<sup>rd</sup> Street and east of Mission Road. **PUBLIC HEARING**

Chairman Elkins: Are there any commissioners that would like to withdraw any cases for further review and consideration?

**CONSENT AGENDA:**

CASE 09-17 – MANILDRA GROUP USA (INTERNATIONAL AGRIBUSINESS COMPANY) – WALL SIGN – Request for approval of a Final Sign Plan, located south of College Boulevard and east of Roe Avenue.

CASE 10-17 – CAMELOT COURT – HEN HOUSE GENERATOR – Request for approval of a Revised Final Plan, located north of 119<sup>th</sup> Street and east of Roe Avenue.

CASE 12-17 – TOWN CENTER PLAZA – J. JILL (WOMEN’S APPAREL) – Request for approval of a Revised Final Plan for change to the façade of a storefront, located north of 119<sup>th</sup> Street and west of Roe Avenue.

CASE 14-17 – LONGWOOD FOREST, LOT 5 – Request for approval of a Revised Final Plat, located south of 110<sup>th</sup> Street and west of Delmar Street.

**A motion to approve the Consent Agenda was made by Ramsey; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

**NEW BUSINESS:**

CASE 01-17 – SADDLE AND SIRLOIN CELLULAR TOWER – Request for approval of a Special Use Permit for a Wireless Communication Facility including cellular tower, associated equipment and screening, located south of I-435 and east of Mission Road. **PUBLIC HEARING**

**Staff Presentation:**

City Planner Staci Henry made the following presentation:

Ms. Henry: We will be discussing Case 01-17 – Saddle and Sirloin Cellular Tower. Staff would like to make the Planning Commission aware that a correction needs to be made in the Staff Report. A recommendation reads, “AT&T Mobility” when it should read “Saddle and Sirloin Cellular Tower.” Saddle and Sirloin Cellular Tower is requesting a Special Use Permit for a wireless communication facility, including cellular tower, associated equipment and screening. The property is located south of I-435 and east of Mission Road. The property is zoned Agriculture. The applicant is proposing a Special Use Permit for a wireless communication facility including cellular tower, associated equipment and screening. A 8-ft. walled compound accommodates the ground-based support equipment. The tower measures 130 feet and holds 5 antennas with 3 different telecommunication carriers. An Interact Meeting was held on January 4, 2017 with no attendees. Staff recommends approval of Case 01-17 with the stipulations outlined in the Staff Report. I’d be happy to answer any questions.

Chairman Elkins: Are there questions for staff? Seeing none, I would invite the applicant to step forward.

**Applicant Presentation:**

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

Mr. Holland: Staff’s comments adequately outline the proposal before you. To clarify, this is an existing wireless communication tower. I think it was constructed in the early 2000s. Over the years, multiple carriers have attached antennas to the tower. It provides a valuable service in terms of providing wireless coverage to the residents in the area as well as those traveling through on I-435. We have been at the location for 16 years with no issues, really. I would note that staff pointed out vegetation that needs to be replaced. We are making arrangements to have that done when the weather gets warmer. We are in agreement with all the stipulations and would stand for questions.

Chairman Elkins: Are there questions for Mr. Holland? Seeing none, we will open the Public Hearing.

**Public Hearing**

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

Chairman Elkins: That takes us to discussion of the application. Are there comments?

Comm. Strauss: What is the length of the Special Use Permit?

Mr. Klein: This particular one is for 20 years. The reason for that is the cellular tower at 135<sup>th</sup> and Nall also received 20 years.

Chairman Elkins: This will get them all in sync?

Mr. Klein: It is consistent, yes.

Chairman Elkins: Are there other comments? Seeing none, I would entertain a motion.

**A motion to recommend approval of CASE 01-17 – SADDLE AND SIRLOIN CELLULAR TOWER – Request for approval of a Special Use Permit for a Wireless Communication Facility including cellular tower, associated equipment and screening, located south of I-435 and east of Mission Road – was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

CASE 05-17 – PARKWAY PLAZA – HUNTER FAMILY VISION – Request for approval of a Final Plan, located north of 135<sup>th</sup> Street and west of Roe Avenue.

**Staff Presentation:**

City Planner Staci Henri made the following presentation:

Ms. Henri: We will be discussing Case 05-17 – Hunter Family Vision – Request for a Revised Final Plan for a single story office building, which is 5,956 square feet. The building is centrally located on the western side of Lot 5, which has 35,998 square feet or .83 acres. The property is located north of 135<sup>th</sup> Street and west of Roe Avenue. The property is zoned MX-D. The applicant is proposing a building with cementitious stucco with natural thin veneer stone accents and a cast stone base with a maximum height of 31 feet. The building has a tower element over the main entrance on the north side. Also on the north side are 2 parallel parking spaces with a parking lot adjacent to those spaces. Hunter Family Vision meets the Parkway Plaza development parking requirements. On the south side of the building extending east are drifts of native grasses that are 1,565 square feet. Staff recommends approval of Case 05-17, and I would be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions from staff before we hear from the applicant? Seeing none, I would invite the applicant to come forward.

**Applicant Presentation:**

Jason Sadler, Davidson Architecture and Engineering, 4301 Indian Creek Parkway, appeared before the Planning Commission and made the following comments:

Mr. Sadler: I just have a few quick drawings to go through to introduce you to the project (*Shows various drawings*). All parking is existing. This is one of the last few lots in this development. The elevations match everything else out there. Every element found in these elevations is somewhere on one of those other buildings. There is a ceramic tile

roof over the main portion to match the rest of the other buildings. It has a standing seam metal roof to match some of the other tower elements on the other buildings. It has a cast stone band all along the bottom with natural stone and stucco everywhere else. The landscaping shown on the plan doesn't correctly represent what will go in. We feel that we meet all the stipulations. All materials are what they want. We think it goes well with what is there. I know Dr. Hunter is excited to move into the new space and grow his business.

Chairman Elkins: Do you have objections to the stipulations?

Mr. Sadler: We do not.

Comm. Coleman: Is Mr. Hunter going to keep his Prairie Village location?

Mr. Sadler: He is keeping it open.

Comm. Coleman: Who maintains the parking lot?

Mr. Klein: The development association for Parkway Plaza is the one responsible for the common areas.

Comm. Coleman: The parking lot appears to be in a deteriorating condition right now. I'm sure Dr. Hunter can attest to that. Do you know anything that the developer is going to do to improve it?

Mr. Sadler: I have not heard any improvements that are scheduled to be made.

Comm. Strauss: Thank you for bringing this new building to this development. Over the years, we have developed Self-Propelled Leawood, which support bicycling. Are there any plans for bicycle racks?

Mr. Sadler: Not at this time.

Mr. Klein: We do like to encourage this. We don't know if the applicant would be willing to add bicycle racks adjacent to the building.

Mr. Sadler: It's a good idea. I'd like to see that movement.

Chairman Elkins: Are there any other questions? Is the question of the bike rack something we add as a stipulation?

Mr. Klein: Correct: "Prior to Governing Body consideration, the applicant shall provide a Revised Plan showing bicycle racks adjacent to the building."

Chairman Elkins: Are there any other questions? Do I hear a motion?

**A motion to recommend approval for CASE 05-17 – PARKWAY PLAZA – HUNTER FAMILY VISION – Request for approval of a Final Plan, located north of 135<sup>th</sup> Street and west of Roe Avenue – with staff stipulations included in the staff report and an additional stipulation requiring a bicycle rack as discussed – was made by Block; seconded by Hoyt. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

CASE 15-17 – LEAWOOD PLAZA – DALMARK MANAGEMENT GROUP – Request for approval of a Final Plan, located north of 123<sup>rd</sup> Street and west of State Line Road.

**Staff Presentation:**

City Planner Staci Henry made the following presentation:

Ms. Henry: We will be discussing Case 15-17 – Dalmark Management Group – request for approval of a Final Plan for an existing building, which is 5,748 square feet. It is also a single-story office building. The property is located north of 123<sup>rd</sup> Street and west of State Line Road. The property is zoned SD-NCR (Planned Neighborhood Retail) and located within the Leawood Plaza development. The applicant is proposing to convert the brick bank building into offices for the headquarters for the Dalmark Development Group. A new aluminum framed entry and glazing system shall match the depth and overall height of the existing vestibule as well as replacing the window units. While the applicant is keeping the canopy of the drive-through on the west side of the building, they will be reconfiguring underneath. The applicant has already complied with Stipulation No. 5 in the Staff Report that calls for a Revised Landscape Plan to screen all ground-mounted utilities. The new plan is on the dais. Staff recommends approval of Case 15-17, and I'm happy to answer any questions.

Chairman Elkins: Thank you. Any questions for staff?

Comm. Coleman: It is my understanding that the Leawood Plaza is divided up into a number of different ownerships and parcels. This is just one of the multiple owners; is that correct?

Mr. Klein: Yes, it had about 3 different owners at this time. The bank location is one owner. The HyVee building has another owner. The remainder is another owner.

Comm. Strauss: Does this new development have bicycle racks?

Mr. Klein: Yes.

Chairman Elkins: Are there other questions for staff? I would invite the applicant to step forward.

**Applicant Presentation:**

Brian Garvey, SFS Architecture, 2100 Central Street, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Garvey: I am here representing Zach Nichols and the Dalmark Development Group. We have been working with staff over the past month and a half to get to this point tonight. To summarize, the purpose of the project is for Dalmark Development to relocate headquarters to this former bank building. Essentially, they are making improvements to the building: replacing windows, replacing lighting and improving landscaping to the point that it was previously approved. All the stipulations will be met. We are here to answer questions as needed.

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

Comm. Coleman: You're fine with the stipulations?

Mr. Garvey: We are in agreement with the stipulations, and we have already met No. 5.

Chairman Elkins: And you would stipulate to the addition of this Revised Landscaping Plan as part of the plan being approved?

Mr. Garvey: Yes.

Chairman Elkins: Thank you. That takes us to discussion of Case 15-17. Are there comments or questions?

Comm. Hoyt: I am very excited to see something going in to the development. I'm hoping for more of the same.

Chairman Elkins: Are there other comments? If not, I would entertain a motion.

**A motion to recommend approval of CASE 15-17 – LEAWOOD PLAZA – DALMARK MANAGEMENT GROUP – Request for approval of a Final Plan, located north of 123<sup>rd</sup> Street and west of State Line Road – with all staff stipulations and the Revised Landscaping Plan – was made by Coleman; seconded by Block. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

CASE 17-17 – MARKET SQUARE CENTER – LANCASTER LIQUOR – Request for approval of a Special Use Permit for Packaged Liquor Sales, located south of 133<sup>rd</sup> Street and east of Mission Road. **PUBLIC HEARING**

**Staff Presentation:**

City Planner Staci Henry made the following presentation:

Ms. Henry: We will be discussing Case 17-17 – Lancaster Liquor – Request for a Special Use Permit to allow Packaged Liquor Sales under new ownership. The property

is located south of 133<sup>rd</sup> Street and east of Mission Road. The property is zoned SD-CR (Planned General Retail). The applicant is proposing a Special Use Permit to allow the continued operation of Packaged Liquor Sales at the establishment under new ownership at 3731 W. 133<sup>rd</sup> Street within the Market Square Center development. No changes are proposed to the site or to the building with this application. The hours of operation will remain the same: Monday through Thursday, 10 AM to 9 PM; Friday and Saturday, 10 AM to 10 PM; Sunday, 12 PM to 7 PM. An Interact Meeting was held February 9, 2017 with no attendees. Staff recommends approval of Case 17-17, and I'd be happy to answer any questions.

Chairman Elkins: What is the period of the proposed Special Use Permit?

Ms. Henry: It is a standard 20 years by the LDO.

Chairman Elkins: This will be a new SUP that begins tonight, correct?

Mr. Klein: It would be dated from Governing Body approval, but yes.

Chairman Elkins: Thank you. Any other questions?

Comm. Strauss: This is just under new management?

Mr. Klein: That is correct. The Leawood Development Ordinance has Special Use Permits run with the applicant as opposed to the land or the use. The name is remaining the same, but the ownership is changing.

Comm. Strauss: Have there been any known complaints to the city?

Mr. Klein: We actually checked with the Police Department, and the only comment they made was that a bottle of liquor was stolen off the shelf at one point.

Chairman Elkins: Thank you. Are there other questions for staff? Then I would ask the applicant to step forward.

**Applicant Presentation:**

Mark Broderick, Lancaster Liquors, 3731 W. 133<sup>rd</sup> Street, appeared before the Planning Commission and made the following comments:

Mr. Broderick: I am purchasing the liquor store. I'm happy to answer any questions.

Chairman Elkins: Thank you. Do you have any objections to the stipulations?

Mr. Broderick: No, I do not.

Chairman Elkins: Thank you. Are there additional questions for Mr. Broderick? We'll move on to the Public Hearing.

## **Public Hearing**

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

Chairman Elkins: Are there comments with respect to the Special Use Permit request? I would entertain a motion.

**A motion to recommend approval of CASE 17-17 – MARKET SQUARE CENTER – LANCASTER LIQUOR – Request for approval of a Special Use Permit for Packaged Liquor Sales, located south of 133<sup>rd</sup> Street and east of Mission Road – with staff stipulations – was made by Coleman; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

CASE 37-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.4, MXD (MIXED-USE DEVELOPMENT DISTRICT) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to required mix of uses. **PUBLIC HEARING**

### **Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 37-17 – Leawood Development Ordinance Amendment to Section 16-2-6.4, MXD, pertaining to required mix of uses. This amendment allows more flexibility. Currently, we have specific percentages of uses based on the gross square footage of the project that have to be either Retail, Residential or Office. This amendment allows up to 50% of the square footage of a hotel to count toward Residential. This is meant to add flexibility into the ordinance with regard to Mixed Use. Currently, a minimum of 20% of the project is required to be Residential. In addition, the amendment also exempts hotel rooms from having to meet the minimum size requirement of the units. Within the Mixed Use district, a minimum of 80% of the units of Residential have to be at least 1,000 square feet. The smallest is 750 square feet, and the most with 750 square feet would be 20%. Many hotel rooms are not going to meet that size requirement. This exempts the hotel portion. I'll be happy to answer questions.

Chairman Elkins: Thank you. Are there questions for Mr. Klein?

Comm. Block: How did you arrive at the 50% figures?

Mr. Klein: Staff just thought it was reasonable. We don't want the whole hotel to go toward the Residential component to be part of it but to at least allow the flexibility for the hotel.

Comm. Coleman: Was there anything that precipitated the change? Is it just housekeeping?

Mr. Klein: We are looking at the 135<sup>th</sup> Street Corridor now. Most of that is designated as Mixed Use. With those use percentages, we figured this would actually help developers bring in developments to the city. It would still be high quality and would still contain some components as far as Residential, Office and Retail.

Comm. Coleman: Would you characterize this as part of the implementation regulations for the 135<sup>th</sup> Street Corridor plan?

Mr. Klein: I think this is something that leans that direction. However, this is going into the Development Ordinance right now. If someone came in after this was approved by the Governing Body, we would start applying this.

Comm. Strauss: Commissioner Ramsey and I are both part of this 135<sup>th</sup> Street Corridor study. We had a meeting today, and we'll be presenting the full study to the Planning Commission in the future. I mentioned that I think this is the type of thing we need to consider in this area. In the Planning Commission, we've had discussions about how to get Mixed Use here, and what this demonstrates is that we need to be flexible in how we think about Mixed Use. I would hope that we might take a look at the Leawood Development Ordinance for the 135<sup>th</sup> Street Corridor Study implementation and think of some other ways we can be flexible to achieve the ultimate goal of Mixed Use. That is how I felt related to this specific ordinance.

Comm. Ramsey: I would second that, and I wanted to share with you that the joint meeting at the end of March with the Commission will review the plan. If any of you are interested in it, you can see Richard and obtain a copy of what we have so far. We're encouraged by the fact that staff is trying to be more flexible in the approach to this. This is a huge area of over 600 acres to deal with here. Normally, we're dealing with areas of 25 acres at the most of Mixed Use. For all of this to be Mixed Use and to rigidly adhere to rules will cause us to really have problems with it in the future. I'm pleased to see staff starting to think about how to be more flexible with this while still being true to the original concepts of Mixed Use.

Comm. Levitan: I would echo those thoughts. I'm not a fan of MX-D because I think it's difficult to finance, and you've heard me say it's not in keeping with certain market conditions. That said, I like the flexibility of allowing the hotel to offset the Residential because at some point, the Residential market is going to cool. I like the flexibility. I'm still going to be opposed to MX-D for the foreseeable future, but I like the fact that there's recognition that this plan may need to be modified.

Comm. Strauss: How did we approve the hotel in this corridor before the amendment?

Mr. Klein: The reason is they went into the Cornerstone Development, which was zoned SD-CR (Planned General Retail). They weren't varying much from the original plan.

Comm. Strauss: Any of these existing approved developments in the 135<sup>th</sup> Street Corridor don't have to achieve the Mixed Use criteria.

Mr. Klein: They have to be working toward it with the development plan.

Chairman Elkins: Are there other questions? For clarification, with respect to the other 50% of the hotel space, what category would it be?

Mr. Klein: It would be Retail.

Chairman Elkins: Could you speak a little bit to what the attributes are of Residential generally and how a hotel situation meets those same attributes?

Mr. Klein: Residential development adds activity and citizens who are the people who will patronize the uses. The hotel will house people that don't live in the area, but they will visit the establishments and will add activity.

Chairman Elkins: The thought is that it contributes to the synergies of the development in much the same way as more traditional concepts of Residential do.

Mr. Klein: Yes, and that is what is going on with Park Place as well with the Aloft hotel. People stay at the hotel, and they leave the hotel and visit shops and eat at the restaurants.

Chairman Elkins: Are there other questions for staff? Seeing none, we'll open the Public Hearing.

### **Public Hearing**

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

Chairman Elkins: Do the commissioners have additional comments about this revision?

**A motion to recommend approval of CASE 37-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.4, MXD (MIXED-USE DEVELOPMENT DISTRICT) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to required mix of uses – was made by Strauss; seconded by Ramsey. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

CASE 38-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-219, PUBLIC UTILITY FACILITIES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of public utility facilities. **PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 38-17 – Leawood Development Ordinance Amendment to Section 16-9-219, Public Utility Facilities. This will modify the definition of what we currently have for a Public Utility Facility, which is: “A facility of a Public Utility serving the area, such as an electric substation, water or gas pumping or regulating station or telecommunication switching equipment. Public Utility Facilities shall not include wires, cables, pipes, conduits, poles or other incidental equipment connecting to each facility and that otherwise comply with the requirements of this ordinance.” This particular amendment will add a wastewater treatment facility. Staff is recommending approval of this amendment, and I’ll be happy to answer any questions.

Chairman Elkins: Is there a connection between this case and the one that we will consider next?

Mr. Klein: There is a connection between this case and the following case. In that case, we list an exception of height to the district regulations. This makes it clear that wastewater treatment facility is within the Public Utility Facility.

Chairman Elkins: Are there questions or comments?

Comm. Ramsey: Is this specifically to take care of a wastewater treatment plant?

Mr. Klein: It is to take care of a wastewater treatment plant, even though we consider it to be part of a Public Utility Facility.

Comm. Ramsey: If we exclude it, we wouldn’t have to pay the fee increase. It’s an interesting thought.

Chairman Elkins: Are there other questions? We’ll open the Public Hearing.

**Public Hearing**

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

Chairman Elkins: That takes us to comments. If not, I will entertain a motion.

**A motion to recommend approval of CASE 38-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-219, PUBLIC UTILITY FACILITIES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of public utility facilities – was**

**made by Strauss; seconded by Coleman. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

CASE 39-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-4.7, STRUCTURES PERMITTED ABOVE THE HEIGHT LIMITS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to height exceptions for structures associated with government uses, public uses, and public utility facilities. **PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 39-17 – Leawood Development Ordinance Amendment to Section 16-2-4.7, Structures Permitted Above the Height Limit. I wanted to draw attention to a Revised Amendment on the dais. We replaced “Public Facilities” with “Public Utility Facilities” so the language will match the definition. This will allow an exemption to district height limitations for Government Uses, Public Uses or Public Utility Facilities. These can be located in any district with a Special Use Permit. The districts will have a 35-ft. height limitation, which is not very tall. Staff used this section of the ordinance because there was already an exemption provided. This will add the three new uses. There are limitations, including requiring Governing Body approval for anything in excess of 75 feet. Ultimately, the maximum height allowed is 155 feet. In addition, there is also a requirement to buffer the increased height. For every additional foot the structure is above the height limitation, there must be an extra foot of setback from all property lines. Church of the Resurrection had a steeple, and for every foot above, they had to add an additional foot of setback, for example. Staff is recommending approval of this application, and I’ll be happy to answer any questions.

Chairman Elkins: Are there questions? Mr. Klein, in reading through Section 16-2-4.7, I found many different heights. It appears that the maximum height for a Government Uses, Public Uses or Public Utility Facilities is 155 feet, but the maximum height for a structure associated with a public religious worship is 105 feet. We are starting at 75 feet with this change. Can you shed some light on the logic of how 75, 105 and 155 have come to be?

Mr. Klein: Unfortunately, I don’t have specifics. I know the city hired a consultant to look at these issues. This was part of the LDO that came through at the end of 2002. It was looking for ways to offer flexibility. For instance, churches often are faced with a height limitation, and this will allow the use with a Special Use Permit. With regard to the Public Utility Facilities, Government Uses and Public Uses, the reason staff felt it was appropriate is that a need such as a water plant, sewage plant or electric power station that is actually needed in order to serve the population, it may require the additional height. We tried to build in protections with setback requirements.

Chairman Elkins: What I think I read is for Government or Public, it can go up to 75 feet with approvals. To go above 75 but not exceed 155, the setback needs to increase by 1 foot per foot above the 75-ft. limit. Is that correct?

Mr. Klein: If the structure exceeds the height limitation of 35 feet, the additional setback calculations will apply.

Chairman Elkins: For the religious/worship places, does the setback apply to those as well?

Mr. Klein: It has a 3-ft. setback requirement for each additional foot of height.

Chairman Elkins: There is a difference between them and the government buildings?

Mr. Klein: Actually, the 3-ft. increase in setback if it is adjacent to Residential. Otherwise, the setback requirements are the same for height increases. We can modify this to have the same requirement as far as being adjacent to Residential.

Chairman Elkins: Can you make a justification for the difference from a planning perspective?

Mr. Klein: No. There is a public need with the service. It would probably be better, though, to keep them the same.

Chairman Elkins: This is, admittedly, a technical question, but it is something that I know we struggled with when we talked about massing and height issues in North Leawood. Where is the starting point for figuring the height? Is there room for question about where the 75 feet would be measured from, or would you apply the same rule as for the 35 feet?

Mr. Klein: I would apply the same rule as the 35 feet.

Chairman Elkins: Thank you. Are there other questions for staff? We'll open the Public Hearing.

### **Public Hearing**

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

Chairman Elkins: That takes us to additional comments.

Comm. Block: You referenced the 35 feet. Is that for comparison purposes, or is that due to the Residential?

Mr. Klein: That is for comparison purposes. Most of the Residential has a height of 35. For instance, SD-CR is 50 feet. MX-D is 90 feet.

Comm. Block: It doesn't apply to this section of the ordinance.

Mr. Klein: No, and the way this is worded is that it is whatever district it happens to be in, it has to provide the additional foot of setback. The absolute numbers are still absolute. For instance, the 75 and 155 are still absolute.

Chairman Elkins: Thank you. Are there additional questions/

**A motion to recommend approval of CASE 39-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-4.7, STRUCTURES PERMITTED ABOVE THE HEIGHT LIMITS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to height exceptions for structures associated with government uses, public uses, and public utility facilities – was made by Strauss; seconded by Coleman.**

Chairman Elkins: Mr. Klein, where did we land in our discussion about the churches and synagogues being treated the same as government buildings?

Mr. Klein: It is my understanding that we would have an additional foot of setback for each additional foot of height if it wasn't directly adjacent to Residential. If it is directly adjacent to Residential, it will match that of the Religious Uses, which requires an additional 3 feet of setback for each additional foot in height.

Chairman Elkins: Commissioner Strauss, would you intend to include that provision in your motion?

Comm. Strauss: Yes.

Chairman Elkins: Commissioner Coleman, will you apply that to your second as well?

Comm. Coleman: I will apply that to my second as well.

Chairman Elkins: Thank you. Any additional discussion?

**Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman and Block.**

*MEETING ADJOURNED*