

**City of Leawood
Planning Commission Meeting
March 28, 2017
Meeting - 8:00 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, Pateidl, Elkins, Strauss, Ramsey, Coleman, and Block

APPROVAL OF THE AGENDA

Chairman Elkins: Do we have any amendments to the agenda?

Ms. Kriks: We do not.

Chairman Elkins: Does anyone have any requests for change, or do I hear a motion?

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

APPROVAL OF MINUTES: Approval of the minutes from the March 14, 2017 and March 21, 2017 Planning Commission meetings.

Chairman Elkins: The chair notes that the minutes from March 14, 2017 need to be amended to make note that Commissioner Pateidl attended by phone, per rules of the commission.

A motion to approve the minutes with proposed amendment from the March 14, 2017 Planning Commission meeting was made by Ramsey; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

Chairman Elkins: The chair notes that a revised draft of the minutes is on the dais.

Ms. Kriks: The minutes on the dais correctly state that Commissioner Block attended by phone, not Commissioner Strauss.

A motion to approve the minutes from the March 21, 2017 Planning Commission meeting was made by Ramsey; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

CONTINUED TO THE APRIL 11, 2016 PLANNING COMMISSION MEETING:
CASE 31-17 – BROOKWOOD ELEMENTARY SCHOOL – Request for approval of a Special Use Permit for a Public Elementary School, Preliminary Plan and Preliminary Plat. **PUBLIC HEARING**

CASE 35-17 – CHURCH OF THE NATIVITY – CHURCH EXPANSION – Request for approval of Special Use Permits for a Place of Worship and Private Elementary School, Preliminary Plat, Preliminary Plan, Final Plat, and Final Plan, located north of 119th Street and east of Tomahawk Creek Parkway. **PUBLIC HEARING**

CONTINUED TO THE APRIL 25, 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 103rd Street and east of Mission Road. **PUBLIC HEARING**

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, Preliminary Plan, and Preliminary Plat, located south of I-435 and east of Mission Road. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 25-17 – PARK PLACE – THE RESIDENCES POOL AND CABANA – Request for approval of a Revised Final Plan, located north of 117th Street and east of Nall Avenue.

CASE 29-17 – NBKC BANK – MONUMENT SIGN – Request for approval of a Final Sign Plan, located south of 83rd Terrace and east of State Line Road.

CASE 30-17 – ENCLAVE AT HIGHLANDS VILLAS, FIRST PLAT – Request for approval of a Revised Final Plat, located south of 143rd Street and east of Nall Avenue.

CASE 34-17 – PARK PLACE – AINSWORTH RESTAURANT – Request for approval of a Final Plan for Changes to the Façade of a Tenant Space, located north of 117th Street and east of Nall Avenue.

Chairman Elkins: If no commissioner wishes to pull a case for discussion, the chair would entertain a motion.

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

NEW BUSINESS:

CASE 23-17 – NALL VALLEY SHOPS – NALL VALLEY WINE AND SPIRITS – Request for approval of a Special Use Permit for Packaged Liquor Sales, located north of 151st Street and east of Nall Avenue. **PUBLIC HEARING**

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 23-17 – Nall Valley Shops – Nall Valley Wine and Spirits. It is a request for approval of a Special Use Permit for Packaged Liquor Sales, located north of 151st Street and east of Nall Avenue. Per Section 16-2-7 of the Leawood Development Ordinance, a Special Use Permit that is approved by the Governing Body after a recommendation by the Planning Commission is required for this use. No changes to the exterior façade or the existing parking is proposed. However, within Nall Valley Shops is Math Monkey, considered by the State of Kansas as a school. The Kansas Liquor Control Act regulates the location of retail liquor stores, restricting the sale of packaged liquor within 200 feet of a school, college or church. The proposed location of the liquor store is beyond the 200 feet from Math Monkey as prescribed by the State of Kansas Liquor Control Act. Since the time the Staff Reports were issued last Friday, the applicant has notified staff that they wish to change the hours of operation after neighbors voiced concern for the later hours proposed. A Revised Staff Report has been provided this evening on the dais with updated hours, and a new stipulation has been added for consideration. Staff is recommending approval of Case 23-17 with the stipulations outlined in the Staff Report, and I would be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions for staff?

Comm. Block: On the second page, under Special Use Permit Comments, it talks about it being on the west end of the development. I think it should be the east end.

Ms. Kriks: Thank you; I'll make that correction. I apologize.

Chairman Elkins: Thank you. Other questions or comments for staff? Seeing none, I would invite the applicant to step forward.

Applicant Presentation:

Andy Aurora, managing officer of Nall Valley Wine and Spirits, appeared before the Planning Commission and made the following comments:

Mr. Aurora: Tonight with me, I have Mr. Otto Westerfeld, my agent Ana Zavala, and my wife. Just to share a few important things about this store and get your approval, the store is going to be a high-end liquor store, not just white shelves. Based on the location, we have done our research, and we want to put in a store that can cater to the needs of all these nicely built homes in the area. We will have a nice selection of wine, liquor and spirits. We will keep our best prices as well as cater to any special requests of wine in that neighborhood. Are there any questions? We can answer the questions.

Chairman Elkins: Thank you, sir. Are there questions for the applicant?

Comm. Block: There wasn't a request for a sign. Is that just the timing?

Ms. Kriks: That is correct. Signage is administratively reviewed and approved by the planning staff. Nall Valley Shops have approved Sign Criteria on file, so we would review that at a later date once the applicant submits a sign application.

Mr. Aurora: We are in business already and have a high-end liquor store if anybody is interested in seeing what we have already done. I have a few pictures I can share.

Chairman Elkins: Thank you for the offer. Does anyone wish to see the pictures? I don't think we'll need to see them tonight, but thank you. Staff has recommended five stipulations. Do you have any objections?

Mr. Aurora: We have no objection to the stipulations.

Chairman Elkins: Thank you. Are there any additional questions? Because this is a request for a Special Use Permit, we will hold a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Strauss; seconded by Coleman. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

Chairman Elkins: Because there were no questions or comments, there is no need for you to come back to the dais, sir. Do we have any comments or questions?

Comm. Coleman: I would like to thank you for bringing your business to Leawood. I am most excited when a vacant storefront is being put to good use. Welcome to Leawood with your business.

A motion to recommend approval of CASE 23-17 – NALL VALLEY SHOPS – NALL VALLEY WINE AND SPIRITS – Request for approval of a Special Use Permit for Packaged Liquor Sales, located north of 151st Street and east of Nall Avenue – with five Staff Stipulations – was made by Ramsey; seconded by Belzer. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

CASE 32-17 – HALLBROOK EAST VILLAGE – Request for approval of a Final Plan and Final Plat, located south of 112th Street and west of State Line Road.

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 32-17 – Hallbrook East Village. It's a request for approval of a Final Plan and Final Plat, located south of 112th Street and west of State Line Road for a development for 33 single family homes on 8.62 acres. The density proposed by the applicant is 3.83 dwelling units per acre. Previously, a Rezoning from Agriculture and RP-4 to RP-2, a Preliminary Plan, and a Preliminary Plat was approved by the Governing Body on January 3, 2017. The case before you this evening is the Final Plan and Final Plat for that subdivision. As I previously stated, the applicant is proposing 33 single family homes accessed from a public road within the development, which is planned to connect at 114th Street and 116th Street on Overbrook Road. No direct vehicular access is proposed onto State Line. Many lots will have shared auto courts from the main lot within the development. As many as 6 dwelling units will be accessed by a shared auto court. This development is also proposed to be a maintenance-provided community where the homes association will maintain the common areas, driveways, auto courts, and lawn and irrigation. Bisecting the development, an existing high-pressure gas line is present, which has been placed within an easement and runs east to west. This easement is between 45 feet and 66 feet in width. Due to this high-pressure gas line easement, structures and trees are not allowed to be placed on the gas line or within the easement. The applicant has addressed this condition by creating a common area with a 5' pedestrian path and seating amenities. The path will be connected to Overbrook Road. Infiltration trenches are proposed around the perimeter of the development, which will include approximately 6 feet of decorative rock adjacent to a perimeter fence. This fence is proposed to be about 5 feet in height and incorporate a black metal steel picket-style fence and stone columns. Brick walls are also proposed within the development, and they will be 5 feet in height. Those walls will be between Lots 5 and 6, 9 and 10, and 19 and 20. At the time of Preliminary Plan, the applicant was approved for five deviations, which include a front yard setback of 22 ½ feet from a public street, a rear yard setback from a public street of 22 ½ feet and impacts Lots 14-17 and Lots 26-33, a side yard setback of 7 ½ feet, an interior lot setback of 0 for those lots adjacent to the high-pressure gas easement, applying to Lots 11, 12, 17, 18, 19, 20, 25 and 26, and finally, an interior lot setback of 22 ½ feet for lots adjacent to the auto courts, which impacts Lots 3-7, 9-22, 25, and 26. The applicant has proposed two entry columns, located within a landscape center island of each street connection on Overbrook Road. Those columns are planned to be 5'4" in height, 3' in width, and will include a plaque with the name of the subdivision. The applicant is proposing for landscaping Zelkova street trees along State Line Road, State Street Maple trees along the main road within the development, and Lindens along Overbrook Road, all at 35 feet on center, which will comply with the Leawood Development Ordinance. In the areas where the roads intersect with the gas easements, the gas lines have been omitted. Staff is recommending approval of Case 32-17 with the stipulations outlined in the Staff Report, and I'd be happy to answer any questions you may have.

Chairman Elkins: Thank you. Are there questions for staff?

Comm. Strauss: I remember in the Preliminary Plan phase that one of the issues that came up was traffic calming and traffic safety along Overbrook. I think the process was

laid out for a traffic calming study could do if the neighborhood got together. I was curious if anyone approached the city about that.

Mr. Ley: At this point, they have not. We did have Hallbrook Villas trim the landscaping that was within the site triangle at the southern entrance and the west side.

Comm. Strauss: I don't think there was any noted accidents at that intersection.

Mr. Ley: There were no accidents; it was just the speed of vehicles and the volume that they were concerned about.

Comm. Ramsey: Have you ever done a speed study at that intersection?

Mr. Ley: We did do a couple speed studies on Overbrook, and I don't recall the volume. The 85th percentile speed was in the 33-34 MPH range. The average speed was 25.

Comm. Ramsey: The speed limit there is 25?

Mr. Ley: Yes.

Comm. Levitan: I remember an issue with line of sight with landscaping. One of the residents brought it up. Was that addressed in this plan?

Mr. Ley: That was the existing landscaping on the west side of Overbrook. That is what was cleared out a couple months ago.

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

Applicant Presentation:

Fred Logan, Logan, Logan and Watson, 8610 Mohawk, appeared before the Planning Commission and made the following comments:

Mr. Logan: I am an attorney representing the applicant. I'm going to re-introduce members of my team again. I'm not going to make much of a presentation because we had a very full presentation on Preliminary Plan. Representing the owner are Mr. Cory Biggs, Mr. Rick Jones of Nearing Staats Architects, landscape architect Katie Martinovek, Brett Haugland of Continental Consulting Engineers, Andrew Logan, and Matt Adam, the developer. Since Preliminary Plan approval, we have worked very hard with Staff. Staff has done great work, as you would expect. We have worked closely with them to address issues. We appreciate their recommendation of approval. There are 21 stipulations. I want to make clear on the record that we agree to all of those. With that presentation, I will stand for questions, given the fact that we had a pretty full presentation on Preliminary Plan approval.

Chairman Elkins: Thank you, Mr. Logan. We appreciate your brevity. Are there additional questions for Mr. Logan? Thank you for your presentation. That takes us to a discussion of the plan. I know we had a fair amount of neighbor participation in our last hearing on this matter. We talked about it in great detail, and we appreciate the work the applicant has done with staff to come to an agreement. Are there any other comments? Seeing none, I would invite a motion.

A motion to recommend approval of CASE 32-17 – HALLBROOK EAST VILLAGE – Request for approval of a Final Plan and Final Plat, located south of 112th Street and west of State Line Road – with 21 Staff Stipulations – was made by Hoyt; seconded by Levitan. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

CASE 34-17 – PARK PLACE – AINSWORTH RESTAURANT – Request for approval of a Final Plan, located north of 117th Street and east of Nall Avenue.

Staff Presentation:

City Planner Staci Henry made the following presentation:

Ms. Henry: We will be discussing Case 34-17 - The Ainsworth. The Ainsworth is requesting approval for a Final Plan for a 44,506 sq. ft., which is formerly known as Ingredient. The property is located north of 117th Street and east of Nall Avenue. The property is zoned MX-D (Mixed-Use). The applicant is proposing a building with PRODUX wood panels, existing blue-grey cementitious stucco to remain, as well as the existing grey tile. They are adding custom sliding windows with clear glass mullions within a black aluminum storefront system. The Ainsworth shall contain 116 seats inside the restaurant and 76 outdoor seats with 30 along Ash Street and 46 on the patio portion of the restaurant for a total of 192 seats. Staff recommends approval of Case 34-17 with the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions for staff?

Comm. Ramsey: This is more along the lines of a general question as it relates to utilization of sidewalk for outdoor seating for dining. Do we have anything in the LDO that lists minimum requirements for width of sidewalk before it can be utilized for outdoor dining?

Mr. Klein: We don't really have anything in the LDO with regard to that. Park Place did install 20' wide sidewalks, contemplating outdoor dining. The previous restaurant also had outdoor dining. They have sufficient width. We do check that when the plan comes through to make sure there is enough walking space.

Comm. Ramsey: Is the schematic to scale?

Mr. Klein: Yes.

Comm. Ramsey: This is not specific to this project, but do we require fencing or segregation of the tables from the walkway?

Mr. Klein: We do not. At one point, ABC required a barrier if alcohol was served. However, a number of years ago, that was changed, and now, no barrier is required.

Comm. Ramsey: I'm remembering what the old restaurant was like, and sometimes, it got pretty crowded along those sidewalks. Part of it was the congestion because the tables were on the far side of the sidewalk, so wait staff is trying to get through pedestrian traffic to the tables. It gets to be a bit much sometimes. Thank you.

Comm. Block: On the second page, the first line talks about the eastern portion of the building. Should it be the southern?

Mr. Klein: Yes. We will make that correction.

Comm. Block: I don't understand the menu board. Does staff not approve their name on the menu board?

Mr. Klein: The stipulation is that no signage is approved with this. Staff is supportive of using the space to display the menu but not the name that goes across. Since Park Place has Sign Criteria approved for the development, the signage will be approved administratively against the Sign Criteria and the LDO.

Chairman Elkins: Thank you. Are there any other questions for staff?

Comm. Levitan: I don't remember that sidewalk seating being there along Ash with Ingredient. Is that new?

Mr. Klein: I don't believe that Ingredient had it on that side. They have seating across the street at Pig & Finch.

Comm. Levitan: I'm a big fan of pushing bodies out to the street. I like it. That didn't sound right, though.

Chairman Elkins: It didn't sound quite right, but I think we know what you mean. Mr. Coleman, did you have a comment?

Mr. Coleman: They had some little 2-person tables that went against the wall.

Chairman Elkins: That is what I remember as well. Are there any other questions for staff? If not, I would invite the applicant forward.

Applicant Presentation:

Dave Anderson, AMAI Architecture, 1510 Walnut, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Anderson: I really don't have much to add to what staff has recommended. I will point out that one of the recommendations is that we maintain 5 feet clear space on the sidewalk for pedestrian traffic. I believe there was seating approved on Ash Street with Ingredient. I'm not sure they were taking advantage of that.

This concept was developed by Paige Hospitality Group out of New York. They were started in 2008. They have four concepts called Ainsworth on the East Coast. They have four other restaurants on the East Coast. This will be their first Midwest opportunity here in Leawood. It's a restaurant bar and grill. It is a high-end concept bar and lounge. It is American cuisine and handcrafted cocktails. It will have lots of woods. It will be a very nice addition to Park Place. It is a nice, higher-end bar with good food, lots of TVs. There will be a pickup area for residents in Park Place to be able to walk and pick up food. The other locations have served breakfast, lunch, dinner and brunch. I would expect this would probably fall in line with that. I think it's a great addition to Park Place. We have been involved with Park Place for a number of years. I think this is the right type of facility to take Ingredient's place. With that, I will leave it to you for questions.

Chairman Elkins: Thank you. Are there questions?

Comm. Hoyt: Is this going to be a full-service affair? Is this a standard sit-down establishment?

Mr. Anderson: Yes, it is.

Comm. Coleman: I checked out the website earlier. I noticed the four locations in New York. You said there were four others?

Mr. Anderson: There are four others that are under different names. I believe one of them is in a clothing store beneath the restaurant.

Chairman Elkins: Is there an anticipated opening date?

Mr. Anderson: It is still speculative. We are working to get it done and in for permit as quickly as possible. We have some issues other than just building permit through Johnson County Wastewater. We have to get the existing system approved before they will review the drawings. Construction documents need to be completed before they will review drawings. Then they have been notoriously slow at reviewing drawings. We are hoping to get started sometime this summer, the earlier the better.

Chairman Elkins: No criticism here; it is just interesting that every applicant says they are a high-end this or a high-end that. What does that mean in your world? Does it just mean a high bar bill?

Mr. Anderson: It can certainly mean that as well. They have a good, high standard for the quality of food and, again, handcrafted cocktails. When I look at it from an aesthetic standpoint, there's a lot of wood and high-end finishes inside the restaurant. From my

perspective as an architect, that's what I mean. They have good products being displayed, handcrafting and craftsmanship inside the restaurant.

Chairman Elkins: You mentioned the televisions. Is it effectively then a high-end sports bar, or would that not be giving it the credit it's due?

Mr. Anderson: Practically every restaurant you go into now, unless you're going to the Plaza and the high-end steak restaurants, they all have TVs now; some just have more than others. I think it would be unjust to say this is a sports bar. It certainly doesn't have that feel, but you're going to be entertained by the television.

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

Mr. Anderson: No, we do not have any objections.

Chairman Elkins: That takes us to discussion. It seems like a good thing that we are getting a replacement in that location. It has been disappointing to see it empty. Are there other comments?

Comm. Coleman: For everyone's knowledge, I went on their website during a break in my day. Their four locations in New York are in Chelsea, Grammercy, Hoboken and Midtown. I looked through the site, and it is very high-end, a lot of wood. Those are very hip areas. I'm impressed that Leawood is going to be in the same sentence as all those locations. I just hope the menu prices aren't that New York level and that they come down for the Midwest. If you go on their website and see their prices, you might get a little scared. Again, with that other applicant for the liquor store, I'm always excited when we can use our current facilities and knock out a vacancy in a very vibrant, growing area. Thank you for bringing the applicant here. I'm sure it will be a great spot with all the outdoor seating. It's going to be a great addition to Park Place.

A motion to recommend approval of CASE 34-17 – PARK PLACE – AINSWORTH RESTAURANT – Request for approval of a Final Plan, located north of 117th Street and east of Nall Avenue – with 7 Staff Stipulations – was made by Strauss; seconded by Ramsey. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

CASE 36-17 – MOLLE OFF-SITE PARKING – Request for approval of a renewal of a Special Use Permit for Off-Site Parking, located south of 104th Street and west of State Line Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 36-17 – Molle Off-Site Parking. It is a request for a renewal of a Special Use Permit for Off-Site Parking, located south of 104th Street and west of State Line Road. The applicant is requesting approval of a Special Use Permit that will allow

for the continued use of an existing parking lot for off-site parking for Molle Automotive. No changes are being proposed to the site. On a recent site visit, it was noticed by staff that the existing light fixture does not comply with Section 16-2-9.2(B) of the Leawood Development Ordinance. It appears that the light fixture has been present for some time; although, staff is unable to determine when the light fixtures were installed. To address the light fixture, staff has stipulated that prior to Governing Body consideration, the applicant will either remove the light fixture or provide a Revised Site Plan and detailed drawing for the light fixture, complying with the section of the LDO. Also, during the same site visit, it was noted by staff that the metal fence along 104th Street required some maintenance. After a courtesy notice was issued by Neighborhood Services, staff has been able to confirm that the property owner is currently addressing the fence. Staff is recommending approval of the Special Use Permit for Case 36-17 for a 2-year term with the stipulations outlined in the Staff Report, and I'd be happy to answer any questions you might have.

Chairman Elkins: Thank you. Questions for staff?

Comm. Strauss: Can you explain the 2-year limit on the Special Use Permit? It seems like other Special Use Permits have a longer time.

Mr. Klein: The history of this site has been to limit the Special Use Permit in case the area changes. That way, it is not locked in to a long Special Use Permit. Originally, they were required to renew the SUP every year. Two years ago, they requested a 2-year term. Staff is comfortable with the 2-year term.

Comm. Strauss: It is for both our benefit and their benefit, then.

Mr. Klein: It allows for flexibility in case something changes down there. It also allows us to look at the site to ensure it is being maintained.

Comm. Strauss: All the Special Use Permits we have vary?

Mr. Klein: They do vary. A Special Use Permit is required if the use is allowed, but special conditions may apply to it. You will see different terms of the Special Use Permits. By ordinance, Special Use Permits are limited to a maximum of 20 years. Many times, that will be limited to less than that, depending on the situation or the application.

Comm. Ramsey: So, we could limit the cell towers to every year?

Mr. Klein: For a while, they were limited to every 5 years.

Chairman Elkins: Once I retire, you are welcome to do that. Any other questions? Seeing none, I would invite the applicant to stay forward.

Applicant Presentation

Mark Sprecker, Polsinelli Law Firm, 6201 College Boulevard, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Sprecker: I am here on behalf of Curtis Holland. I'd like to show a map of the area (*shows on overhead*). As staff has indicated, we are trying to get a renewal on this SUP. The area is a tiny sliver between the road and the creek north of 435 and south of Gates BBQ. We are in agreement with staff's report and stipulation except for, as Mr. Strauss mentioned, the term. We would ask for a 5-year term just because we have been operating this SUP for 18 years without particular incident. It is simply a parking lot with a decorative fence. There is just not much upkeep that needs to be done. The potential for the area to change and redevelop into something else is not being considered with a present application. No one has plans to do so. I think it would be difficult to redevelop this entire area in a way that would affect this piece of ground, and we have no intent to obstruct any redevelopment. We would likely join in with that. With that, I would ask for your approval with a 5-year term.

Chairman Elkins: Thank you. Are there questions?

Comm. Coleman: Can you put the photo back up? Does the company just own that one rectangular piece?

Mr. Sprecker: Yes. I didn't draw it right. It goes into the grassy area on the southeast. It is a very skinny sliver of ground.

Comm. Coleman: You don't own anything around it?

Mr. Sprecker: No. To the north, there is a new building being built. There is Midas and Gates.

Comm. Coleman: You've been there since 1999?

Mr. Sprecker: Yes.

Comm. Coleman: Have you had any major break-ins or floods in that area?

Mr. Sprecker: No.

Comm. Ramsey: Have you discussed the 5-year time limit with staff?

Mr. Sprecker: I believe that Curtis has. You'll have to forgive me for filling in. I don't know the extent of his conversations.

Comm. Ramsey: You want us to run the ball for you with staff this evening.

Mr. Sprecker: That would be wonderful.

Comm. Ramsey: Do you know if the light fixture issue has been resolved?

Mr. Sprecker: I don't know if it has been taken down, but the plan is to simply take the light down.

Comm. Ramsey: What is the issue for going to 5 years?

Mr. Coleman: This request was made previously in the past, and Governing Body indicated they were only willing to go to 2 years at this point. The feeling is that it actually probably should just go away at some point. It is a continuing temporary use.

Comm. Ramsey: You mean done away with altogether?

Mr. Coleman: Yes.

Comm. Levitan: I would get behind a 5-year term because it is in a floodplain, and there is nothing you can do with that parcel other than parking. There is a multitude of owners there, not one that could push for redevelopment. I don't see any hindrance to a 5-year term.

Comm. Ramsey: I'd be willing to carry their water for them.

Chairman Elkins: Are there other questions for the applicant? I've got two questions. Our case says it, but this property is actually owned by Molle, correct?

Mr. Sprecker: Yes.

Chairman Elkins: Does your client own any other parcel in the area, or is it just this little strip?

Mr. Sprecker: It is just this little strip and then the dealership to the east.

Chairman Elkins: You mentioned the plan is to remove the light fixture. Does that leave the space with adequate lighting? I know lighting is one of the things that helps keep the area secure.

Mr. Sprecker: My client feels like the lot will still be safe.

Chairman Elkins: Does staff have any questions or concerns about that?

Mr. Coleman: It wouldn't meet the LDO's requirements for parking lot lighting.

Chairman Elkins: Staff's view is that the LDO would require the light to be replaced.

Mr. Coleman: Yes, we would require it to be replaced and for them to meet our lighting standards.

Chairman Elkins: Is that called out in the stipulations specifically as a condition of the SUP?

Mr. Coleman: It is not called out specifically; it just requires them to meet the requirements of the LDO.

Comm. Ramsey: Are we telling them to take down the light, or are we telling them to meet the lighting standards for the parking lot?

Mr. Coleman: They need to meet the standards. The comments were to replace the lights to meet the LDO requirements.

Comm. Ramsey: If they're not going to do that, they just remove it.

Mr. Coleman: They have to do that. That's the issue. They would be in violation of the LDO.

Chairman Elkins: What I understand is that the SUP aside, the LDO requires a certain amount of lighting. The expectation of the city would be for your client to meet the requirements of our ordinance, which does have this lighting requirement. I agree that it doesn't necessarily need to be part of the SUP; it is a condition for having a parking lot in Leawood under any circumstance.

Comm. Coleman: Stipulation No. 3 says that the applicant shall either remove the existing light fixture or provide a Revised Site Plan. It can't be one or the other. If it has to meet the LDO, some light fixture has to be in there.

Comm. Belzer: It doesn't state it clearly.

Chairman Elkins: What is staff's view on this?

Mr. Coleman: Staff's view is they need to meet the LDO, which is to take down the light fixture and replace it with a lighting fixture that meets the lighting requirements of the LDO.

Comm. Belzer: Stipulation No. 3 should state that more clearly.

Comm. Hoyt: Just take out the word, "either."

Mr. Coleman: Yes, but No. 11 asks that they abide by all regulations of the LDO. They brought up the change to 5 years, so it is kind of an open floor at this point.

Chairman Elkins: Well, there is a fair point here that there is an internal consistency between Stipulation No. 3 and No. 11, which states that they will abide by all city

ordinances. I think the commissioner's observation that those ought to be internally consistent probably makes sense.

Mr. Coleman: I agree. They are required to meet the ordinance, so the first part of that should be removed.

Comm Hoyt: Could I make a recommendation? If you remove the word "either" and change the word "or" to "and" it should be adequate. I think that's what you are trying to say.

Mr. Coleman: That is correct.

Chairman Elkins: Mr. Sprecker, what is your sense of this lighting issue, then?

Mr. Sprecker: If that's what the code says, that's what we'll do. I simply hadn't read the code about that provision.

Chairman Elkins: Thank you. Are there other questions for Mr. Sprecker at this point? Seeing none, we will move on to discussion. There seems to be at least some sentiment on the part of the commission to recommend this to Governing Body for approval on the basis of a 5-year SUP as opposed to a 2-year SUP. Does anyone have additional comments on that? Commissioner Ramsey, you expressed interest in that.

Comm. Ramsey: Is there a particular reason City Council has restricted this to 2 years?

Mr. Coleman: I'm thinking it was that they didn't want it to be ongoing forever, really.

Chairman Elkins: We have had it for nearly 20 years. It tends to have gotten a life of its own. The case says it has been used as a parking lot since 1999.

Mr. Coleman: I don't think that's how long the SUP has been in place.

Chairman Elkins: One way or the other, it's been used for this purpose for 18 years now. It has developed a life of its own.

Mr. Coleman: It is a nonconforming lot. It doesn't meet most of our requirements for a parking lot. There are other issues involved.

Mr. Klein: I wasn't sure if we had the Public Hearing or not.

Chairman Elkins: We have not. I haven't gotten there yet.

Comm. Levitan: Do we have the ability to convert this to a 5-year SUP, or do they have to go back through and ask for it?

Chairman Elkins: It's a fair question. Was there a requirement of an Interact Meeting and notice with respect to the Special Use Permit? I see that there was an Interact Meeting conducted on March 15th.

Mr. Coleman: My opinion is that they cannot because otherwise, they would have to go back and do the notices again.

Mr. Hall: Legal agrees.

Chairman Elkins: All right. Let's 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 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.

Chairman Elkins: That will take us to a final discussion of Case 36-17.

Comm. Ramsey: I think our applicant wasn't quite sure what we were discussing. Do you understand what we were saying about needing to refile?

Mr. Sprecker: I just don't agree. The notice and meeting are for an SUP. It doesn't require a certain level of years for that SUP.

Chairman Elkins: But part and parcel to that SUP is the term of the SUP. That is one of the fundamental elements of the SUP: the use to which it is being put and the time it is being put. I'm not quite sure how you would argue that it is outside the notice requirement.

Mr. Sprecker: My point is that the notice requirement is to a certain area of an SUP. Whether it is 1, 2 or 3 years doesn't change the fact the request for an SUP.

Chairman Elkins: That is true, though the point of the notice are the conditions of the SUP. Can you point me to a place in the ordinance that would support that position?

Mr. Sprecker: I'm sorry; I can't tonight. I will look at it.

Chairman Elkins: I hesitate to offer a continuance. When does your current SUP expire?

Mr. Klein: It expires April 20th.

Chairman Elkins: There is a risk, if we continue this, that your client would lose the SUP for a period of time.

Comm. Ramsey: We've gone along with the 2-year SUP. I'm inclined to stick with the 2-year with the recommendation that they have a discussion in the future for the renewal next time to go to a 5-year SUP. I certainly support going to that. I'm not sure it's the appropriate thing to do at this late date.

Comm. Strauss: I agree with Commissioner Ramsey. I also support the 5-year term. I want to be more business friendly; although, I support attorneys having a revolving 2-year opportunity to come speak with us. I support an approval with a small text change for now. They could come back and refile before the 2 years are up if they want, or they could just wait the full term.

Comm. Pateidl: The only comment I would have is the antithesis of that, which is to recommend to Governing Body a 5-year term, leaving it up to the city and the applicant to resolve the issues of the technicality of the notice in that period of time. Failing the ability to do that with their concurrence, it would be a 2-year term.

Comm. Ramsey: I'm not sure we can do that, though.

Comm. Pateidl: I'm not sure we can, either, but I'm not sure we can't. As Mayor Dunn said this evening, some of this is meant to evolve. I think this is a good opportunity for some evolution.

Comm. Strauss: And maybe they could have another Interact Meeting between now and the City Council meeting.

Comm. Pateidl: That's not going to happen. If the two guys could sit down and iron things out tonight, we could do it.

Comm. Ramsey: I'm not sure it's between them. That's the reason I was questioning whether or not the Governing Body has strong feelings about keeping it at 2 years.

Comm. Pateidl: I understand that, but it is up to us to make a recommendation, and Governing Body can make their decision accordingly. As I'm watching our counsel pour over our development ordinances, I'm not sure we have a definitive answer on that question, which is why I bring up the antithesis of what you're saying: the option is there, but the timing is not, and the hour is getting late.

Chairman Elkins: The other thing that I noted before is that by taking your approach, the applicant runs the risk of it not being resolved in time.

Mr. Coleman: Under Special Uses Designated in Section 16-4-3.7(c), it states that temporary use of land or building for commercial or industrial purposes providing any building or structure constructed thereon, a district in which land is situated, and any stored equipment or material must be removed upon the date of expiration of the Special Use Permit, which permit shall be valid for not more than 2 years but may be renewed after Public Hearing.

Comm. Ramsey: So, we're limited by the ordinance to 2 years because it is a temporary parking lot.

Mr. Coleman: Yes, they don't have a business on the land.

Comm. Coleman: As a point of order, we were supposed to adjourn at 9:00.

Chairman Elkins: That is true when we have a meeting that starts at 6:00. We have three hours from 8:03, which is why I noted the time. Thank you. I would welcome any contrary interpretation by any other commissioners, but as I read Section 16-4-3.7, I see that our LDO only contemplates a 2-year SUP. We are bound by the LDO.

Comm. Ramsey: That makes it easy.

Chairman Elkins: It has been an interesting discussion.

Comm. Levitan: The only argument you could make is that there is no other use for that ground other than green space for the overall development, which isn't part of the discussion. I don't know if there is any finessing it there, but it seems to me like a permanent use.

Comm. Belzer: Are you saying it's not a special use? Is there something else it could be designated as besides a special use?

Chairman Elkins: If we were designating it for another use, we would have to go through the planning process, which includes Preliminary Plan and Final Plan. That would take a period of time. We would have to do it procedurally correctly.

Comm. Belzer: Would it make sense to approve it tonight with a 2-year term because we're bound by that and then to look at it from another angle to see if there is a way we could designate it moving forward so they don't have to come back every 2 years?

Chairman Elkins: Certainly, the applicant would be welcome to bring a plan to the planning department and before us. The planning department would consider all the elements of the LDO and determine whether it would be an appropriate use in that space under the zoning as it stands.

A motion to recommend approval of CASE 36-17 – MOLLE OFF-SITE PARKING – Request for approval of a renewal of a Special Use Permit for Off-Site Parking, located south of 104th Street and west of State Line Road – with modifications to Stipulation No. 3 to delete, “either” and changes “or” to “and” and with the remaining stipulations – was made by Strauss; seconded by Pateidl.

Chairman Elkins: I have a question for the applicant. Given the motion that is before us, does the applicant have any objections to the change to Stipulation No. 3 or the motion as it is presented?

Mr. Sprecker: No, the applicant will accept the change, and if a 2-year term is all we can have, it is what we will take.

Chairman Elkins: Thank you. Any additional discussion?

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

Chairman Elkins: A couple points of personal privilege: first, I want to thank the entire commission for your attention this evening at the joint meeting of the City Council and Planning Commission. We clearly have a lot more work to do in this space. Thanks in particular to Commissioner Strauss and Commissioner Ramsey for participating on that joint task force on all of our behalf. The one thing I was hoping for that I did not see that it was not worth making an issue about tonight was some recommendations for modifications to our LDO that would encourage the development along the lines being recommended. Those may be coming later on. I am certain staff is looking at those as well. That would be my only mild concern about the Implementation Plan that was presented. I realize that you weren't given that opportunity during the course of process. Last point of personal privilege is the next meeting is on April 11th, I believe. I will be absent, and Commissioner Pateidl will be sitting in the chairman's chair at that point in time.

MEETING ADJOURNED