

**City of Leawood
Planning Commission Meeting
October 24, 2017
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, Pateidl, Elkins, Ramsey, Coleman, and Block. Absent: Strauss.

APPROVAL OF THE AGENDA

Chairman Elkins: The chair would draw your attention to a revised agenda. The main change is, at the chair's request, Case 115-17 has been continued to the November 28, 2017 Planning Commission meeting. I don't know that there were other changes; were there, Mr. Klein?

Mr. Klein: No.

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, Pateidl, Ramsey, Coleman, and Block.

APPROVAL OF MINUTES: Approval of the minutes from the September 26, 2017 Planning Commission meeting.

A motion to approve the minutes from the September 26, 2017 Planning Commission work session was made by Ramsey; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CONTINUED TO THE NOVEMBER 28, 2017 PLANNING COMMISSION MEETING:

**CASE 115-17 – 2017 ANNUAL UPDATE TO THE CITY OF LEAWOOD COMPREHENSIVE PLAN – Request for approval of the 2017 Comprehensive Plan.
PUBLIC HEARING**

Chairman Elkins: I would note that the update to the Comprehensive Plan was included in the packet. I would encourage everyone to review that. We will address that at a work session that will be held in advance of the meeting, at which we'll formally take up a review of the Comprehensive Plan. That takes us to the Consent Agenda. Does anyone wish to pull a case from the Consent Agenda for consideration?

CONSENT AGENDA:

CASE 97-17 – ENCLAVE AT HIGHLAND VILLAS, SECOND PLAT – Request for approval of a Revised Final Plat, located south of 143rd Street and east of Nall Avenue.

CASE 98-17 – ENCLAVE AT HIGHLAND VILLAS, THIRD PLAT – Request for approval of a Revised Final Plat, located south of 143rd Street and east of Nall Avenue.

CASE 116-17 – TOWN CENTER CROSSING – REVISED SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located south of 119th Street and east of Roe Avenue.

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

NEW BUSINESS:

CASE 83-17 – LEAWOOD ELEMENTARY SCHOOL PARKING LOT ADDITION – Request for approval of a Revised Final Plan, located north of 123rd Street and east of Norwood Drive.

Staff Presentation:

City Planner Staci Henry made the following presentation:

Ms. Henry: We will be discussing Case 83-17 – Leawood Elementary School. The property is located north of 123rd Street and east of Norwood Drive. The property is zoned R-1 (Planned Single Family Low Density Residential). Leawood Elementary School is requesting to build a parking lot with 17,550 square feet with 49 spaces on the west side of Leawood Elementary School. The applicant also proposes additional modifications to the site, some of which staff are not supportive of. Staff recommends two ADA parking spaces for the proposed parking lot with the 49 spaces. Per the International Building Code, 2012, where more than one parking facility is provided onsite, the number of parking spaces required to be accessible shall be calculated separately for each parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances. The applicant proposes removal of the sidewalk on the west side of Meadow Lane. Staff is not supportive of the removal of the sidewalk, as it is part of the city's bicycle and pedestrian plan, Self-Propelled Leawood. The applicant proposes sidewalks less than 5 feet in width in some locations. Staff recommends that all sidewalks be a minimum of 5 feet in width per the Leawood Development Ordinance. The applicant does not propose to demarcate all crosswalks. Staff recommends that where pedestrian routes intersect vehicular routes, the material to the pedestrian routes shall be enhanced from the vehicular paving material, per the Leawood Development Ordinance. The applicant does not propose to replace all the trees that are proposed to be replaced by a caliper inch. Staff recommends that, per the Leawood Development Ordinance, the applicant shall replace all trees larger than 12" caliper on a 1-1 caliper inch ratio or replace with a suitable substitute. Staff recommends that the landscaping provide an

adequate screening between the proposed parking lot and the existing residential neighborhood. This will ensure that the proposed parking lot will not be a nuisance to the neighborhood. Staff has concerns with the use of flumes for drainage, as debris and water flow over the sidewalks could be a safety concern. Staff recommends that the applicant install area inlets to address the drainage onsite. Staff has concerns with the uniformity ratio of 7.3 average over minimum, which does not meet the uniformity ratio for average over minimum that is required by the Leawood Development Ordinance. The applicants stated in recent conversations that they will provide staff with the photometric study. Staff is supportive of the new parking lot, as it would be beneficial for additional parking for school activities and special events. Staff recommends approval of Case 83-17, and I would be happy to answer any questions.

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

Comm. Hoyt: Have you discussed your stipulations with the applicant?

Ms. Henry: Yes, we have.

Comm. Hoyt: Has there been any kind of meeting of the minds on those? I guess we'll get into that momentarily, but you have had some discussion.

Ms. Henry: Yes.

Chairman Elkins: Thank you. Additional questions? Ms. Henry, there seems to be a lot of difference of opinion between the applicant and staff. Can you enumerate those without going through your whole speech again? Can you highlight the differences?

Ms. Henry: I think the main concern is the sidewalk. Staff is concerned about removal of the sidewalk with Verona Gardens being nearby. With the ADA and the two parking spaces, staff is concerned about that as well. Additionally, the demarcation of the sidewalks is necessary, we feel. We understand that trees will be removed, but we are concerned about keeping the landscaping adequate.

Chairman Elkins: I have a parking issue, a sidewalk issue, a demarcation of the crosswalks issue, a tree issue, a drainage issue, and a lumens question. Is that right?

Ms. Henry: Yes.

Chairman Elkins: Any other questions for Ms. Henry? Seeing none, is there a representative from the applicant?

Applicant Presentation:

David Waters, Lathrop Gage Law Firm, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Waters: I'm joined tonight by Dave Hill, Director of Facilities and Operations for the school district; Scott Crane, Director of Design and Construction; and Kristen Leathers, Professional Engineer with Affinis Corporation. I'd like to start with the general project area. As staff discussed, this is a project for Leawood Elementary and Middle School campus. We are adding a small parking lot consisting of 49 stalls. The location of that parking lot is shown on the plan (*displayed on the overhead*). This is an internal lot. As staff noticed, it is for the purposes of assisting with staff and teacher parking on the site. The need for this lot really rises from the high level of parent engagement that all the elementary schools are getting but at Leawood Elementary in particular. The lot that is serving now is constantly coming with parents. Many of you have probably done this before. You've served as mystery readers or dropping off supplies for the school fundraiser. Frankly, we're out of room to accommodate the active engagement that parents have. The whole point of this parking lot is to hope to take some of the teachers and staff to an adjacent lot, help free up some of the parking for the parents and other people who come through into the school to help out and make it a safer environment for that right in front of the building. We certainly want to continue that work. In order to do that, we need to make some improvements. That's what we're proposing here. Our intent is to do this as safely as possible. We think we've got a plan for that tonight. We certainly appreciate staff's recommendation of approval, but we also feel that somewhere along the way, this project got a little bit of a life of its own with it having 32 stipulations on this. For most of these, we are agreeable. I'll give you two examples. I think we are fine now on the ADA parking stipulation that was mentioned. I think we're fine on the lumen stipulation. We do have a few that we would like to discuss, and maybe we could have a conversation here.

(*Refers to presentation*) I've highlighted the path to be removed. I've also highlighted the sidewalk on the east side of Meadow Lane that is being retained. It is the parallel path sidewalk. Right now, there are paths on both sides of Meadow Lane. One would be removed, and one would be retained. I've also highlighted a pedestrian crossing that is going to be reviewed as part of that.

The stipulation we would like to discuss is No. 2: "All existing sidewalks be maintained and in good condition, especially this one on the west side of Meadow Lane." The school district plans to remove this sidewalk. The asphalt is in very poor condition. It is approaching a level of non-functionality. The path is not a part of a public trail. It doesn't make up any part of a connected system anywhere else. We also believe this is a redundant path. On the east side of Meadow Lane, we have a sidewalk that is of the same width that serves the same street and actually does wrap around the campus a bit more. We don't believe that removal of this trail would impact the ability for pedestrians, whether students or members of the community, to move through the site, especially with some of the improvements that we would be making to the crossing from the subdivision to the west. We have marked a couple ADA-compliant ramps that help make that connection across the way.

The school district has also agreed to No. 13 that the new sidewalk between the parking facility and the school will be 5 feet. We also believe the removal of the path will offset some of the impervious surface issues that might arise. Better infiltration of the property, improved water quality, lessened impact are subjects I'm not an expert on, but we have our engineer here who can answer questions about them. Of course, the safety of

the school district's patrons, students, and staff is always of the utmost priority for the school district. We maintain dozens of facilities in Johnson County, and we are in the business of serving the public. We believe that by retaining this eastern walk, making the appropriate new connections here, the school district will meet the standard for the pedestrian connections that are being asked for. I would be remiss if I didn't point out some of the costs. Maintaining this site is going to impose a financial hardship on the school district. Maintaining this redundant path will probably cost the school district an additional \$30,000 just in repair and replacement. With ongoing maintenance costs associated, that is estimated to be around \$55,000 over the years. This is not a cheap proposal to keep this walk, which is functioning out of service right now.

The next stipulation we would like to discuss briefly is No. 25 on meeting the recommendations and requirements of Self-Propelled Leawood. I don't want you to misunderstand me on this one. We have no issue with Self-Propelled Leawood; we like it. We have an issue with the wording of this particular stipulation and would ask that the Planning Commission provide some guidance here. It appears overly broad to us. Self-Propelled Leawood is a 194-page document. It has a lot of broad goals and vision statements. We have some concern that the stipulation is being worded in a way that, by doing this one parking lot in this one area, it is going to pose a burden on the school district to redo the entire campus in some way to meet every part of Self-Propelled Leawood. I don't need to spend a ton of time on that one, but if that is something we can maybe discuss with staff and get some clarification on, it would be appreciated as we move forward.

I would like to move on to landscaping. Staff mentioned this is the other major area that we do have some disagreements on. These are stipulation Nos. 18, 20, and 22. We probably would request that the Planning Commission recommend approval of either deleting these exceptions or providing some clarity on these. Seven trees are being removed and 16 new trees being planted. There are 92 new shrubs being planted. We believe staff is misinterpreting the tree calculation requirements. It states that the school district is proposing to remove a total of 123 calipers of trees but only replacing them with 2.5" caliper trees, and it shows a broad difference. We are removing 7 trees, but we are replacing those with 16 trees, which is more than double the number of trees being removed. That is 2 2.5" caliper Redbud trees and 14 6'-7' pine trees. Pine trees aren't measured in caliper by the industry, so we think it is appropriate that they be taken into account as well. Again, the 92 shrubs are not currently part of the site and will help screen the parking lot. Our reading of the LDO is that it does not require caliper replacement on a 1-1 ratio. It allows a "suitable substitute" approved by the Director of Community Development. We believe that this plan meets that. Of course, we want to be good neighbors. That's why some of the focus has been on protecting the subdivision to the west. We are planning over twice as many trees as we are removing plus a significant amount of shrubbery. We would like for the Planning Commission to take that into account and find that this plan complies with the requirements of the LDO in terms of plantings. We think you should also take into account that trees grow, so a 1.1 caliper ratio doesn't make a lot of sense when the trees are going to grow. The calipers of deciduous trees will broaden, of course, and the pine trees are not measured by caliper and will grow significantly as well. If we were to comply with staff's request on the

landscaping and replace all the caliper trees only by the deciduous trees, it would add about \$9,500 to the cost of the project.

Stipulation No. 24 is one that the school district is asking to be removed as far as irrigation goes. The school district does not provide irrigation for ornamental landscapes on any of its K-12 facilities. We don't believe the LDO requires irrigation for these trees, and the cost of this would be fairly significant at \$20,000. We think it is a bit of overkill.

Staff mentioned the demarcation, and that is something we would like to talk a bit more about. We are speaking about areas where the sidewalks come and meet the pathways of travel. The parking lot itself is going to be concrete. It is not going to be asphalt. Again, no one is more concerned with student safety than the school district. With the 5 high schools, 9 middle schools and 21 elementary schools plus other learning academies, administration buildings and such, the school district has a high level of appreciation and know-how for how to make these projects work. We would ask that the Planning Commission trust that this is the appropriate approach to use. As we've discussed with staff with what they meant about demarcation, our understanding is it is not lines, which is something that could be workable. Perhaps even a colored concrete could be workable, but we are being advised it has to be either a brick paver, stone paver, or some other type of textured material in some way, which would add significant cost to the project, especially in terms of having to redo anything. If there is textured material, if one part comes out, everything will need to be replaced. We would request relief from this stipulation from staff as well.

Now, I'd like to talk about flumes, which I had to learn about myself a little bit. Currently, Meadow Lane drains to the west and then back to the south. The existing flume channels the water that comes across Meadow Lane into the area. This allows the stormwater drain across the green space, encouraging better infiltration, and improving the water quality. It lessens the impact on downstream properties this way. Our intent with this new plan is to supplement the existing flume with a flume from the parking lot that will help channel the water out of the parking lot, across Meadow Lane, into the existing flume. We had originally spoken with staff, and the original plans called for that flume to be 1' wide. We have agreed that we can widen that to 2 feet to better alleviate any concerns that there might be about water not flowing properly from the site. Staff has requested a broader series of inlets and underground pipes. We have some issues with that. It will be a very significant expense to the school district. We are talking in the neighborhood of \$50,000 just to do this for this minor parking lot where there really aren't drainage problems now. We anticipate with adding the parking lot, the 2' flume on that, reducing the impervious surface for removal of the redundant path, we will continue to not have any problems. The existing way the stormwater is being handled is more than appropriate for the site.

There are some stipulations about development rites vesting in accordance with Kansas statute and acknowledging that we agree to all the stipulations. Right now, we don't agree with these stipulations, so we have an issue with that. As to KSA12-764, that has to do with vesting of development rights for residential developments. To my knowledge, that is a type of statute that has never been applied to the school district. I don't know the impact on that. The statute is in the books. We think it's a little unusual to put a stipulation in an approval that a statute that, to our knowledge, hasn't been considered or applied to a school district somehow does. It has to do with timing that

development rights pass if you don't do the work in a period of time. This is a project you can trust. This isn't something we get an approval and then let it sit for years and years. While these may be more minor compared to some of the other issues, we'd like to at least get them on the record as things that we have issues with.

Again, I know that costs aren't everything, but in this case, it's not nothing, either. The school district does have a responsibility to be good neighbors, to serve the community with all of its projects. We've certainly had a good working relationship with the city. We hope that would continue. As you can see, the initial project cost for this very minor parking lot addition was in the ballpark of \$260,000. When we add just these stipulations we've spoken about tonight, we've run up the cost quite significantly, and we frankly feel this is a bit overkill for a project this size. Again, we appreciate your consideration on this. This has gone through a great deal of professional review. The school district has a lot of professional staff on hand. We have professional engineers that have looked at this as well and have determined that this project is safe and meets the appropriate standards. We would appreciate your consideration. With that, I am happy to stand for what questions I can. We have a team who can answer more technical questions.

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

Comm. Coleman: If you could go back to the stipulations again, could you give me the numbers of the stipulations you do not agree with?

Mr. Waters: We've got Nos. 2, 25, 18, 20, 22, 24, 4, 16, 31, and 32. I took them out of order to group them by topic.

Comm. Coleman: I'm very familiar with this property. One of my daughters goes to Leawood Middle School. Two of my other children have used those fields before for softball and baseball practices. I can see the need for parking in the area. Do you know the original usage of the trail and why it was put in when the school was put in?

Mr. Waters: I'm afraid I don't. It doesn't connect to anything on either side, and the sidewalks have the same width that go around the perimeter of the school.

Comm. Coleman: I've seen people use both the trail and the sidewalk, but I didn't know if there was a plan for why it was put in originally. Does the middle school cross country team use it? Is there any function by either school right now?

Mr. Waters: We're not aware of any function on that.

Chairman Elkins: Thank you. Additional questions for Mr. Waters?

Comm. Pateidl: As a procedural point, in listening to your presentation, I heard that you don't like Stipulation Nos. 31 and 32; although, you seem to think No. 31 is relatively irrelevant to this whole issue, as is No. 32. Seeing as there are 10 stipulations you seem to

have a problem with, are there some we can cross off that we really don't have to discuss?

Mr. Waters: We think we have done some of that already. I think staff mentioned a few.

Comm. Pateidl: You want us to discuss No. 31?

Mr. Waters: I would spend your time talking about the ones other than Nos. 31 and 32. I just wanted to go on the record about them.

Comm. Pateidl: Are there others that we can scratch off so we can move this to the point of decision?

Mr. Waters: I believe the other stipulations are us cutting to the chase. We worked through some of them already with staff, including the ADA and the lumens.

Comm. Pateidl: Then let me address your presentation as to the expense of this. I don't know how many of the crossing demarcations we are talking about. It sticks in my mind that having demarcations is really part of a federal ADA requirement. We recognize that we will have some ADA parking places. Why would we not accommodate those people by having an alternate material in there? Quite honestly, you're asking for \$4,000 for that expense seems unreasonable. Is there a reason the school district would not accommodate the needs of the disabled?

Mr. Waters: I don't believe that is an issue or that it presents a problem under the ADA. It is a cost issue. It is an ongoing maintenance issue as well. My understanding is that this is not an ADA requirement, and this is how the school district has accommodated every parking lot on its campuses. Rest assured, the school district does everything it can to promote safety. We don't believe this is something that is required or that adds much of a significant benefit.

Comm. Pateidl: As I see these R-1 subdivisions, homes, and residential areas, I know that our subdivision has that type of thing at every crossing, at every location. Quite honestly, we don't have the invitation for handicap parking to bring people in to that. Mark, maybe you could clarify. Are we touching on any federal or any other requirement for that, or is this strictly a Leawood ordinance issue?

Mr. Klein: I'm not positive if the demarcation is an ADA requirement. I do know it is part of the Leawood Development Ordinance and is the city's policy that a crossing is demarcated so people know where the crossing is located. It puts vehicles on notice that it is a pedestrian crossing if somebody is within that area. It's just another visual cue in order to make sure people get across safely.

Comm. Pateidl: So, you see it as a visual cue more to the drivers than to the pedestrians?

Mr. Klein: I think it's a visual cue to both the pedestrians and the drivers. Quite often, these pedestrian crossings are accompanied by signage indicating there is a pedestrian crossing. With regard to ADA requirements, as you stated before, ADA is a federal requirement. I believe the school would have to meet ADA standards.

Comm. Pateidl: That was a bit of a facetious question. I have one other question. Stipulation No. 25 deals with the Self-Propelled Leawood issue. I tend to agree that it is a little broad-based as far as the language is concerned. Can you be a little more specific as to why that stipulation is there?

Ms. Henry: We are looking at Page 66 of Self-Propelled Leawood, where it states, "Replace existing sidewalk" on the west side of Meadow Lane. A Blue Valley representative was part of the Steering Committee. That is where staff was concerned.

Comm. Pateidl: It is the sidewalk on the southeast side of the complex

Ms. Henry: It is the west, where they are discussing removal.

Comm. Pateidl: How do we become more specific with respect to this? If this is totally dedicated to the path on the west side of Meadow Lane, it is another issue as to whether we have that path continue to remain or not. If it is removed, Stipulation No. 25 becomes moot.

Mr. Waters: We would take the position that the plan itself covers a broader range of issues than just this walk. We would suggest that even something like this doesn't need to be a stipulation at all but rather a guidance for you when reviewing this. We submit to you that our maintenance of the sidewalk loop and improving that with the sidewalk is in compliance. We don't believe it's appropriate to place a stipulation so broad to begin with; it really should serve more as a guide for your review.

Comm. Pateidl: For clarification, from the point of view of intent of the city, when the stipulation was included in this package, it was dedicated to that asphalt path west of Meadow Lane. If we agree with the applicant and remove the path, then No. 25 would become a moot point because the path is no longer there. Is that a fair point?

Mr. Klein: As Staci indicated, we feel that Self-Propelled Leawood was specific with regard to this location. Self-Propelled Leawood in general highlighted various areas within the city. This is one of the areas that was highlighted, and it actually showed that path being replaced. To the extent that the sidewalk should be removed, you are correct that it would be a part of Self-Propelled Leawood that would not be followed. However, there are other principles within Self-Propelled Leawood that apply, such as demarcating pedestrian crossing and connections between residential neighborhoods and community facilities such as schools. Those are broader but are also part of that document. In this particular case, staff focused in on the fact that this path is specifically highlighted in Self-Propelled Leawood.

Mr. Waters: We would take the position that the spirit and intent of Self-Propelled Leawood is still met. We've got a connection to the subdivision. We're going to make ADA-compliant connections there. We still have the path that is just as wide as well. We believe the spirit and intent is met.

Comm. Levitan: Mr. Waters, how have you addressed demarcation in other campuses?

Scott Crane, Director of Design and Construction for Blue Valley School District, 15020 Metcalf, appeared before the Planning Commission and made the following comments:

Mr. Crane: Relative to the demarcation issue, I think the issue that I believe you're probably referring to relative to a federal requirement might be related to the truncated domes and ramps as the sidewalk meets the street. In a former life as a City Engineer in one of our metropolitan cities, my understanding is that is a requirement where the sidewalks meet a public street. Where it is internal to a private property like this, even those truncated domes entering vehicular pavement wouldn't be required. Certainly have I never been privy to any information or expectation where the pathway across the vehicular pavement would be required to be brick pavers, stone pavers, or scored or patterned concrete as your development ordinance currently requires. That is our thought relative to that. One of the other concerns we have with demarcating that is contrary to what staff is expressing. We believe in the world we live in today, when we are walking down the sidewalk or driving with a cell phone, we believe it is more appropriate to encourage both pedestrians and drivers to engage each other to physically look at each other and have an acknowledgement of who has the right-of-way, rather than providing a demarcated crossing that a pedestrian might feel ownership to. We have been applying that across our other campuses. We do have campuses where we still have marked crosswalks, and I think there is a place for that. Frankly, we have the professional ability and expertise to determine whether or not putting stripes on the ground here might be a benefit in the future, but I think the demarcation by a different type of material or texture is unnecessary. It's an expense that isn't necessarily appropriate for our taxpayers.

Comm. Levitan: Are materials called out in the LDO?

Mr. Klein: The way the LDO addresses it is that the pedestrian crossing shall be differentiated with the material and color from the particular pavement. It doesn't specifically say it has to be pavers, colored concrete, or another material. It does say that it has to be differentiated from the vehicular pavement.

Comm. Ramsey: Can't they do stamped concrete?

Mr. Klein: They can.

Mr. Crane: It specifically says, "Brick pavers, stone pavers, and scored and/or patterned concrete."

Comm. Ramsey: That's stamped concrete.

Comm. Levitan: Is scored acceptable?

Mr. Crane: We still have some maintenance costs with that. We mentioned that if any section needs to be repaired, the entire thing will have to be replaced. That is an ongoing obligation that would hurt the school district.

Comm. Levitan: Was your cost estimate the truncated domes?

Mr. Crane: The cost estimate was doing the full material buildout that would be required by staff.

Comm. Levitan: Thank you. The topography of the parking lot gently slopes mildly to the west. If the water is coming in under Meadow Lane, what does that area look like between Meadow Lane and the neighbor's back yard? Is it just a detention area?

Kristen Leathers, Project Engineer, 8900 Indian Creek Parkway, appeared before the Planning Commission and made the following comments:

Ms. Leathers: You are correct that the parking lot gently slopes away toward Meadow Lane from the school. Then, the train on the west side of Meadow Lane continues down. There is a slight draw down through there where a pipe is down where the trees are. That is captured into the storm sewer system that goes into the neighborhood on the west.

Comm. Levitan: Thank you. With respect to the demarcation, on other campuses, have there been any instances of accidents or fatalities as a result of crosswalks?

Mr. Crane: No.

Comm. Pateidl: Mark, given the location of this parking lot that is well back from the corner of 123rd Street and Meadow Lane, if the trail on the west side is eliminated, would there even be a crosswalk? There would be nothing to connect to.

Mr. Klein: I can explain staff's position a little bit. (*Refers to diagram*) They are proposing another sidewalk. There are a couple reasons staff is not supportive of removing the trail. The first is Self-Propelled Leawood, as we stated. Part of that is ensuring there are safe routes to school. Another reason we want to keep it is we have a connection that connects with High Drive and provides a connection down to 123rd Street. There are two sidewalks coming out of the subdivision to the west that also tie in to the sidewalk. They would propose a pedestrian crossing. Another reason staff would like to keep the sidewalk is that the sidewalk they are proposing is the alternative. It will come along on the east side, go adjacent to the school, and loop back around across the eastern side. Then there would be a crossing of a vehicular drive going into the new parking lot. It would continue to the south and get to another crossing with the vehicular entrance into the parking lot and then continue around. We just feel that this particular trail is very useful. It does allow for the avoidance of vehicular crossings.

Comm. Coleman: I drop off my child occasionally at the middle school. Isn't there an existing crosswalk by the end of the trail?

Mr. Waters: Yes.

Comm. Coleman: Is that monitored on a daily basis?

Inaudible response

Comm. Coleman: I just wanted to point that out because if we are eliminating that trail, the kids are going to have to walk across 121st Street and go by Leawood Middle School. That whole area on the left side is the bus drop-off area, which will have some congestion. There will be some overlap from the kids going to the elementary school versus the middle school at the tail end. I can see from a safety issue that we would want to keep the trail to keep the kids all on the other side so they do have that crosswalk over by the elementary school. There are at least four areas where there is vehicle interaction between the bus lanes at Leawood Middle School and the new parking lot at the elementary school. Currently, there is only one interaction with the vehicles, and that is a monitored crosswalk over by 123rd Street.

Mr. Waters: I believe clarification is needed. My understanding is that this here (*referring to plan*) is not actually a walk or a trail; it is actually a concrete flume. That is not a connection point, as mentioned. Again, I'll point out that the connection that does come from the subdivision is being improved with ramps to make the connection to the sidewalk on the other side.

Comm. Belzer: I lived at 121st and High Drive, right by Leawood Middle School for twelve years, and I sent two kids to Leawood Elementary and Leawood Middle School who frequently used that path. There is a trail that is not the flume that connects to the other side of Verona Gardens. They walked home with friends. As a parent, I would not be thrilled at all if that path had been removed and they were walking home past the parking lot entrance and then coming around Leawood Middle. That is a high traffic area. People park there; the kids walk across the street. When I lived there, the crosswalk at 121st Terrace onto High Drive was not monitored. Traffic is backed up all the way through High Drive onto 121st Street. People park in front of my former home on 121st. There is a lot of traffic. For kids to walk out of the school and cross the street where it is guarded, take that path, and back around up to High Drive is far safer, in my opinion, than crossing two parking lot entrances and then looping through Leawood Middle School, which is also highly congested. It is all buses along that back part. As a parent who lived it for a very long time, I would not be in favor of seeing that path removed.

Chairman Elkins: Thank you. Any other questions for Mr. Waters?

Comm. Ramsey: For Public Works, I presume the requirement for the stormwater is a result of the stormwater ordinance.

Mr. Ley: That is for the Best Management Practices.

Comm. Ramsey: I presume that it is not a result of the LDO that the stormwater requirements are in there but because of the BMPs of the stormwater ordinance as a separate document.

Mr. Ley: That is correct, and that would be just to treat the water that comes off the parking lot.

Comm. Ramsey: What about the requirement for the intakes for the catch basins?

Mr. Ley: Are you referring to the flumes or the filters?

Comm. Ramsey: The flumes.

Mr. Ley: Typically, we don't allow flumes as our standard. When a new development comes in, we require the water to be collected in an inlet, and then they can direct that to an area to treat the stormwater.

Comm. Ramsey: Are you just talking about a curb cut, or are you talking about a catch basin?

Mr. Ley: We require a catch basin.

Comm. Ramsey: My point is that's a function of the stormwater ordinance and not of our development ordinance.

Mr. Ley: Correct.

Comm. Ramsey: Is there any wiggle room on that?

Mr. Ley: We have not permitted it, and when we've had developments come in, we've had the flumes removed from those existing developments. The flume that we are concerned about is in the northwest corner of the parking lot. If they can raise the corner up to route the water around the island, it would address the concern.

Comm. Ramsey: That is a design issue.

Mr. Ley: Yes, they would just remove that flume that is going through the island on the north side of the parking lot.

Comm. Ramsey: If you're not going to irrigate your landscaping, how are you going to guarantee the plants will live?

Mr. Waters: I would say that the school district has a lot of people on staff that manage the landscaping.

Comm. Ramsey: They're going to be out there on a weekly basis, watering those plants?

Mr. Waters: They make sure that all the plantings at all the schools look presentable year-round. That is important for the school district. It is what the parents and constituents expect.

Comm. Ramsey: You wouldn't object, then, to an additional stipulation that says you will be forever responsible for those plants living?

Mr. Waters: If we have plants that are required as part of this Landscaping Plan and they should fail for some reason, we would know that we would need to comply with the Landscaping Plan and replant something.

Comm. Ramsey: Have you discussed with your client if there was any previous agreement with the City of Leawood for the trail construction on the west side.

Mr. Waters: We are not aware of any agreement with the city that requires it to be installed in the first place or that it be maintained.

Comm. Ramsey: Why do you think that trail was put in, in the first place?

Mr. Waters: I can't answer that question.

Comm. Ramsey: If you can't answer it, I don't know that I could vote to take it out. Somebody put it in and had a pretty good reason for putting it in.

Mr. Waters: What we know at this time is it has not been as used as we would expect. The pavement is suffering on that. We think it would be a better use of the school property to bring the traffic across to the sidewalk on the other side that is just as wide.

Comm. Ramsey: If you can't maintain the sidewalk, how are you going to maintain the trees if you're not willing to put the money into it.

Mr. Waters: We feel in this case that this is a redundant path that isn't necessary on this.

Comm. Ramsey: You've already heard from somebody who lived in the area that you have high volumes of traffic. You're going to have people crossing several times through the parking lot as well as forcing anyone who walks through the area to walk in front of the school instead of going directly along the street on the other side. That doesn't make a whole lot of sense. I understand. I can see why they put that path in because it's pretty logical and rational to have a path over there.

Mr. Waters: What I can say is this is something that the school district has had people on staff look at very carefully, including the safety of the students, the bus traffic, the times they come in, and the times they go out. The whole reason for the parking lot in the first place is a matter of student and parent safety. We believe the plan we have before you is the appropriate one for this site.

Chairman Elkins: Thank you. Mr. Waters, I do have a few questions. I just want to make sure I understand. The district is proposing to take out the entire path from one end to the other?

Mr. Waters: Yes, sir.

Chairman Elkins: It is true or not true that the school district participated in the plan for Self-Propelled Leawood?

Mr. Waters: I'm told by staff and have no reason to doubt it that the district participated in the plan. Again, I would take Self-Propelled Leawood as a guiding document with plans, goals, and objectives, and we believe that notwithstanding this, the plan we have before you meets those goals and objectives.

Chairman Elkins: What's the use of having a plan the first time that it comes up that you're asking for an exception to that plan?

Mr. Waters: Well, the need is not the one particular path. I think focusing on one path being the key is not the important thing. I think the plan itself focuses more on what we could do to better connectivity. For example, we've got the path leading out of the subdivision. We make the improvements on that to help get across to that and maintain the existing circuitous route around the school district. We think that is really the key: connectivity and making those improvements that way and not just having a path that doesn't go anywhere for the sake of having a path. The connectivity and safety are really the key parts we should be paying attention to.

Chairman Elkins: That may be true, but isn't it indeed true that in Self-Propelled Leawood plan, this particular path was included as part of the plan? It is not at all a generalized standard but a specific standard that was included in the plan.

Mr. Waters: It is included as an aspect of the plan.

Chairman Elkins: It is specific, not general; true?

Mr. Waters: I don't know that I would agree.

Chairman Elkins: Page 66 says, "Replace existing sidewalk."

Mr. Waters: That is what the plan says.

Chairman Elkins: That seems pretty specific.

Mr. Waters: We believe, again, that it was more focused on replacing the sidewalk for purposes of connectivity and such. If we're doing these, we're meeting the full spirit and intent of the plan.

Chairman Elkins: Specific or not specific?

Mr. Waters: I don't believe that's a fair question for a broad-range plan.

Chairman Elkins: I'm not asking about a broad-range plan; I'm asking about Page 66 of Self-Propelled Leawood. Is the drawing of this particular facility with that sidewalk specific or not specific?

Mr. Waters: It is specifically mentioned in there.

Chairman Elkins: Thank you. Moving on to this issue of demarcating the crosswalks, I guess I have two series of questions. You've told us that the Blue Valley School District has an excellent record for student safety relative to vehicular and student interactions in the past. You've asked us to rely on that expertise in protecting the students going across the inlet and outlet of that parking lot that you propose to put in. If the district is not going to put in the demarcated crosswalks as required by our ordinance exactly, can you give me the specifics of what the school district proposes to do other than encourage engagement between students who may be looking at their cell phones and drivers who also may be looking at their cell phones?

Mr. Waters: I can. I believe we have discussed painting those stripes as something we might be willing to do. Those conversations didn't go very far as I understand it, but that is something I know the school district would be willing to do.

Chairman Elkins: Would be willing as opposed to might be willing?

Mr. Waters: I think I could tell you the school district would be willing to paint if that is something you would like.

Chairman Elkins: How does the painting of those crosswalks address special needs students?

Mr. Waters: I guess I would say I'm not sure that the other materials meet the needs of ADA students in any other way themselves. I think the key to ADA, as mentioned, is really the approaches on the sidewalks. We will comply with all the ADA requirements on those.

Chairman Elkins: Our ordinance requires the 3-4 alternatives to demarcating those crosswalks, correct?

Mr. Waters: I believe that's what it says.

Chairman Elkins: If that's the ordinance, that's the law in this particular city. Can you give me a pathway that would permit this commission to counter what the ordinance requirements are? I understand you want to, and I understand policy decisions behind that, but what is the legal analysis that authorizes me to ignore the ordinance?

Mr. Waters: We actually believe that there might be a question as to whether this code section even applies to this type of development.

Chairman Elkins: Why is that?

Mr. Waters: The code section from which this is pulled applies to what we believe is what's called non-residential districts. This is a school, but it is in an R-1 Residential district. It is our opinion that we could make the argument that this type of obligation is not required of a residential district here.

Chairman Elkins: Your view would be that the ordinance does not apply at all.

Mr. Waters: Yes, sir.

Chairman Elkins: Can you give me an example of a non-residential district in which it would apply?

Mr. Waters: Shopping center perhaps.

Chairman Elkins: I would ask the same question with respect to the requirements of the stormwater ordinance. Ordinance is a matter of law for the City of Leawood. As I understand it, flumes are not permitted under our stormwater ordinance. Can you give me the legal pathway for approving your request for flumes in the context of the stormwater ordinance?

Mr. Waters: I cannot cite to you any code section right now, but our review of it was that it was not a requirement and that this is simply staff's request and what staff has traditionally done to not allow flumes of this kind.

Chairman Elkins: You take issue with the City Engineer's conclusion that the flumes are prohibited by the stormwater ordinance.

Mr. Waters: I believe that a flume, in this situation, presents a perfectly legal and appropriate remedy for stormwater. I can't cite the section, but you might be asking me to cite something that doesn't exist.

Chairman Elkins: If that was the case, it would be the same question about how to get from here to there legally.

Mr. Waters: The original plans were for 1' wide there, and we agreed to do 2' wide. As far as the raising of the curb, it was briefly mentioned with my client and something we did not have the opportunity to discuss with staff about a potential alternative. I know that the flumes might not be prohibited because another alternative was brought up tonight, but that is not something that was discussed with my client beforehand.

Chairman Elkins: I would ask staff, with respect to what the requirements are, relative to the caliper of the trees and the fact that they are proposing evergreen trees as a screening device for the parking lot, if you could weigh in on that. It seems like a valid point.

Mr. Klein: I'd like to refer to Section H in the LDO. It says, "The location of all trees 6" caliper or larger, measured 4.5 feet above the ground that are proposed for removal, all trees larger than 12" caliper shall replace on a 1-1" caliper ratio or replaced by a suitable approved by the Director of Planning." When we did the calculation, we came up with 123 inches as far as the caliper of trees they are removing. Even if they take the evergreen trees and assign them a 1.5" caliper, it would still be 99 inches short as far as replacing on a 1-1" caliper basis. With regard to the shrubs used to screen the parking lot from the adjacent road, we have never used shrubs to replace trees that have been removed because trees generally provide a lot more coverage or presence, and shrubs are a lot cheaper. If people would do that, they would simply just remove the trees and provide shrubs.

With regard to irrigation, the landscaping portion of the ordinance states that, "All landscaped areas shall be irrigated." With regard to pedestrian crossings, the Performance Criteria in the LDO talk about commercial districts, as the applicant stated. Part of the reason the staff is applying it is, in residential districts, there aren't typically parking lots. A school will be allowed with a Special Use Permit and will have a larger mass building. Per the LDO, the SUP should go with the underlying bulk regulations. Staff has to have some way to deal with some of the things that aren't typically in the single-family district, such as a parking lot. We typically apply the standards that are associated with the parking lot, including the setback of the parking lot, buffering, and general screening. The LDO states, "Where pedestrian routes intersect vehicular access routes, the material of the pedestrian route should be enhanced and differentiated from being pavement material." That is the wording of the ordinance.

Chairman Elkins: Again, Mr. Klein, that applies in non-residential areas.

Mr. Klein: Correct. Additionally, there was some discussion with regard to the vehicular crossings or pedestrian enhancement. In talking to different people, we have run across people who have children who go to the Blue Valley School District. They indicated there were places they did see demarcation for a pedestrian crossing. (*Shows photo of parking lot*) At Morse Elementary School, it looks like it is raised concrete and is yellow to demarcate it from the rest of the pavement. They may not do it in all of their schools, but they have done it on at least some of them.

Chairman Elkins: Thank you. Additional questions for Mr. Waters?

Comm. Pateidl: I have a question for Mr. Klein. Specifically on this 1-1 ratio on the caliper issue, is it a provision in the ordinance that allows for a deviation to be granted?

Mr. Klein: There is the allowance for the Director of Community Development to approve a reasonable substitute. I know that he has been involved in the process since the beginning, so it has been discussed.

Chairman Elkins: Thank you. Mr. Waters, I have one follow-up question. Mr. Klein cited the ordinance with respect to this irrigation issue. It seemed like a concise, specific statement of requirement on irrigation systems. What is my pathway to ignore that in our ordinance?

Mr. Waters: Frankly, I would need to look at that some more. That was not something I had come across. I would like to make a point about the trees. I think the key language on that is the "suitable replacement." We really feel that these pine trees we are planting should be counted. If we were going the other way around by replacing 123 calipers with 2.5" deciduous, the math would seem to require that the school district plant some 50 trees to replace seven. We believe we are at an appropriate level here with the 16 trees and shrubbery. We think this is a suitable substitute.

Comm. Pateidl: Mr. Waters, to that very end, I noted in the litany of stipulations that you objected to that you included No. 22. "Prior to Governing Body consideration, the applicant shall provide a Landscape Plan meeting the standards of the Leawood Development Ordinance."

Mr. Waters: We are not necessarily requesting that to be removed; that was part of the broad spectrum that we want to make sure what we have for you tonight is following the recommendations and to take that into account. I don't know that it needs to be removed. I put it in there as a stipulation that touched on the general issues.

Comm. Pateidl: If you recall, I asked if there were any others we should be striking off the list. Maybe we missed that one, but you know you've got a stumbling block with this 1-1 ratio, and you know you have the opportunity to take care of that with suitable materials that could be easily provided if you'd give us a Landscape Plan so we have some idea what you were going to do.

Mr. Waters: I believe we do have a Landscape Plan that has been provided. I showed an excerpt of it.

Comm. Pateidl: I guess I'm saying there's ground for you to meet agreements, but you're picking areas that I don't understand the objections.

Mr. Waters: Our objection on the landscaping is that we believe we are planting many more trees than should already be required. There is a cost issue involved. There is a space issue involved. Some of the areas on the east side of the parking lot are being used for play areas for kids, and at some point, we throw so many trees in here that we are

running out of open space as well. I can't cite all the numbers of trees, but we believe that replacing 7 trees with 16 is more than suitable to meet the standards of the City of Leawood.

Comm. Pateidl: I guess I'm looking for some kind of artist rendering. I see a map with a bunch of circles; maybe that's it.

Mr. Waters: That is what we have provided to the city. It shows the location of the pine trees, location of the shrubs, and then the other two trees being planted.

Chairman Elkins: Thank you. Additional questions for Mr. Waters? Thank you, Mr. Waters. That takes us to a discussion. I'm trying to figure out the best way to proceed. Let's start with a general discussion around the issues that have been raised by staff and the school district. I'll back up. What my plan is right now is to have a discussion and then take a vote on each of the issues that Mr. Waters has raised and see if we can construct a plan that this commission can recommend for approval, unless Mr. Waters and his client tells me it is all or nothing, and then I won't go through the exercise of weighing the issues one by one.

Mr. Waters: We've had further discussion, and perhaps this is based on staff's different interpretation. In terms of demarcation, we would be willing to do a colored concrete in that area. I think we have issues when it becomes texture or pavers.

Chairman Elkins: Staff, what say you?

Mr. Klein: That would meet the ordinance.

Chairman Elkins: Commissioner Pateidl, I believe we have stricken one more set of issues off the list.

Comm. Block: I don't know if I agree with that, though. It talks about a different material. It doesn't talk about paint or color.

Chairman Elkins: We'll put it back on the list to vote on. To bring some order, let's discuss the issues in groups. Mr. Waters, if you could put on the screen your first set of stipulations that your client has concerns about, that would give us something to work on.

Mr. Waters: *(Places list on the overhead)*

Chairman Elkins: We've had a lot of questions and answers and, frankly, a little bit of discussion by the commission about this path that currently exists. I'm open to discussion. What does the commission think about the idea of removing this path?

Comm. Hoyt: I'm pretty compelled to believe there is quite a bit of foot traffic there, based on what we've heard from people in the area and being familiar with it myself to some extent. It also really does lead someplace. The implication was that it shouldn't

count for the Self-Propelled Leawood because it doesn't really connect with other areas, but it really does if the neighborhoods are using that for kids to get to and from school. I don't think it's a great idea, among other things, to have elementary school kids walking up alongside the middle school. That part seems not workable to me.

Comm. Levitan: I agree. I'm all for trying to reduce project costs when possible, but this one is a little bit hard to understand about bringing the kids closer to the middle school in an effort to get them over to the elementary. It just doesn't make sense to me. This issue, I'm going to side with staff on.

Chairman Elkins: Commissioner Belzer, you had comments earlier. Do you care to reiterate them in this section of the discussion?

Comm. Belzer: I think I stated it pretty clearly.

Comm. Pateidl: Having lived in that area and being very involved at that school, I believe that path gets a lot of use. As to the cost, I understand there is a cost to repair and maintain, but something you've admitted from your demonstration was no cost for demolition and carting that asphalt off. That is not free, either. There is some mitigation of the cost by virtue of what you save by leaving it in place.

Comm. Coleman: I agree that Stipulation No. 2 needs to be included. If the path were to go away and the pedestrian crossing were to be improved as proposed, would a crossing guard be added there?

Mr. Waters: As we understand, it is currently stop sign-controlled. We would have to evaluate that to see if there is a need.

Comm. Coleman: You're saying there is a stop sign in the middle of Meadow Lane on the west side already?

Mr. Crane: All directions stop at that crossing location.

Chairman Elkins: Additional comments? The comments I would add was a point I made in the questions I put to Mr. Waters. We've talked for a long time in the City of Leawood for the plans for Pedestrian Leawood. In this particular case, this is a rather unique case in my estimation that this particular piece of property and this particular set of elements was specifically addressed in the Self-Propelled Leawood plan that was approved by this commission and Governing Body. In the generation of that plan, the school district participated with specific reference to this particular trail. It does concern me that, for the first time when have a specific reference in our Self-Propelled Leawood plan, we are being encouraged to abandon that particular element of the plan. I would have a little more sympathy if the school district had not participated in the generation of the plan. The other thing that strikes me is of all of our citizens that are most impacted by Self-Propelled Leawood, in my mind, is that it's the youth and children of the city. This is one of the central focal points within the city for young people. The fact that they are

impacted the most, in my estimation, by Self-Propelled Leawood, leads me to believe that the path ought to be left in and maintained. With all due respect to Mr. Waters and his client's assessment of the path, it would certainly seem to have been a specific element of a specific part of the Self-Propelled Leawood Plan. That, in addition to the comments of my other commissioners would lead me to believe that Stipulation No. 2 ought to remain. Since we've talked about Stipulation No. 2, I would entertain a motion to retaining Stipulation No. 2 as part of the condition of the approval of this plan, assuming it gets recommended for approval.

A motion to include Stipulation No. 2 in the approval process for Case 83-17 – was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

Mr. Waters: Stipulation No. 25 is the general issue with Self-Propelled Leawood, and we have concerns about the extent to which this stipulation is a campus-wide stipulation. We haven't gone through the parking lot to look at every aspect. I believe there might be plans in Self-Propelled Leawood for other drives on the other side of the property. That was the concern.

Chairman Elkins: Thank you. Comments about this stipulation?

Comm. Hoyt: I think it seems rather broad, and I think if the other stipulations hold the applicant to the conditions that we are concerned about that relate to this particular project, I don't think that Stipulation No. 25 is necessary. I can see the applicant's concern that it could be overly broadly construed.

Comm. Pateidl: Just as a suffix to that, if we modify the stipulation to include the language, "as applied to the sidewalk on the west side of Meadow Lane," would that resolve your issue?

Mr. Waters: Since we are opposed to retaining the sidewalk, that would be an issue, but it would perhaps resolve the technical language issue.

Comm. Pateidl: I'm looking to find a technical resolution so we can move this forward. The broadness is your primary concern. The city's intent was to direct it toward that piece, and by making a modification to the stipulation, is it specific enough for you?

Mr. Waters: Our position would be that it is better to be completely specific, and if we are to have it on there, it is best that we don't have to try to find a balance between the two. We think it would still be best practice to remove this.

Chairman Elkins: Additional comments relative to Stipulation No. 25? Given that there are none, I would entertain any motion with respect to Stipulation No. 25.

A motion to modify Stipulation No. 25 to include the language following the close of the sentence with the words "Self-Propelled Leawood" with, "as applied to the

sidewalk on the west side of Meadow Lane” – was made by Pateidl; seconded by Levitan

Chairman Elkins: The only thing I would add is that I agree with Commissioner Hoyt, and I think we can continue to implement Self-Propelled Leawood around this piece of property if and when the school district comes back with other improvements that may impact a different part of the property and recommend Self-Propelled Leawood in mind as we go through it. Any other comments relative to the pending motion? I’ll ask for a vote.

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

Chairman Elkins: Now we have the tree issue. It relates to Stipulation Nos. 18, 20, and 22.

Mr. Waters: Specifically, we take issue with 18. Nos. 20 and 22, we would request more clarity as to what we do meeting the standard.

Mr. Coleman: I was just thinking we could shorten this up if they came back with a plan that just replaced the 7 trees with 7 trees. They could submit a plan, and I could approve it.

Chairman Elkins: We’ll give Mr. Waters time to confer with his client.

Mr. Waters: We are already planting 16 trees.

Comm. Ramsey: With the exception of two Redbuds, they are all pines.

Mr. Waters: Yes, they are. They are still trees and will grow up nice and tall. The request is that we do five more?

Mr. Coleman: The idea is that you would not have to replace the 123 calipers; you just replace 18.

Chairman Elkins: That would be in lieu of the pine trees?

Mr. Coleman: It would be in addition to the pine trees.

Comm. Ramsey: The pine trees are for screening.

Mr. Coleman: These would be deciduous trees, perhaps on the east side of the parking lot where there aren’t any.

Comm. Ramsey: There are two issues. One is the replacement.

Mr. Coleman: My idea is that if they just put in 7 deciduous trees around the parking lot and send us a plan, I could approve it.

Mr. Waters: Well, 123 calipers divided by 2.5 caliper trees is 49 trees.

Comm. Ramsey: What a deal you're getting. It's taken down to 7.

Mr. Waters: We will agree to do 5 more of the 2.5" caliper Redbuds, so that would make 7 trees. The code speaks to a plan that is suitable. If that would be suitable to the city, we'll agree to that.

Mr. Coleman: The idea is just to replace the 7 they're cutting down with 7 deciduous trees and just put them around the parking lot; that's all. The rest of the plan stays as it is.

Comm. Hoyt: If we're looking at Stipulation No. 18, what is being suggested would be in keeping with No. 18 because it gives the suitable substitute.

Mr. Waters: If we can get an agreement that this proposal constitutes a suitable substitute, the stipulation could remain.

Chairman Elkins: We've made that record that the Director concludes that the 7-for-7 is a suitable substitute. Thank you.

Comm. Pateidl: This goes to the heart of what was just said. We're looking for a means by which we can transmit this up to the Governing Body for their consideration. With the statement in there that a suitable substitute is okay, it takes No. 18 off the table for a lot of discussion about the specifics of number and size of trees. You are going to have to live by the ordinance on landscaping, so there is no discussion on No. 20. Regarding No. 22, frankly, you're going to have to show a decent plan to the Governing Body to get approval. Put a plan together and get your suitable change. Just leave all three of those stipulations in there because they are not a road block for a path to the Governing Body.

Chairman Elkins: Given that we seem to have an agreement as to a suitable substitute, are you satisfied with leaving in Nos. 18, 20, and 22?

Mr. Waters: I would be comfortable with that.

Chairman Elkins: Irrigation looks to be next. Are there comments? Given that there are no comments, I will entertain a motion relative to No. 24.

A motion to keep Stipulation No. 24 in the application as stated was made by Pateidl; seconded by Ramsey.

Comm. Block: I read it as part of the ordinance. What latitude do we have to not do it? We're not complying by the ordinance if we strike it.

Mr. Hall: You are correct.

Comm. Belzer: Wasn't this the one that we talked about with staff taking care of the watering?

Chairman Elkins: Yes.

Comm. Belzer: I'm confused with what we're saying.

Chairman Elkins: Our ordinance requires an irrigation system as opposed to a system comprised of people. There is significant expense to the school district in implementing an irrigation system. Any additional comments?

Comm. Levitan: It sounds like we can't make an exception to that.

Chairman Elkins: That is the guidance I am hearing from staff and city's counsel.

Motion to retain Stipulation No. 24 carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

Chairman Elkins: I think we resolved the crosswalk issue; although, Commissioner Block had questions about the adequacy of what staff and the applicant talked about.

Comm. Block: It is the same as the irrigation. How I read it is that it requires a different material, and I don't know how we deviate from that.

Mr. Klein: It has always been staff's interpretation that colored concrete is a bit different than regular concrete in the fact that the color is mixed in with the concrete. It has been used to demarcate pedestrian crossings as long as I've been here. Sometimes it stands up pretty well; sometimes it doesn't.

Comm. Block: That's fine if it's colored concrete. I heard paint.

Mr. Klein: I'm thinking colored concrete.

Mr. Waters: We had originally mentioned that we would be willing to paint stripes. We can agree to colored concrete.

Chairman Elkins: Thank you. It sounds like we have a resolution there. Next, we have the question of flumes. Stipulation No. 16 mandates that flumes shall not be used to address stormwater. Commissioner Block?

Comm. Block: I'd like to better understand from staff. It sounded like if there was a tilting of the parking lot and that flume goes away, it doesn't need catch basins.

Mr. Ley: That would be correct.

Comm. Block: Where would the water go?

Mr. Ley: It would wrap around the island and not go through the island.

Comm. Block: This parking lot does not require catch basins?

Mr. Ley: Right, but that is up to them to decide if that's what they would want to do with the parking lot.

Comm. Block: Would it pool in there? Okay.

Mr. Waters: I don't think this is fully vetted with staff, but I think we would be willing to move that one flume into the parking lot to do the wraparound. We want to make sure we use the existing flume that has served the stormwater that is coming off Meadow Lane now on the west side of the property.

Chairman Elkins: Mr. Ley?

Mr. Ley: Public Works did not stipulate that, so I would look to Planning.

Mr. Klein: I believe staff would be okay if it was modified to say, "Flumes should not be used to address stormwater within the proposed parking lot."

Chairman Elkins: I think we have a winner. I'll entertain a motion to add that qualification.

A motion to add verbiage to Stipulation No. 16, "Before presentation to the Governing Body, engineering will be accomplished to modify the storm drainage around the island in the parking lot" was made by Pateidl; seconded by Hoyt. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

Mr. Waters: These are the last two. We've taken the legal positions on these, but I don't think we need to spend additional time debating these. At this point, we would be willing to have those there.

Chairman Elkins: Mr. Waters, I guess No. 32 raises a very pertinent question. Given what you've seen of the sense of the commission, especially with respect to the major issue with Stipulation No. 4, are you and your client willing to execute a statement acknowledging the stipulations as amended?

Mr. Waters: Not at this moment. I think we would need to make the determination of if we proceed with the project. We would certainly understand that, if the school district were to proceed with the project, this goes to City Council, so we will have further discussions with City Council as well. I think after that, the expectation would be that

whatever the Governing Body approves, subject to appeal rights or what have you, would have to be worked out. At this point, we couldn't sign it after leaving this meeting.

Chairman Elkins: I understand. With respect to Stipulation No. 31, you didn't know if there was a need at this time.

Mr. Waters: I frankly have questions of whether it applies to this development at all. The time periods in that are such that this isn't going to be something any of us are going to have to worry about.

Chairman Elkins: We've been through the issues. I hope we have a good record of what we approved and didn't approve in our record before us. While it's a little bit dicey, I'll rely on the record that has been made. Is there additional discussion on the totality of Case 83-17 as we have revised it this evening? Seeing none, I would entertain a motion.

A motion to recommend approval of CASE 83-17 – LEAWOOD ELEMENTARY SCHOOL PARKING LOT ADDITION – Request for approval of a Revised Final Plan, located north of 123rd Street and east of Norwood Drive – with the modified 32 stipulations attached – was made by Hoyt; seconded by Coleman. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 96-17 – TOWN CENTER CROSSING – ZOE'S KITCHEN – Request for approval of a Final Plan for a Change to the Façade of a Tenant Space, located south of 119th Street and east of Roe Avenue.

Staff Presentation:

City Planner Staci Henry made the following presentation:

Ms. Henry: We will be discussing Case 96-17 – Zoe's Kitchen – Request for approval of a Final Plan for a Change to the Façade of a Tenant Space. The property is located at Town Center Crossing, south of 119th Street and east of Roe Avenue. The property is zoned SD-CR (Planned General Retail). The façade has a gross area of 3,323 square feet. Staff has a concern with the location of the multicolor green-screen wood installed over the existing parapet storefront on the second story. The graphic display on the second story would compromise the integrity of Town Center Crossing and the warm, contemporary, and simple, classic modern forms of the development. Per the Town Center Crossing Design Guidelines, the applicant proposes to make modifications outside the storefront control area below the bulkhead at the storefront and 4 feet behind the lease line. Staff recommends denial of case 96-17, and I'd be happy to answer any questions.

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

Comm. Hoyt: Your recommendation for denial is based on this multicolor second-story façade treatment that is being recommended by the client?

Ms. Henry: Yes.

Comm. Ramsey: Could you explain to the commission what it is that is not being met?

Ms. Henry: Staff's concern is that Town Center Crossing has Design Guidelines. They want the façade to go along with the uniformity. The building façade should be designed to give an innovative design concept. Tenants are encouraged to take advantage of the shopping center architecturally. Also, the main concern is that we have let national and regional tenants have a typical building design, but they want the best quality. It is a concern if the second story above the bulkhead is changed.

Comm. Levitan: Do we have an overall rendering of how this would look with the center in totality?

Chairman Elkins: I'm sure Mr. Petersen will present that in his presentation. Additional questions for Ms. Henry?

Mr. Coleman: Basically, our objection is that it is a super graphic placed where the spandrel glass patterns are that modulate throughout the center. It would basically be a large, super graphic sign. It basically also says in the Design Guidelines that national tenants are to bend their design to the center's design and not the other way around.

Chairman Elkins: Is this an issue that is mandated by ordinance? Is the proposed signage violative of the Leawood Development Ordinance?

Mr. Klein: Taken as a super graphic and a sign, it would exceed the size requirements of a sign.

Chairman Elkins: We're back to the question of what constitutes a sign.

Ms. Henry: Staff did tell them that if they put it below within the bulkhead, it would be acceptable.

Chairman Elkins: Thank you. Welcome, Mr. Petersen.

Applicant Presentation:

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

Mr. Petersen: I have the pleasure of appearing tonight on behalf of Zoe's. Matt Well, Director of Development from Plano, Texas, for Zoe's didn't understand the process of the City of Leawood and couldn't get here at the last minute. Actually, 24 hours ago, I didn't know I was going to be here. We did a lot of real estate work for Zoe's across the country, but until we got the staff report, there was some confusion on my client's part because it really drives to the point that the chairman raised about if this adheres to the LDO or not. I will get to that later.

(Shows plan on overhead) Zoe's is planning to fill the vacant space between La Bodega and LL Bean. The nature of their business is important because it speaks to what they're trying to do. It's got the buzz and is exactly what Town Center Crossing has become. It is not warm beige; it is eclectic and is starting to make a statement for itself that it's a cool place to be. Town Center Crossing is not about being uniform. Apple did it. Probably when the center was established, nobody would have anticipated a big white wall with an apple, but it started with the message that this place is different. LL Bean is all green with signs that are different than the one below it. Kendra Scott has a mosaic with different treatments in the windows, all just trying to point out that this is not a classic suburban shopping center that is all uniform, contemporary, classic. That's not what it is. Zoe's has multiple colors. They want to create their spot. It is a smaller space compared to the others at about 3,500 square feet. They want to open it up, put some glass, and get that outside dining going. They would like to put a little statement. It is not a sign. It doesn't adhere to the sign requirements of the City of Leawood. By the way, that is the first time in any conversation my client has had or in the Staff Report tonight that anyone has called this a sign. This is an architectural treatment. First, they suggested to take material behind the glass and pull the glass out to create this statement of the design of this particular location. Staff cited under code that because it was going to be vinyl on the back of the window, it is prohibited by the code. Staff didn't want it, so we went back and put the nice wood slats that are interesting with character. That is what they are proposing. What the Staff Report comes down to is the Town Center Crossing Design Guidelines and if it adheres. You can see that they have taken a bunch of different concepts over the years and said that it adheres and fits. Wood is an allowed use in Leawood in terms of an architectural treatment. Washington Prime Group owns Town Center and acknowledges they approve the plan. We're good to go. They would like to get open. They're excited about being a business member in the City of Leawood. Thank you.

Chairman Elkins: Thank you. Questions for Mr. Petersen? I do have a few questions. What I understand from what you just told us is the colored verticals are actually painted wood.

Mr. Petersen: Stained.

Chairman Elkins: Stained with what are clearly bright colors. Does your client give any indication of the life span in terms of weathering or fading? How long is it going to look like this, and when does it start to show?

Mr. Petersen: I asked the same question because I said it would be a concern. These are specs we would prove to staff. It is called Rainscreen siding. It is very durable. If it started to fade and look bad, we have a responsibility under the development's requirements to keep it fresh. (Gives pamphlet on material)

Comm. Ramsey: Mark, what is it about this that staff objects to that is not in conformance?

Mr. Klein: Staff is looking at the spandrel glass component that goes above a number of portions on the center. It really hasn't been replaced at this point. It used to be Pho Thai and then changed to Drunken Fish, both of which had the spandrel glass. In addition to that, the Design Guidelines indicated that for that area of the building, it should be warm, contemporary, simple, classic, modern, which is some of the language that was pulled out of the guidelines.

Mr. Petersen: As a point of clarification, that is Town Center's Design Guidelines and not the City of Leawood's. They have spoken to their feeling about its compatibility.

Comm. Ramsey: That's what I was going to ask. If Town Center approves, we're put in a position of trying to defend their guidelines when they don't want them defended.

Mr. Klein: Staff is trying to maintain integrity. It is similar to Town Center Plaza with the colonnade. We have had a number of applications with an applicant wanting to tear off the colonnade to have more of a presence along the storefront. Really, staff is trying to keep the context of the main center. Then each of the tenants can vary the area around the tenant space with their own individuality while keeping the architecture of the center.

Mr. Coleman: It doesn't comply with the Design Guidelines that are in the original 119th Street design. If they want to, they should go back and change the criteria.

Chairman Elkins: We've gotten a little off track here; it's Mr. Petersen's presentation.

Mr. Petersen: The real point is the practicality of evolving, vibrant centers. What was originally One Nineteen became Town Center Crossing. Clearly, the Design Guidelines originally contemplated four examples. It all started with Crate & Barrel that isn't a building that would be approved in Leawood anywhere else. It's a silver box. Then Sullivan's has the blade sign and Trader Joe's with their stuff going. It's a living document as far as the owner is concerned. Is it tasteful? Does it work? Does it create a sense of individuality in a strip shopping center in the suburbs? They've looked at this, and I would suggest that none of these four were contemplated either with the original guidelines. I think they've been good stewards of the shopping center, and everybody thinks it's a pretty good place. Although we have changed our color scheme, we have a new element. Obviously, the owners of Town Center Crossing wouldn't have approved it if they didn't agree their investment wasn't going to be inhibited as well. My suggestion is that everything is in compliance with the code.

Chairman Elkins: Additional questions for Mr. Petersen?

Comm. Levitan: I have a question for staff. Mark, I assume the LL Bean sign green cladding is aluminum.

Mr. Klein: When they originally came in, it was a material that we didn't permit, so it went more to the cementitious siding.

Mr. Coleman: It is a cement product. They originally wanted to have board and batten wood, but that is not allowed, either.

Comm. Levitan: That is part of their brand. I assume that is technically not the sign. It is part of the cladding, so I'm having a hard time understanding why that is different than what Zoe's wants to do.

Mr. Klein: Staff's position is that Zoe's has the colors with the sign directly in front of it, so it is part of the sign.

Comm. Hoyt: Where does the word "Zoe's" appear? (*plan placed on overhead*)

Comm. Belzer: Is the Zoe's sign on top of the colors? It looks like there is a façade and it is freestanding.

Mr. Klein: I believe the Zoe's sign they are showing is on top of the canopy. The wood panels would be adjacent against the spandrel glass.

Comm. Belzer: It doesn't seem like it's part of the sign.

Comm. Ramsey: Are there going to be more of these Zoe's Kitchens in Kansas City?

Mr. Petersen: There are two right now. The other two are freestanding.

Comm. Belzer: There is one at 135th and Metcalf. It is not freestanding.

Mr. Petersen: They try to be freestanding, but if there are district-type locations, they will go in like this.

Chairman Elkins: I think it's on a pad site in Corbin Park.

Comm. Ramsey: Do they all have this front on them like this?

Mr. Petersen: They all utilize the color scheme, but the design is different on each building. They try to incorporate it into the architecture because it is architecture and not a sign.

Comm. Coleman: If I could just say, some have the awnings; some have a red sign with white colors on them. Not every one uses that exact design behind the sign.

Mr. Petersen: Try not to be cookie cutter.

Chairman Elkins: Additional questions? That brings us to discussion.

Comm. Levitan: I think 119th is probably the hottest retail corridor in the entire city, and I think it's because Town Center Crossing has figured it out that they have to stay ahead

of the game. I don't think design standards necessarily keep up with the creativity of the tenants. Retail is tough right now, but 119th has probably the best of the best. I just think this adds to the overall impact of the center in an interesting way like Apple does, LL Bean does to a lesser extent, and then Kendra Scott does as well. I don't really have a problem with it. I just think it adds uniqueness to the center, and I don't think a lot of retail centers in this town are unique. I don't see a reason we should decline this.

Comm. Hoyt: I would go along with the same. In addition, I was concerned until I saw the graphic that showed what it would look like in relation to the other buildings. It is not as bright as the ones on either side. It is definitely bright and will stand out, but it doesn't seem jarring to me.

Comm. Block: Mine is more a question for staff now that we've seen the four pictures. Does anyone know what is behind the Apple sign? Is there spandrel glass behind that?

Mr. Klein: It's been so long I don't remember. The Kendra Scott has spandrel glass, but I don't know about Apple.

Comm. Block: Going back to staff's concern, is it the colors, the wood, or both?

Mr. Klein: As far as the metal, aluminum and steel siding are not permitted, so staff would have brought that out. Staff is just concerned about maintaining the integrity of the shell part of the main center while allowing creativity down below.

Comm. Block: On the LL Bean façade, it looks like there are vertical lines. If they were to use that same product with those different sections as different colors, would it be okay?

Mr. Klein: I think staff probably would still have had some concerns with deviating.

Mr. Coleman: I think it is location. If they were down on the actual storefront or bulkhead tenant area, we would be okay with it.

Comm. Block: In the case of that store, there is no bulkhead other than the awning. It's very small, I think.

Comm. Coleman: I'm all for creativity with the center. I'm looking at the other images of the other storefronts, and they are all very muted. There is nothing that jumps out. I'm sure Apple could have done more maybe at the time. I agree with staff that I think this goes to the integrity of the shopping center, that you're going to have one store that is completely different than the other ones. All the others have very muted signage. It is very particular with each store, but they don't jump out and scream at you. I think Zoe's does that. It's kind of like Sesame Street: which one of these things doesn't belong? I think that Zoe's sign is going to stand out like that. For the integrity of the center, I don't think it's a good fit.

Comm. Ramsey: I go with Commissioner Levitan. I think in this day and age, retail has to do what retail has to do to survive. It's a hard deal out there, and I go back to if the shopping center has signed off on it and is fine with it, which means the rest of the tenants are fine with it, I don't think I have that big a problem with it.

Chairman Elkins: Thank you. Additional comments? Seeing none, I would entertain a motion.

A motion to recommend approval of CASE 96-17 – TOWN CENTER CROSSING – ZOE'S KITCHEN – Request for approval of a Final Plan for a Change to the Façade of a tenant Space, located south of 119th Street and east of Roe Avenue – was made by Pateidl; seconded by Belzer. Motion carried with a vote of 6-1. For: Levitan, Hoyt, Belzer, Block, Pateidl, Ramsey. Opposed: Coleman

Chairman Elkins: The chair would like to call for a brief break before hearing the business of the city.

Short break

Chairman Elkins: The commission calls Case 102-17.

CASE 102-17 – CITY OF LEAWOOD – CITY PARK TEMPORARY STORAGE CONTAINER – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, located north of 109th Street and east of Lee Boulevard. **PUBLIC HEARING**

Staff Presentation:

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 102-17 – City Park Temporary Storage Container. The applicant is requesting approval of a temporary container to be located north of 109th Street and east of Lee Boulevard within City Park. Surrounding the property of I-35 to the north is a public dog park and the Johnson County Unified Wastewater treatment plan. The applicant is proposing one steel 8'x 40' temporary storage container to be placed across from the current Parks and Recreation Department maintenance building, adjacent to the trash enclosure. This is the area of the park near the playground. The container will be accessed daily Monday-Friday during business hours, and the need for the container is the result of flooding that occurred at the parks maintenance shop, located at 104th and State Line. The container will be placed on a hard surface and will be anchored to the ground. The Special Use Permit shall expire in two years. Staff recommends approval of Case 102-17 with the stipulations in the Staff Report.

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

Comm. Belzer: I have a procedural question. These three are all regarding the same situation. Do we have to do each one separately since it's a different case in a different location?

Chairman Elkins: I would prefer that we do so, yes. Ms. Schuller, you said the length is two years, and you indicated why it is needed. What are the chances that the need will go away in less than two years? What is it that is supposed to happen that will eliminate the need, going forward, for this temporary storage container?

Mr. Klein: The City is looking to relocate the Parks Department after two major floods in the area. They are looking at alternative sites, but I don't have information beyond that.

Chairman Elkins: The hope is that the Parks Department will have a new home where these materials can be moved.

Mr. Klein: Correct.

Chairman Elkins: Because this is a Special Use Permit, it requires a Public Hearing.

PUBLIC HEARING

As no one was present to speak, a motion to close the Public Hearing was made by Pateidl; seconded by Ramsey.

Chairman Elkins: I will comment that I understand the need. I'm not thrilled about having three of these sprinkled throughout the city for two years. I wish there was some other resolution to the issue. I sympathize with the Parks Department for having been flooded twice in one year. I think we all are very proud of our City Park. I may not go so far to call this an eyesore, but it is unfortunate. If there are no other comments, I would entertain a motion.

Comm. Ramsey: Did we take a vote to close the Public Meeting?

Comm. Elkins: I'm sorry. I'd entertain a motion to close the Public Hearing.

Comm. Ramsey: We've done that.

Comm. Elkins: I'm sorry. I would entertain a motion on Case 102-17.

A motion to recommend approval of CASE 102-17 – CITY OF LEAWOOD – CITY PARK TEMPORARY STORAGE CONTAINER – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, located north of 109th Street and east of Lee Boulevard – was made by Pateidl; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 107-17 – CITY OF LEAWOOD – IRONWOODS PARK TEMPORARY STORAGE CONTAINERS – Request for approval of a Special Use Permit, Preliminary

Plan, and Final Plan, located east of Mission Road and South of Ironwoods Drive.
PUBLIC HEARING

Staff Presentation:

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 107-17 – Ironwoods Park Temporary Storage Container. As with the previous case, the applicant is requesting approval of a temporary storage container to be located east of Mission and south of Ironwoods drive within Ironwoods Park. The applicant is proposing to place two steel 8’ x 20’ temporary storage containers adjacent to an existing Parks and Recreation maintenance building. This is the area of the park near the rock climbing wall and the challenge course. Again, the container will be accessed daily, Monday-Friday during business hours. It will be anchored to the ground and will be on a hard surface. The Special Use Permit shall expire in two years. Staff recommends approval of Case 107-17 with the stipulations in the Staff Report.

Chairman Elkins: Thank you. Questions or comments from Ms. Schuller? Seeing none, I open the Public Hearing.

Public Hearing

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

Chairman Elkins: That takes us to comments.

Comm. Levitan: Do these come in different colors? Can you get one that is green?

Brian Anderson, Parks Superintendent for the City of Leawood, appeared before the Planning Commission and made the following comments:

Mr. Anderson: There are color options. I saw grey and tan when I looked at these. That said, I’m sure we could find a paint color if that was an issue to try to disguise them a little better.

Chairman Elkins: We would encourage you to find colors that are the least obtrusive in the space. Additional comments? If not, I would entertain a motion.

A motion to recommend approval of CASE 107-17 – CITY OF LEAWOOD – IRONWOODS PARK TEMPORARY STORAGE CONTAINERS – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, located east of Mission Road and South of Ironwoods Drive – was made by Coleman; seconded by Pateidl.

Chairman Elkins: Is this also a 2-year term?

Ms. Schuller: Yes.

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

CASE 108-17 – CITY OF LEAWOOD – PUBLIC WORKS MAINTENANCE FACILITY TEMPORARY STORAGE CONTAINER – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, located south of 143rd Street and east of Kenneth Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 108-17 – City of Leawood Public Works Maintenance Facility Temporary Storage Container. As with the previous two cases, the applicant is proposing one steel 8’ x 40’ temporary storage container to be located on the east side of the current Public Works maintenance facility building. The container will be accessed daily, Monday-Friday during business hours. It will be placed on a hard surface and anchored to the ground. The Special Use Permit shall expire in two years. Staff recommends approval.

Chairman Elkins: Questions for Ms. Schuller?

Comm. Ramsey: Why does Public Works need it? They haven’t been flooded out, have they?

Ms. Schuller: It is for the Parks Department; it is just located in the Public Works facility.

Mr. Anderson: There are 23 full-time employees in the Parks Department on three different crews. We’ve had to split up into three groups. There is a group of employees that is working out of the Public Works facility, and this is extra storage.

Comm. Ramsey: Thank you.

Chairman Elkins: Additional questions? Again, a Public Hearing is required.

Public Hearing

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

Chairman Elkins: That takes us to comments. I will say that I'm not as troubled by this container at Public Works as I was at the parks. Any other comments? If not, I will entertain a motion.

CASE 108-17 – CITY OF LEAWOOD – PUBLIC WORKS MAINTENANCE FACILITY TEMPORARY STORAGE CONTAINER – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, located south of 143rd Street and east of Kenneth Road – was made by Block; seconded by Hoyt. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 109-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-7, TABLE OF USES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to short-term rentals. PUBLIC HEARING

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 109-17 – Leawood Development Ordinance Amendment to Section 16-2-7, Table of Uses. This application and Case 110-17 have to do with housekeeping with regard to short-term rentals. On September 5, 2017, the Governing Body amended the Leawood City Code with regard to short-term rentals. Basically, short-term rentals of houses of less than 30 days, including any portion of any residence, is not allowed within the City of Leawood. This particular ordinance removes Bed and Breakfast from the Table of Uses. By definition, Bed and Breakfast is a short-term rental. As I said, this is one of two housekeeping measures followed up with the next application as well.

Chairman Elkins: Thank you. I haven't made the time to look through the Table of Uses in great detail. Is there a new entry in the Table of Uses for short-term rentals, then?

Mr. Klein: No, I believe the city is trying to regulate short-term rentals. You have probably heard a lot about Airbnb is something you're probably heard a lot of. Sometimes, that's a little bit difficult to regulate, especially infiltrating residential neighborhoods. This is trying to place regulations to ensure that it doesn't get out of hand.

Chairman Elkins: This may get us into the next case, but is a Bed and Breakfast now falling within the definition of Hotel that we will look at shortly?

Mr. Klein: No.

Chairman Elkins: Under what theory, if any, will Bed and Breakfast be a permitted use in Leawood?

Mr. Klein: It will not be a permitted use.

Chairman Elkins: What about the Airbnb?

Mr. Klein: It is to ensure that if there is any kind of rental, it must be 30 days. This is trying to place limitation on short-term rentals.

Chairman Elkins: It feels like a prohibition on Airbnb. I just want to make sure I follow the policy the Governing Body is pursuing. That is effectively what we're doing. Additional questions for Mr. Klein? Because this is an amendment to the LDO, this requires a Public Hearing.

Public Hearing

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

Chairman Elkins: That takes us to a discussion of Case 109-17. Any comments or questions?

Comm. Belzer: How will the Airbnb regulations be enforced?

Mr. Klein: Actually, Airbnbs are advertised on the Internet and are not hard to find. It is usually pretty easy to tell what is going on in the city.

Mr. Coleman: Normally, it is not hard at all because we get complaints from the neighbors.

Chairman Elkins: Additional discussion? Seeing none, I'll entertain a motion.

A motion to recommend approval of CASE 109-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-7, TABLE OF USES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to short-term rentals – was made by Block; seconded by Ramsey. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 110-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-148, HOTEL – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of a hotel. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 110-17 – Leawood Development Ordinance Amendment to Section 16-9-148, Hotel definition. As stated with the previous case, this is a clean-up

measure with regard to short-term rentals. This particular amendment is with regard to the definition of Hotel, which is currently defined as any building containing six or more guest rooms. This amendment will change that to one or more sleeping rooms. Then it also adds, “The term *Hotel* shall not include residential rentals of dwelling units.” This is to come into conformance with City Code.

Comm. Pateidl: Mark, I’m a little troubled by the terminology we are using as one or more sleeping rooms. I’m not familiar with the City Code as to what restrictions or qualifications relate to a hotel that may now transfer to other locations. For example, a women’s shelter and an urgent care center may have a room that is used overnight. While it certainly may not be the intent that those locations are a hotel, they’re going to fit the definition. Does that create any conflict in our city codes?

Mr. Klein: I certainly understand that. The Legal Department did look at this. I think they have a portion of this that says, “For the purposes of providing overnight lodging facilities to the general public.” Typically, a group home or safe house really isn’t meant for the general public and is more targeted to an individual group.

Chairman Elkins: Thank you. Additional questions for Mr. Klein? Again, because this is an amendment to the LDO, it requires a Public Hearing.

Public Hearing

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

Chairman Elkins: That takes us to discussion of Case 110-17. Seeing none, I would entertain a motion.

A motion to recommend approval of CASE 110-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-148, HOTEL – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of a hotel – was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 111-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-1.3(D), ACCESSORY USES: OFFICE, COMMERCIAL, INDUSTRIAL, AND SPECIAL DEVELOPMENT DISTRICTS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to recycling bins in commercial districts. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 111-17 – Leawood Development Ordinance amendment to Section 16-4-1.3(D). This is in regard to recycling bins. As the Planning Commission may recall, we had a work session with regard to allowing recycling bins within commercial districts. These could not be necessarily located within an enclosure. Currently, a recycling bin has to be treated as a trash enclosure within a commercial district. This allows administrative approval of a recycling bin, provided that it meets certain requirements. As you recall, when the Planning Commission considered locations, one was at Ranchmart. There were concerns about the close proximity to residential and a school. City staff looked at it and tried to tailor this in such a way that it would fit such a location that we were considering at Market Square but not allow it within the Ranchmart shopping center. First, this would be limited to one recycle bin. Secondly, it would be limited to 30 cubic yards, which is the size we discussed at the work session. Additionally, it would have to be a minimum of 40 feet from all property lines, and it couldn't be located closer than 200 feet to any property that was either used, zoned, or master-planned as residential. That requirement right there is what would not allow it to be at the location we discussed at Ranchmart. It would also not be allowed to be located in the front or street-side side yards. It could be located at the building setback but could not be located within the yards. It would also have to be placed on a hard surface. It could be screened by existing structures, architectural structures that match the material of the building, or landscaping. The landscaping could be placed anywhere between the recycle bin and the property line. Sometimes, it could be more effective to have the screening close to the property line because it would block the line of sight better; other times, it could be more advantageous to have the landscaping closer to the recycle bin itself. It would also require the recycling bin to be screened on a minimum of three sides. If the recycle bin was located within 100 feet of the property line, it would have to be screened from that property line that is adjacent to a public right-of-way. The intent is to stay away from the right-of-way and to limit visibility. The location we looked at in Market Square was set back much farther than that. The recycle bin would only be permitted to be moved between the hours of 7:00 am and 5:00 pm Monday-Saturday. It couldn't be moved on Sunday at all. The recycle bin would need to be maintained and in good condition. Any noise associated would be subject to the Noise Ordinance of the Leawood Development Ordinance, which is 60 decibels at the property line. Staff is recommending approval of this amendment, and we'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for staff?

Comm. Pateidl: Mark, in your presentation, you indicated that the limitation in this would be for one trash container. To be clear, this is for an administrative approval that would not require any presentation to the Planning Commission or any other body. However, if somebody wanted two or more bins, could they make a special application to the Planning Commission? Candidly, all the criteria you outlined is basically what is contained in the ordinance, which the Planning Commission would have to consider anyway. Are we saying with this that a commercial operation can only have one recycling container? Or they can have more than one, but it won't be administratively approved?

Mr. Klein: This allows one to be administratively approved, as you said. I don't think it allows more than one, even if it went to Planning Commission and City Council, unless it was fully enclosed like a trash enclosure with the appropriate restrictions on trash enclosures.

Comm. Pateidl: I understand that. The administrative authority is limited to those applications with one container.

Mr. Klein: Correct.

Comm. Pateidl: But, more than one can be presented, subject to the requirements as such.

Mr. Klein: Subject to the requirements that it is attached to the building and totally enclosed.

Comm. Coleman: What is the standard size of one of the Ripple Glass bins?

Mr. Klein: It is 30 cubic yards. That is where we got that number.

Chairman Elkins: Mr. Klein, one thing I want to clarify is the intent with respect to this amendment is not directed at any particular recycling bin or location; it is staff's position that this is in the best interest of the city as a whole?

Mr. Klein: That is correct, and this is for all recycling bins and not just Ripple Glass.

Comm. Coleman: Would this apply to recycling bins for newspaper as well?

Mr. Klein: In commercial districts, it would. We do have a section of the LDO that allows recycle bins associated with churches and schools, and they have their own set of regulations. This is commercial.

Chairman Elkins: Additional questions? Once again, because this is an amendment to the LDO, it requires a Public Hearing.

Public Hearing

Stacia Stelk, Ripple Glass, 1642 Crystal Avenue, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Ms. Stelk: Ripple Glass has been offering a glass recycling solution in Kansas City since 2009. We work with retail businesses and property owners to provide glass recycling locations. We have worked very closely with Gary McKeever in the past, and he is very excited about the prospect of hosting a container at Market Square. I anticipate that, with the high recycling rate, that Leawood residents will really embrace this opportunity to recycle. I anticipate it will collect at least 300 tons of glass every year, which is the

equivalent of 1.2 million bottles and jars every year that Leawood would help recycle. I also have a letter from Jim Potter and the Sustainability Advisory Board if you would like me to read it.

Chairman Elkins: Please read it.

Ms. Stelk: “Dear Leawood Planning Commission and Leawood City Counselors, As volunteer board members of Leawood Sustainability Advisory Board (SAB), it has come to our attention that the first placement of a Ripple Glass container within the City of Leawood is under consideration by the Planning Commission. Inasmuch as SAB is charged with defining and promoting accessible, sustainability practices for our citizens, we truly believe that Ripple Glass containers fit within our scope and the attainment of our city’s goals. This is apart from the clear success and committed usage that Ripple Glass containers have realized in our neighboring cities of Overland Park and Prairie Village. Indeed, we have heard from many citizens that they have had to travel to these locations with no containers available within Leawood. We recognize there are planning and community issues that the city and city staff need to be mindful of to maintain the standards of our community; however, we would be disappointed if these issues cannot be overcome in a reasonable and timely manner. At the very least, we would welcome a trial period to introduce this container and would be happy to report any feedback we receive from our Leawood community. We have asked Jim Potter, a fellow SAB member, to present this letter on behalf of our group and address any suggestions you may have.” (Clearly, I am not Jim.) “Jim can be reached at JPotter@DI-KC.com. Thank you for your service to the Leawood community and for your consideration to address this issue.” He was unable to make it this evening and asked me to pass along this letter. Do you have any questions for me?

Chairman Elkins: I guess I have a question. What is your organization’s feeling about the regulations that are being proposed to put around the installation of a recycling bin such as what you all sponsor?

Ms. Stelk: I know the history and how some of these things evolved over the past 15 years with recycling containers and overflowing containers and how you start with one container and then suddenly have a dozen containers. I think it makes a lot of sense to put some standards of practice into place. For instance, I’ve had experience in other cities where we have a very successful Ripple Glass container in place, and then an unnamed clothing company comes in and drops a container there, and it is an overflowing mess. It honestly gives a black eye to the entire recycling community. I embrace the notion that we are putting some firm standards in place so that we can make this a huge success. I am confident that, with the volunteers in the community and our partners at Price Chopper, we can make that work. Also, within the last year, we have hired two drivers for Ripple Glass and have our own trucks, so we are no longer reliant on an outside contractor to service our containers. Our drivers carry brooms and dustpans to tidy up. It is our commitment to make this a happy experience because Ripple is about recycling and not litter.

Chairman Elkins: Thank you. So, you don't feel like any of the regulations we have discussed tonight would be overly burdensome on the process?

Ms. Stelk: I don't believe so. I know we're disappointed about Ranchmart, but I understand the concerns there. We will work within the parameters. It's taken us a long time to have this conversation, and I'm just excited we have the opportunity to have a trial period.

Chairman Elkins: Thank you very much for your comments. Again, we appreciate you having waited so long this evening.

Ms. Stelk: It's okay; I got really far in my book.

Chairman Elkins: Any additional questions? You may step down. Additional comments from the audience?

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

Chairman Elkins: That takes us to comments on Case 111-17. Seeing none, I would entertain a motion.

A motion to recommend approval of CASE 111-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-1.3(D), ACCESSORY USES: OFFICE, COMMERCIAL, INDUSTRIAL, AND SPECIAL DEVELOPMENT DISTRICTS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to recycling bins in commercial districts – was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 113-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.3, R-1 (PLANNED SINGLE FAMILY LOW DENSITY RESIDENTIAL) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to minimum lot size for newly created lots within the R-1 zoning district. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 113-17 – Leawood Development Ordinance amendment to Section 16-2-5.3, R-1 (Planned Single Family Low Density Residential), pertaining to the minimum lot size of new lots. This application and the following application are related. This one has to do with the R-1 District; the next application will be for RP-1, which is Planned Single Family Residential. Within both of those districts is a requirement that if you create a new lot within one of these districts, you have to meet the greater of either

the minimum lot size based on square footage (15,000 square feet in R-1) or the average lot size within 300 feet of the project up to a maximum of 1 acre. In other words, if all the lots are very large around it and the average lot size is more than an acre, the minimum requirement would be 1 acre. If it was such that the lot sizes were less than the minimum requirement, it would have to meet that. Within the table for bulk regulations for the R-1 District, it doesn't specify whether this calculation takes all the lots within 300 feet of the project within the City of Leawood or in other cities as well, such as Overland Park. What staff would like to do is to make this clear that the intent is to make sure that the new lots created match the lot sizes within the City of Leawood. The concern is if an adjacent community has significantly smaller lots, it might drive the average lot size down, which would then make the new lots more in character with the lots in the other city as opposed to the lots in Leawood. I did look at areas within the City of Leawood and found an example (*Shows example on overhead*)

Chairman Elkins: I would rise to a point of order. The chair would entertain a motion to extend the meeting for a period not to exceed 30 minutes.

A motion to extend the Planning Commission meeting for a period not to exceed 30 minutes was made by Pateidl; seconded by Levitan. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

Mr. Klein: There is no application on the property shown in the example. The city boundary carves around Timber's Edge, which is in the City of Overland Park. The lots that are adjacent are generally between 6,000-8,000 square feet. The subdivision in the City of Leawood had significantly larger lots at approximately 16,000 square feet and larger. Evaluating within 300 feet picks up several lots in Overland Park, which would lower the average. These two applications are intended to limit lots within the City of Leawood within the average.

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

Comm. Levitan: Is there anything behind this that is the motivation for cleaning this up?

Mr. Klein: We've had some applications where it just wasn't clear. In the past, applicants have made the argument that it doesn't specifically say that the properties have to be in Leawood. This is to avoid those conversations.

Comm. Pateidl: Just to be clear, in the highlighted section of the change, it reads, "The lot area for new lots with the greater of 15,000 square feet or the average up to a maximum of 1-acre lot sizes within 300 feet of the lot line . . ." There is no minimum, then, in accordance with this if, within 300 feet of the lot, the average size is 1,200 feet or 1,000 feet. Then that would become the minimum?

Mr. Klein: The first part says, “The greater of . . .” and then it has the 15,000 square feet reference, which is the minimum for R-1 and then, “. . . or the greater of either the 15,000 square feet or that average.”

Comm. Pateidl: You cannot have a lot in R-1 that is less than 15,000 square feet.

Mr. Klein: Correct.

Chairman Elkins: Additional questions for Mr. Klein? I would open the Public Hearing.

Public Hearing

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

Chairman Elkins: That takes us to a discussion. Any commentary or concern? I would entertain a motion.

A motion to recommend approval of CASE 113-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.3, R-1 (PLANNED SINGLE FAMILY LOW DENSITY RESIDENTIAL) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to minimum lot size for newly created lots within the R-1 zoning district – was made by Coleman; seconded by Hoyt. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

CASE 114-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.4, RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to minimum lot size for newly created lots within the RP-1 zoning district. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 114-17 – Leawood Development Ordinance Amendment to Section 16-2-5.4, RP-1 (Planned Single Family Residential). This application is identical to the previous application. The only difference is that within the RP-1 District, there is a minimum lot size of 12,000 square feet as opposed to 15,000 square feet. Other than that, the amendment is identical.

Chairman Elkins: Thank you. Questions for Mr. Klein? Seeing none, I would open the Public Hearing.

Public Hearing

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

Chairman Elkins: That takes us to discussion. If there are none, I would entertain a motion.

A motion to recommend approval of CASE 114-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.4, RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to minimum lot size for newly created lots within the RP-1 zoning district – was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Pateidl, Ramsey, Coleman, and Block.

Chairman Elkins: Just a few short comments before we adjourn tonight, as I mentioned at the onset of the meeting, I requested that we continue Case 115-17 to the next work session. Staff, do you know the date?

Mr. Klein: It is November 14th.

Chairman Elkins: I know we're getting close to the holiday season, but hopefully, that will give you all an opportunity to review the revisions to our Comprehensive Plan. One of our statutory duties and perhaps one of the reasons we've all agreed to serve on the commission is to take a forward look at planning in Leawood. Yes, Leawood is much developed out. We've attempted, as a city, to address the 135th Street Corridor. There are a few other undeveloped portions of Leawood, but I think it's incumbent on us to look forward to the future. This is an opportunity in my mind to look over the horizon and not get so buried in the trees of the forest. We had a long, tough night tonight with respect to specific plans, but for my dollars, this is where the Planning Commission is fun in trying to look ahead. I would encourage you all to look at this, and to the extent you have questions about the planning process, the history of how we got here, or where we might be going in the future. I would encourage you to package those up and maybe get those to staff. I certainly intend to give them my thoughts about some of the questions I have about the long-term planning efforts for the city and what their thoughts are as professional planners for the long-term planning thoughts for the City of Leawood. Some of the things we don't typically think about, such as at what point we need to get serious about redevelopment. There are parts of Leawood that are 60-70 years old. They may not have been Leawood at that point in time, but there are parts of Leawood where we will have to start considering such things. I'm curious about what staff's thoughts are about when it is we start thinking about that and what kinds of things we ought to be doing. What's keeping the staff awake at night in terms of future planning? Those are just a couple things that I plan to put on their agenda. It would be helpful for them and helpful to our whole process. We, of course, expect them to present us with a packet before we come here so we can address the questions intelligently. We owe it to staff to give them

at least some sense of what our questions are and, quite frankly, to not have the position that they need to drop back and think about it and get back to us at the next work sessions because sometimes these work sessions get fairly far between. I know I'm on my soap box and everybody wants to get home, but please try to make the time to not only review this but think through in your own hearts and heads about where you think the city ought to be going and package those into questions that our staff can organize for us to have a very meaningful discussion. I think we'll probably only have two items on the agenda. The other one, interestingly enough, will be a report on where we stand on Self-Propelled Leawood. The city is due to give us a report on that tonight. I expect that to be a relatively short report and frankly a short discussion. I really want us to direct our attention to the Comprehensive Plan. Questions? If not, I thank you for your service and your patience. I thank you for what we went through tonight. I thought we did a very deliberate job with respect to the school district's application. I'm grateful for your tolerance of that.

MEETING ADJOURNED