

**City of Leawood  
Planning Commission Meeting  
April 24, 2018  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive  
Leawood, KS 66211  
913.339.6700 x 160**

**CALL TO ORDER/ROLL CALL:** Hoyt, Levitan, Pateidl, Elkins, Strauss, Coleman, Block, and Stevens. Absent: Belzer

**APPROVAL OF THE AGENDA**

Chairman Elkins: Are there any revisions or additions to the agenda?

Ms. Schuller: No.

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

Chairman Elkins: I understand there was some concern by some members of the public that there might be an opportunity to be heard on the issue of a development on 133<sup>rd</sup> Street between Mission and State Line. I would note that the agenda that has been approved by the commission for this evening does not include any sort of development for that location. Indeed, there will not be an opportunity for the commission to consider that this evening. As I understand it, I don't believe there has been an application filed from any developer for that location. We are still quite some time away from when the commission might consider any sort of plan for developing that area. I wanted anyone here for that purpose to know that it will not come up for discussion this evening.

**APPROVAL OF MINUTES:** Approval of the minutes from the March 27, 2018 Planning Commission meeting, April 10, 2018 Planning Commission meeting, and the April 10, 2018 Planning Commission work session.

**A motion to approve the minutes from the March 27, 2018 Planning Commission meeting was made by Pateidl; seconded by Hoyt. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

**A motion to approve the minutes from the April 10, 2018 Planning Commission meeting was made by Hoyt; seconded by Coleman. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

Comm. Block: In the work session minutes, there are a few comments attributed to me that should have been attributed to Commissioner Coleman. On Page 11, the first two attributed to me should have been Commissioner Coleman. On Page 15, in the middle of the page is another one. At the top of Page 16 the final one.

Chairman Elkins: Are there any other revisions?

**A motion to approve the amended minutes from the April 10, 2018 Planning Commission work session was made by Coleman; seconded by Stevens. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

**CONSENT AGENDA:**

CASE 31-18 – TOWN CENTER PLAZA – COLDWATER CREEK – Request for approval of a Revised Final Plan for changes to the façade of a tenant space, located north of 119<sup>th</sup> Street and west of Roe Avenue.

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

**NEW BUSINESS:**

CASE 30-18 – CITY OF LEAWOOD 2019-2023 CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2019-2023 Capital Improvement Program.

**PUBLIC HEARING**

**Staff Presentation:**

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 30-18- City of Leawood 2019-2023 Capital Improvement Program – Request for approval of the 2019-2023 Capital Improvement Program. As the Planning Commission may recall, a work session was held on the 10<sup>th</sup> of this month. The memo attached highlights the projects planned for the current 2018 year and the future proposed projects up to the year 2023. The Capital Improvement Program is here before you for a final recommendation to City Council. Staff would be happy to answer any questions.

Chairman Elkins: Thank you. Mr. Ley, do you have any additional comments you would like to make?

Mr. Ley: From the work session, there were two sheets updated. On Page 30, it was brought to our attention that the length of some of the residential streets didn't seem to be accurate, so we reviewed that. The costs stayed the same, but it appears that the length of the streets needed to be updated. Sheet 51 is the bar chart for the Pay as You Go Arterial. That was also updated to account for all the city funding that was part of the arterial project.

Chairman Elkins: Thank you. Do any of the commissioners have comments they would like to put on the record to bring to Governing Body's attention?

Comm. Hoyt: I just have a point of clarification. On the bar graph at the bottom of Page 51, was that the one that we were concerned about the meaning of the percentages and that they might be reversed somehow? This goes to a comment that shows up on Page 14 of the minutes, where we were looking at the significance of the 64%.

Mr. Ley: The updated chart is on the screen. That shows the total cost of the arterial program at approximately \$4.5 million; 64% of which is coming from the city's budget, and 35% is coming from other sources.

Chairman Elkins: Thank you. Are there additional comments or questions? I appreciate the attention the commission paid to the Capital Improvement Program and the lively discussion we had at the work session. That will help the Governing Body as they consider the Capital Improvements Program. I would recommend those minutes to the Governing Body. If there are no other comments, 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 Hoyt. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

Chairman Elkins: Is there any additional discussion?

**A motion to recommend approval of CASE 30-18 – CITY OF LEAWOOD 2019-2023 CAPITAL IMPROVEMENT PROGRAM – Request for approval of the 2019-2023 Capital Improvement Program – was made by Strauss; seconded by Pateidl. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

CASE 34-18 – PINNACLE CORPORATE CENTRE – REVISED SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located north of 115<sup>th</sup> Street and west of Tomahawk Creek Parkway.

### **Staff Presentation:**

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 34-18 – Pinnacle Corporate Centre – Request for approval of a Revised Final Sign Plan. The applicant is requesting approval of Revised Sign Criteria for the Pinnacle Signage Master Plan. This applies to Pinnacle Buildings II-V. The only change being requested is to allow non-illuminated wall signs on the west and north facades of Buildings II and III. These signs do face residential areas; however, to protect the residents' view, staff has recommended the signs be placed no higher than the floor

line of the 4<sup>th</sup> floor. The signs cannot be illuminated by internal, external, or indirect illumination. Each building is still limited to a maximum of 3 wall signs as was previously allowed with no more than 2 signs per façade. The red and blue lines, indicated on the Master Plan drawing, indicates the possible locations of these signs and not the total number. The applicant is requesting the change because 114<sup>th</sup> Street is the main entrance to these buildings, and these businesses wish to increase their visibility from the roadway. The proposed signage is in compliance with the Leawood Development Ordinance, and staff recommends approval. I would be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions for staff? As a matter of level-setting to remind me, I know that a while back, we modified the LDO to give more administrative authority relating to signs to the planning staff. My thought is the reason this is before us tonight is that this is a change to the plan and not to an individual sign. Is that correct?

Ms. Schuller: That is correct.

Chairman Elkins: Any other questions? I would invite the applicant to step forward.

**Applicant Presentation:**

Michael Goslinga, Hoefer Wysocki, 11460 Tomahawk Creek Parkway, Suite 400, appeared before the Planning Commission and made the following comments:

Mr. Goslinga: I'm here to answer questions or provide any other insight.

Chairman Elkins: Questions for Mr. Goslinga? Do you have any objections to the three stipulations staff has attached to the recommendation for approval?

Mr. Goslinga: We do not.

Chairman Elkins: Thank you. If there are no other questions or discussion, I would entertain a motion.

**A motion to recommend approval of CASE 34-18 – PINNACLE CORPORATE CENTRE – REVISED SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located north of 115<sup>th</sup> Street and west of Tomahawk Creek Parkway – with 3 staff stipulations – was made by Pateidl; seconded by Stevens. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

CASE 35-18 – THE HILLS OF LEAWOOD – FIRST PHASE – Request for approval of a Final Plan and Final Plat, located north of 151<sup>st</sup> Street and east of Mission Road.

**Staff Presentation:**

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 35-18 – The Hills of Leawood – First Phase – Request for approval of a Final Plan and Final Plat. The subdivision is located north of 151<sup>st</sup> and east of Mission Road. Surrounding the property is Ironwoods Park to the north, The Reserve at Ironwoods to the south, a single-family residential development under construction in Overland Park to the east, and the second phase of The Hills of Leawood to the west. Farther west past that is, The Pavilions of Leawood residential subdivision. The single-family residential neighborhood of Mission Heights surrounds the periphery of the proposed development to the west and southwest. The proposed development will include 40 single-family residential units, 22 of which will be manor homes; 18 of which will be estates on 7 separate tracts on 25.53 acres. The development will be combining the second phase of The Hills of Leawood development into a single tract. The first phase will include a monument sign at the entrance of the development facing 151<sup>st</sup> Street with a continuation of retaining walls going north with matching materials. On the other side of the main entrance will be an additional monument that will not have any signage on it. Two neighborhood markers will sit at the northern ends of Tract A and B. Markers will repeat the architecture of the entrance monument. The markers will include a bronze plaque that will differentiate the estates versus the manors within the subdivision with lettering and the subdivision logo. The first phase will also include a wet detention pond that will also serve as a water feature to the north entrance of the development coming off 151<sup>st</sup> Street. Brick paver paths will be constructed on the north side of the development with a direct connection into the existing Ironworks Trail that will be controlled by an electronic gate that will be timed for park hours. An additional connection will be constructed between the proposed development and the single-family development to the east, also constructed of brick pavers. The development was granted a variance not to meet the average lot size within the 300’ boundary by the Board of Zoning Appeals on October 25, 2017. It granted an average lot size of 1,900 square feet per lot. The development was also granted deviations on the side yard and rear yard setbacks by the Governing Body on March 19, 2018 during the preliminary phases of the development. The side yard decreased from 15’ to 12.75’ in the setbacks for 18 lots in the rear yard reduced to 85% of the standard requirement for 15 lots within the first phase. Along the north and east property lines is a 10’ tree preservation easement, along with a 10’ utility easement. On the northern property line, there will be a 5’ tall wrought-iron fence to delineate the easements. Staff recommends approval of Case 35-18 with the stipulations in the Staff Report, and I would be happy to answer any questions.

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

Comm. Block: Does staff have any experience with these automatic gates? I guess I’m having trouble visualizing. If a kid was in the way of the gates and it was time to close the park, will the gate close even if a person is in the way?

Mr. Coleman: The applicant could probably explain it better.

Comm. Block: There’s a fence on the northern side but not on the eastern side to protect the tree easement?

Mr. Sanchez: Correct.

Comm. Block: What's the reason for that?

Mr. Sanchez: It is because there is enough vegetation on the east side to make a barrier between the neighborhoods. On the north side, we want to separate the park.

Comm. Block: From a previous case, I thought we had the same issue. I thought it was to protect the easement more than it was to protect the neighborhood from the neighboring neighborhood.

Mr. Coleman: That is correct, but the applicant would prefer not to do that. You could inquire when they make their presentation.

Comm. Block: Lastly, if nothing else, for the northern fence, I think that it might be necessary to better clarify who is responsible for the maintenance of that fence. Is it the HOA, the homeowner, or the city?

Mr. Sanchez: In the Covenants, Conditions, and Restrictions for The Hills of Leawood, the HOA is responsible for the maintenance.

Comm. Stevens: Is part of the applicant's submission for Final Plan an example of housing plans and elevations that we are to act on?

Mr. Sanchez: It is not required for this plan. The applicant provided photos in the preliminary stages of the plan that indicated materials and appearance of the homes.

Comm. Strauss: In the preliminary phase, the Fire Department reviews those plans, right? I remember an issue with long cul-de-sacs.

Mr. Sanchez: The Fire Department had no objections.

Chairman Elkins: If there are no other questions, I would invite the applicant to step forward.

### **Applicant Presentation**

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

Mr. Simpson: We have been working on this application since August of last year with staff. We hammered out a lot of issues. Staff has worked cooperatively with us. We've been through two BZA hearings and a Preliminary Plat with you and City Council. We agree with all the stipulations. With regard to Mr. Block's question, the gate itself just has a lock on an electronic timer. It will prohibit people going in or out that gate at 9:00 PM at night in the winter and to 6:00 AM in the summer. The gate will naturally be in a

closed state, but the lock mechanism is electronically timed. We changed that time on-site to coordinate with the time the parks close.

Comm. Block: I was visualizing something that opened and closed.

Mr. Simpson: The gate's natural state will be spring-loaded closed. The ingress and egress will be available to park participants and residents except for when the park is closed. I'm happy to answer any other questions. We agree to all the stipulations.

Comm. Strauss: I remember we had a lot of discussion with the connection between your development and the development to the east with the grades and being ADA compliant. Did that all get worked out? How did you solve that?

Mr. Simpson: We consulted with a law firm that does nothing but ADA compliance issues, and they said that because it was on private property, the only issue we had was 7% versus 5% and that it was not necessary to achieve the 5%. Somebody in your codes looked at it and generally concurred with it, subject to further review. At this point, we all agree it's going to be a very minimum amount of traffic, and it would take quite a bit of switchbacks to make up that 2%.

Comm. Strauss: It will be a 7% grade, and the city was comfortable with that.

Mr. Simpson: Yes, and we did retain a firm in North Carolina that only works on ADA issues. They gave us advice that because it was on private property on both sides, it would be acceptable.

Comm. Block: The locking mechanism will be maintained by the HOA as well?

Mr. Simpson: Yes; they will maintain the gate and the fence.

Comm. Block: How will the tree easement be protected on the east side?

Mr. Simpson: The east side is an issue that we have addressed before. We did The Villas at Ironwoods next door. We spent \$40,000 cleaning up that tree line and taking out what is called a hog fence that went through the middle and had to be hand-cut out. We pruned all the trees to cut all the dead trees. We did some root feeding to the really good trees and established a 10' tree preservation easement on that side. We established a 10' tree preservation easement on our side, but we added a provision that the HOA would enforce it and if there are any trees standing on the park or east side, it would be a \$1,000 fine. The HOA exclusively is charged with maintaining both those tree lines.

Comm. Block: The declarations for this development say the same thing or just the one in Overland Park?

Mr. Simpson: The one in Overland Park is an easement of 10'. On this side, there is a \$1,000 fine and a maintenance by the HOA. On the other side, it is all maintenance

provided, so yard maintenance, flowers, and tree lines are all maintained by the HOA as a natural part of their dues. Here, we made it specifically a responsibility of the HOA to maintain both tree lines and then add a provision that if the homeowners were to affect any tree, particularly in the tree line facing the park, it would be a \$1,000 fine by the HOA regardless of whether or not they authorized the contract; it is just based on the fact that it is behind their home.

Comm. Block: Is that on the east side as well?

Mr. Simpson: On the east side, there is also that same provision. On the park side, we went a little deeper. We went over with the parks department and walked through the entire 10' easement. The parks department selected trees that were diseased, dying, or affecting trees next to them. Out of 200 trees, we picked 17 that our arborist will take out at our expense.

Comm. Block: Ultimately, the plan was developed and is on file with the city?

Mr. Simpson: Yes; we went out last Wednesday with Brian Anderson to the north side that affects the park. The other side had been done 3 years ago and is really flourishing quite a bit better than the tree line between us and the park because of all the work we had our arborist do on that line.

Comm. Block: To clarify, on the east side, if a homeowner wants to take out some trees?

Mr. Simpson: He cannot, and the HOA will enforce that with a \$1,000 fine.

Chairman Elkins: Thank you. Are there additional questions for the applicant? Thank you. Any additional discussion by the commission with respect to Case 35-18? Do I hear a motion?

**A motion to recommend approval of CASE 35-18 – THE HILLS OF LEAWOOD – FIRST PHASE – Request for approval of a Final Plan and Final Plat, located north of 151<sup>st</sup> Street and east of Mission Road – with 32 staff stipulations – was made by Hoyt; seconded by Pateidl. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

CASE 45-18 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-244(a), SELF-STORAGE/MINI-STORAGE FACILITY – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of a self-storage/mini-storage facility. **PUBLIC HEARING**

**Staff Presentation:**

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 45-18 – Leawood Development Ordinance Amendment to Section 16-9-244(a), Self-Storage/Mini-Storage Facility. This amendment is also related

to the following case. The Governing Body discussed the use of self-storage facilities at a work session on February 5<sup>th</sup>. It was determined at that time that self-storage facilities are not the highest and best use of the remaining developable areas within Leawood. This amendment provides a definition of the self-storage/mini-storage facilities, which is a building or a group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-storage of personal property. The following case will then address self-storage/mini-storage facilities as a prohibited use within Leawood. Staff is recommending approval of this application, and I'm happy to answer any questions.

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

Comm. Strauss: Can you talk about the difference between this case and the next case?

Ms. Schuller: This case is providing a definition of self-storage for reference in the back of the ordinance. The next case puts it in a different section of the LDO as a prohibited use.

Comm. Strauss: This first case is discussing prohibiting it citywide?

Ms. Schuller: The first case is defining it, and the second case will talk about the prohibited use. It wasn't defined previously. The LDO didn't reference it in general. This will give it a definition.

Chairman Elkins: Other questions? I think we have an existing business within Leawood that rents out mailboxes, similar to a private post office. The definition here says, "A building or group of buildings consisting of individual, self-contained units leased to individuals or organizations for storage of personal property." Would it be staff's view that a unit that might be 4"x4"x12" that holds letters would fit this definition? Is it the intent that it would fall in the definition?

Mr. Coleman: I don't know that it would fall under the definition for self-storage.

Chairman Elkins: In the definition that we are approving, how would it be excluded? If we want to include it, I'm fine.

Mr. Coleman: It's a good question. Part of it is the US Mail. I don't know exactly how those mailboxes are licensed because they're handling federal mail.

Chairman Elkins: Some is handled by DHL and other delivery services.

Mr. Coleman: Maybe we should have something in there that excludes it, then.

Chairman Elkins: I can think of one existing business, and it's probably grandfathered in as a nonconforming use.

Mr. Coleman: We have another definition of that use under Post Office in the LDO.

Chairman Elkins: The private post office would fall under that; okay.

Comm. Block: An example might be Amazon lockers, which might not be in Leawood today, but to your point, they have them at Whole Foods now. You can get your Amazon package delivered to Whole Foods. That's another example of something.

Mr. Coleman: It may be something we would have to address in the future.

Chairman Elkins: Additional questions for staff with respect to Case 45-18? Does a commissioner wish to put forth a motion? Actually, I'll 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 Strauss. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

Chairman Elkins: Any further discussion about the definition?

Comm. Block: For what it's worth, going through the packet and information provided, I sympathize with the business owner that is looking for an alternative. I know that's not what this is about but is why this is brought up. I think it is a unique situation with the challenge of the land. I have concerns, as were expressed by Governing Body, about what this could turn into elsewhere in the city.

Chairman Elkins: Thank you. Additional comments? Do I hear a motion?

**A motion to recommend approval of CASE 45-18 – LEAWOOD DEVELOPMENT AMENDMENT TO SECTION 16-9-244(a), SELF-STORAGE/MINI-STORAGE FACILITY – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of a self-storage/mini-storage facility – was made by Coleman; seconded by Stevens. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

CASE 46-18 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-2, PROHIBITED USES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to self-storage/mini-storage facilities.  
**PUBLIC HEARING**

### **Staff Presentation:**

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 46-18 – Leawood Development Ordinance Amendment to Section 16-4-2, Prohibited Uses. This amendment, along with the previous case,

addresses the use of self-storage/mini-storage facilities in Leawood. This amendment proposes to add self-storage/mini-storage facilities to Section 16-2-4, Prohibited Uses. This amendment applies to new construction as well as the conversion of existing buildings, storage facilities, and storage units accessed from the interior and exterior of the building. I would draw your attention to the memo placed on the dais that alters slightly the phrasing that will be put into Section 16-2-4 simply for clarity. Staff is recommending approval of the application, and I'm happy to answer any questions.

Chairman Elkins: Thank you. Questions or comments? 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 Hoyt. Motion carried with a unanimous vote of 7-0. For: Hoyt, Levitan, Pateidl, Strauss, Coleman, Block, and Stevens.**

Chairman Elkins: This brings us to discussion as to whether we think it is appropriate to include this particular type of use as a prohibited use within the City of Leawood.

Comm. Strauss: I don't know if staff has brought pictures to show, but I don't know if I'm convinced that this is such a bad use. There's no noxious smell emitted by these buildings. I understand they can be dressed up to meet all of our requirements on a façade and look very nice. There's a business need. I'd like to have some discussion on that. I understand that these would occur in Business Parks, so there are appropriate locations for them. I hope we don't just move strictly to a motion.

Comm. Levitan: There is one other development at 87<sup>th</sup> and I-35 in Lenexa. There is one that's going to be built at Shawnee Mission Parkway and Metcalf. The renderings I have seen of these are really modern. There is quite a bit of glass, good color, and not your typical storage facility that you have seen in the past. I agree that we need to be openminded.

Mr. Coleman: The Governing Body had a work session on this subject, and there were many pictures of modern storage facilities presented to them. In fact, one of the storage facility people was at the meeting. Governing Body concluded they were not in favor of having this use in the city. I know some of the commission members may not be aware of that.

Comm. Coleman: I read through the minutes of the work session. I agree that there are better uses than the self-storage facilities for land in the city. I think more active revenue-generating developments would be better as well as active businesses and work sites that bring people in, as opposed to storage areas. I think there is plenty of opportunity around the city for self-storage facilities in more areas that have higher traffic use. I think Commissioner Levitan mentioned Metcalf and Shawnee Mission Parkway, which are

heavily used and heavily traveled. I think with how the city is trying to grow, I agree with City Council that it's not the best use of our limited land.

Comm. Strauss: I would argue that a self-storage would generate more people and traffic than some other businesses we find in our current Business Parks. I remember down on Kenneth Road, someone has a facility for storing cars. That doesn't generate any traffic except for that owner going back and forth. With self-storage/mini-storage, people go back and forth to get their goods out and put them in.

Comm. Levitan: I would add that there are only 2 Business Park districts in the entire city. With respect to 103<sup>rd</sup>, that is a difficult parcel. It doesn't work for a lot of people, so what can be done with it? It's not a great traditional warehouse site. Retail is on the downslide, so nobody really wants to do retail back there in what I would consider a B-site. I think it activates a parcel that is difficult. The best case would be to scrape the whole development, lift it up 3'-4' out of the floodplain and then redevelop it, which was looked at by many people. There are so many owners, and over time, it has become unfeasible. I feel like we're restricting that owner's ability to monetize his property. Public Works is back there, as is KC Colors. It is a mishmash of uses. This would be an upgrade in terms of aesthetics. It would be a low traffic generator as well. I don't think people flock to these storage facilities and stay there for hours. It's a difficult site, unlike any other site. It can't be compared to 135<sup>th</sup> Street, which we're trying to get perfectly. The site has a lot of problems. They've had several flooding events. I think giving them this opportunity to do that would be fair.

Comm. Pateidl: As I look through this and thought about US Toy and what they have meant to the City of Leawood over the years, the problem is regrettable. I would say that if we follow the recommendation of the staff, is it no reflection on US Toy. However, when I look at it, I focus on the use and development within the community. It may not be the politically correct thing to say, but self-storage is not who we are nor who we really want to be. True for that site that it may be an effective use for that particular structure; however, this will build precedence, and with some rezoning, a Business Park could end up somewhere else. We then open up opportunities with precedence that could be dangerous. I concur with Governing Body in terms of prohibited use.

Comm. Block: I think I incorrectly shared with the first case in this matter, but from our notes, it sounds like it's hard to control the aesthetics of these. I think if it were within the building that is there today, it probably wouldn't be as big a deal, but down the road, it is going to be hard for us to control these. Unfortunately, what these units have looked like historically is working in favor of prohibiting them.

Chairman Elkins: Even if we approve them, they still have to go through the planning process and meet the standards for materials and the aesthetics we deal with regularly.

Comm. Block: I'm not sure. I just know there were references to colors and other things that could not be dictated or controlled by this process. That is my concern as well if that is accurate.

Comm. Levitan: I think an interesting point is on Page 5 of the work session notes. Councilman Osman brought up the idea of potentially bifurcating a North/South zone under the BP zoning. It would prevent it up on the street but allow it in the back. Maybe the same could be done for Centennial Park on Kenneth. If there is a way to surgically make this happen only in specific locations, it makes everybody happy. He makes an interesting point.

Comm. Strauss: I go back to what the Chairman argued. These are going to be nice-looking buildings. It won't look like self-storage. It will look like an office building. There are the same standards. Back to the idea that we only have 2 Business Parks, they are where they are because they are good locations to put these types of services in. This isn't a drive-by type of business. You know it's there, and you go there. I think these buildings will look better than the parking garages we have in Leawood. This can be an attractive building.

Comm. Levitan: Sometimes we need to step back. I know land in Leawood is precious, but I think sometimes we make more of something than what it is. That land isn't necessarily 135<sup>th</sup> and Roe. It is a major corridor, but let's look at what is there now. There is a Jimmy John's and KC Colors. I think we're making that parcel out to be some of the best land in the city that Nordstrom needs to be on, and it isn't that. I guess I'm asking for a little bit of realism to filter into this discussion, and I would ask City Council to reconsider. It is what it is. You're not going to see a Park Place on that ground anytime soon. There are too many owners and floodplain issues. I would like everybody to step back and think about that for a minute.

Chairman Elkins: Thank you. Additional discussion?

Comm. Stevens: I have a similar understanding that it seems that it could be a suitable use for both of these districts. I guess there was much concern in the minutes of the City Council meeting about having to change the controls within the LDO or the stipulated use conditions. I guess it seems like that could easily be done to address some of these concerns with appearance and height for both areas. It seems like some of the concerns are the 3-story buildings that are using their brands to advertise on the sides of the buildings. It feels like those controls could be incorporated in the LDO.

Comm. Hoyt: On Page 6 at the end of the meeting, Mayor Dunn makes concluding comments that seemed to say that the big issue with a lot of people was that they didn't want to see these things. If, by some chance, one would happen to be built, it shouldn't be visible to anybody in the surrounding area. Ultimately, they came down on the side that it probably meant that the majority of the people in Leawood don't want self-storage. Also, they seemed to indicate there would be layers of limitations or rules and regulations. I don't know if that's an accurate summation of the issues, but this issue that nobody wanted to be able to see it resonates with me. That might be a way of gauging the community sentiment about self-storage. One other question I have is if we were to

recommend this for approval and the Governing Body implemented it, does it make it impossible for somebody to come and ask for an exception?

Mr. Coleman: The way the LDO is set up now is there are some prohibited uses, but if it is not in the LDO, it is not an allowed use. Governing Body wanted to make it explicit that these were not allowed within the city. To discuss this on this particular site or venue is probably not the correct thing to do. This site also is right next to single-family residential. This would be in the back yard of several single-family homes. If you're talking about doing that, it is just going down the road that is not really viable.

Chairman Elkins: In fairness, when City Council had the work session, they talked about specifics as well. It is difficult to not include specifics.

Mr. Coleman: Sure, but we are just talking about putting this into the LDO as a prohibited use. If you don't think it should be a prohibited use, that is your prerogative, but to get into the specifics of a specific owner and location is not appropriate in this venue.

Chairman Elkins: I might disagree with that, but to answer Commissioner Hoyt's question, as I understand it, if someone wanted to build a self-storage after this was approved, it would require an amendment to the LDO to allow the use. There is not a process for an exception.

Mr. Coleman: Yes, and an amendment would have been required previously because it wasn't an allowed use in the city. With this, it is explicit that it is not allowed. It would have to be changed again to allow it.

Comm. Pateidl: As a clarification, what we're talking about right now is because it is not an allowed use in the LDO, we have the grounds to say that a self-storage unit cannot be built in Leawood.

Mr. Coleman: Correct.

Comm. Pateidl: All this would do is to move it to a prohibited use, which makes the hurdle higher to jump.

Mr. Coleman: It makes it explicit.

Comm. Pateidl: To the point that the individuals make and your position about US Toy backing up to residential areas, currently, if an applicant made a petition to change the LDO to get this to be an allowable use and if they had a specific showing, we could address that in a much quicker and more realistic fashion for a specific instance for a specific application. In general, we disallow it, but specifically, with that kind of amendment, it would be allowed.

Mr. Coleman: Actually, it would be spot-zoning that we wouldn't allow. It would either be allowed entirely in a zoning district or not allowed entirely in a zoning district.

Comm. Pateidl: It can't be relegated to a specific site. I was looking for the surgical approach that Commissioner Levitan pointed out. Thank you.

Comm. Strauss: I wish we could have a work session, too. The benefit of seeing the pictures would be helpful. I'm not clear from reading the minutes on what the Council's concerns are specifically with these types of businesses. It sounds like it's the appearance of them. I don't know what the modern self-storage building looks like; I just go back to what a couple of us brought up in that they would still have to meet Leawood's standards from the LDO on the façade. That is what I'm having a tough time with. I've seen the self-storage buildings that are orange off the highway. I don't think that's what we're talking about. I think they're going to have the requirements that we have for our building facades.

Mr. Coleman: We have a few things in our ordinance that refer to aesthetic issues, but it is extremely difficult to regulate aesthetics. We basically don't do it. The buildings that come before you are based on staff negotiating and working with developers to get the best-looking building we can, but there is nothing in the LDO, except for a few materials, that would prevent them from putting in whatever color they want. Keep that in mind. What you see coming before you are pretty well designed, but that is after a lot of work with the architect and the staff.

Comm. Strauss: I feel like we talk a lot about the building material. They give us samples.

Mr. Coleman: We do, but what I'm saying is that when push comes to shove, we don't have a lot of legal basis to stand on for that. If it went to district court, we would probably lose.

Comm. Stevens: Related to that and what I was trying to relay about setting some of those controls, the worry was the appearance that can't be controlled. Maybe at the time, the area allowed a height condition as well as signage concerns. It seems like height could be adjusted for that area to be limited to a 1-story building. We could adjust signage to meet the standard Leawood sign conditions. I guess another part is the BP zoning allows for warehouse use. Granted, that is 75% storage and a smaller percentage for office, but there are other uses that are typical for this area. This could be a well-planned addition to the Business Park.

Mr. Coleman: I would say that the city has never allowed this use ever. When the proposal came forward, Governing Body decided to make it explicit that it was a prohibited use. Now to say that we want this use is going 180 degrees from the history of the city for the past 30 years. If the city had wanted self-storage, it could have been all up and down 135<sup>th</sup> Street or State Line long ago.

Chairman Elkins: Additional discussion? I appreciate the discussion. There are a lot of important issues. I think we've given Governing Body some food for thought. There are certainly challenges, especially in some areas of our city about what the owners really can do with the property. It will take some creativity by the city and the landowners to figure out what can be done with those parcels. If there is no further discussion, I would entertain a motion.

**A motion to recommend approval of CASE 46-18 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-2, PROHIBITED USES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to self-storage/mini-storage facilities – was made by Coleman; seconded by Pateidl. Motion carried with a vote of 4-3. For: Hoyt, Pateidl, Coleman, and Block. Opposed: Levitan, Strauss, and Stevens.**

Chairman Elkins: Is there any additional business?

Comm. Coleman: I'd like to recognize the 3 ladies in the back of the room. I'm sure they're not here on a Tuesday night of their own volition. I'd like to know what school they're representing and what their purpose was if they would like to address us.

Unidentified Speaker: We're from Sion High School, and we're here for our Government class to sit in on a public meeting.

Chairman Elkins: Welcome to our commission. Do you have any questions? Thank you. You're very welcome to be here. Any additional business? If not, we will stand in adjournment.

*MEETING ADJOURNED*