



**The City of Lee's Summit**  
**Action Letter**  
**Planning Commission**

Tuesday, June 14, 2016  
5:00 PM  
City Council Chambers  
City Hall  
220 SE Green Street  
Lee's Summit, MO 64063

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CALL TO ORDER

ROLL CALL

- Present:** 6 - Board Member Jason Norbury  
Board Member Colene Roberts  
Board Member Fred DeMoro  
Board Member Donnie Funk  
Board Member J.Beto Lopez  
Board Member Brandon Rader
- Absent:** 3 - Board Member Fred Delibero  
Board Member Frank White III  
Board Member Nate Larson

APPROVAL OF AGENDA

**A motion was made by Board Member DeMoro, seconded by Board Member Roberts, that this was approved. The motion carried unanimously.**

APPROVAL OF CONSENT AGENDA

[2016-0300](#) Appl. #PL2016-062 - FINAL PLAT - Monticello, 2nd Plat, Lots 33-68 and Tracts D-F; Engineering Solutions, LLC, applicant

**A motion was made by Board Member DeMoro, seconded by Board Member Roberts, that this Public Hearing - Sworn was received and filed. The motion carried unanimously.**

[BILL NO.](#)  
[16-132](#) AN ORDINANCE VACATING A CERTAIN EASEMENT LOCATED WITHIN THE PLAT ENTITLED "LOWE'S ADDITION," IN THE CITY OF LEE'S SUMMIT, MISSOURI

**A motion was made by Board Member DeMoro, seconded by Board Member Roberts, that this Ordinance was recommended for approval. to the City Council - Regular Session, due back on 7/7/2016 The motion carried unanimously.**

[2016-0303](#) Minutes of the May 10, 2016, Planning Commission meeting

**A motion was made by Board Member DeMoro, seconded by Board Member Roberts,**

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that this Minutes was approved. The motion carried unanimously.

[2016-0304](#) Minutes of the May 24, 2016, Planning Commission meeting

A motion was made by Board Member DeMoro, seconded by Board Member Roberts, that this Minutes was approved. The motion carried unanimously.

BUSINESS

[2016-0305](#) PUBLIC HEARING - Appl. #PL2016-077 - SPECIAL USE PERMIT renewal for automotive sales - Midwest Tire & Service, 190 NW Oldham Pkwy.; Midwest Tire & Service, Inc., applicant

Chairperson Norbury opened the hearing at 5:02 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Joe Calvin, representing Midwest Tire and Service, gave his business address as 190 NW Oldham Parkway in Lee's Summit. They were known as the Goodyear Tire Center franchise, and had been in business since 1974. He had applied for and was granted a Special Use Permit for automotive sales seven years ago. The business was limited to five cars and had a 7-year term. Tonight's application was to renew the SUP.

Following Mr. Calvin's presentation, Chairperson Norbury asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-17 into the record. She confirmed that this was an SUP renewal for vehicle sales as an accessory use. Staff recommended approval subject to Recommendation Items 1 through 4 listed in their June 10, 2016 report. The SUP was to be for another 7-year term, to expire on April 26, 2023. Five vehicles would continue to be the maximum for sale at any given time, and display and storage areas had to be paved and "the vehicles arranged in an orderly manner" (Item 3). Recommendation Item 4 specified that "the sale display area shall be striped according to a plan approved by staff." These were basically the conditions for the original permit.

Following Ms. Stanton's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none, he then asked if the Commission had questions for the applicant or staff.

Chairperson Norbury asked what standard was used for how many spaces to recommend for a Special Use Permit, such as this application where the business was limited to five displayed sale vehicles. Ms. Stanton replied that this was an ordinance requirement for vehicle sales as an accessory use. This limitation did not apply to vehicle sales as a primary use, including additional parking for customers.

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Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:05 p.m. and asked for discussion among the Commission members, or for a motion.

Mr. DeMoro made a motion to recommend approval of Application PL2016-077, Special Use Permit renewal for automotive sales: Midwest Tire & Service, 190 NW Oldham Parkway, Midwest Tire & Service, Inc., applicant; subject to staff's letter of June 10, 2016, specifically Recommendation Items 1 through 4. Mr. Lopez seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

**A motion was made by Board Member DeMoro, seconded by Board Member Lopez, that this Public Hearing - Sworn was recommended for approval. to the City Council - Regular Session, due back on 8/4/2016 The motion carried unanimously.**

[2016-0306](#)

PUBLIC HEARING - Appl. #PL2016-084 - REZONING from CP-2 to PMIX and PRELIMINARY DEVELOPMENT PLAN - Lee's Summit Senior Apartments, 110 SE Todd George Parkway; North Star Housing, LLC, applicant.

Chairperson Norbury opened the hearing at 5:06 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Robert Walquist of Quist Engineering, Inc. gave his address as 821 NE Columbus in Lee's Summit and stated that he represented North Star Housing. He noted that senior housing was needed in Lee's Summit and in the current market in general. The project consisted of 72 upscale apartments in a four-story building; and the property was currently zoned CP-2. Displaying the site plan, Mr. Walquist pointed out that the property backed up to a creek that was part of a flood plain, and the owner had allowed Parks and Recreation to establish a trail through this area. The CP-2 uses directly to the east were a bank and a gas station. The northwest corner of the subject property had an existing retaining wall; and the applicant was asking for a slight setback reduction so they could stay as far away as possible from the south boundary. This was R-1 zoning and included the Indian Creek subdivision. They were locating the building as far north as possible.

Mr. Andrew Danner, who had just arrived at the meeting, gave his address as 5775 NW 64th Terrace in Kansas City (MO). He related that he had talked with Mr. Greene, the owner of the property, and had worked with

him on the plan including buffers and separation from the other adjacent uses while retaining the density necessary to make the plan work. Mr. Danner pointed out that Lee's Summit had several other senior projects with four stories. He considered this a good infill setting, and prospective tenants had already expressed interest. They had laid out a 1.5 parking ratio and had met all the City's requirements for the PMIX rezoning; however, they were requesting a modification for the north setback in order to keep the building as far north as possible to keep it well away from the R-1 development to the south. They planned a buffer at that end with landscaped burns and fast-growing evergreens.

The building would not have any windows that were not necessary, except for on the fire escape stairs. If there were concerns about anyone looking out these could be blacked out, but they could not get rid of the windows entirely. All patios and porches were on the east and west sides of the building, with the west side facing the parkland. The applicant had held a neighborhood meeting and had heard people express concerns about privacy. They had asked Mr. Greene about the visibility of his own building, the existing gas station, which was 26 feet 8 inches high at the top. That top part of it could be seen through the existing trees, with an elevation of 957.8 feet. The proposed building would be at 950. They had not done full architectural renderings for the new building as yet; however, its height would be between 36 and 40 feet depending on whether the apartments had 8-foot or 9-foot ceilings; and for the 40-foot height, the highest window would be about 35 feet. Mr. Danner added that they planned a pitched roof as appropriate for the area. He emphasized that this was a fairly low-impact use that would not generate much traffic.

Mr. Danner then displayed photos of a comparable 4-story building in the metro area. They had been taken from about 250-350 feet away, with the distance to the proposed building's closest neighbor being 185 to 200 feet. The displayed senior housing had a walking trail in front and heavy landscape screening. Some of this screening would not be very effective in winter, which was why the current project would use evergreens. The attendees at the neighborhood meeting were concerned about stormwater issues as well as the size of the building, and the project met all the City's standards for stormwater management.

The apartments would range between 850 and 1,150 square feet and from one bedroom and one bathroom to two bedrooms and two bathrooms. They would be energy-efficient, and would include the major appliances. Rents would range from \$800-900 to \$1,200-\$1,300 a month.

Chairperson Norbury noted that staff's report included four Recommendation Items and asked Mr. Danner if he agreed with them. Mr.

Danner answered that he did, and had attended several meetings with staff.

Following the applicant's presentation, Chairperson Norbury asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-16 into the record. She described the project as a 72-unit, 4-story senior living apartment building on 2.6 acres. Staff recommended approval subject to the four Recommendation Items, which Ms. Stanton read in full.

A modification would be granted to the requirement for high-impact screening along the west property line, "to allow the existing mature tree stand to serve as a screen, provided the trees in the creek area remain undisturbed." [Recommendation Item 1]. Recommendation Item 2 required that "a trail easement shall be dedicated for the realigned portions of the trail that are not within the existing 10-foot trail easement."

Recommendation Item 3 stated that "a vacation of easement shall be submitted for those portions of the existing 10-foot trail easement that are no longer intended to be utilized." Recommendation Item 4 stated that "development standards including density, lot area, setbacks, shall be shown on the Preliminary Development Plan date stamped June 3, 2016."

The modification for screening had been brought forward from the previously approved preliminary development plan, and the PMIX zoning did allow for setting standards for setbacks and density. The setback had been referred to as a modification but that would be for CP-2 zoning, not PMIX.

Following Ms. Stanton's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Ms. Gelinda Clark gave her address as 208 SE Brownfield Drive in Lee's Summit. Her yard backed up to the subject property. She related that the neighbors had been through a process like this before. When the Temp Stop had gone in, the builder and the engineer had met with them and had put in the fence the neighbors had wanted. They had reassured residents that there would be no flooding; however, her back yard and others had been turned into swamps by this development. The neighbors had to put French drains in their yards at their own expense, and they still had trouble regularly. They did not have any reason to believe that this would not happen with the current project, and had learned from experience how much such promises were worth. They had experienced not only water in their yards but a lot of soil washed away as a consequence. Further, as soon as digging had started the neighbors had experienced an invasion of moles and field mice while other wildlife, such as foxes and deer, had

disappeared. They had even been told they would have to bring in owls and foxes to deal with the rodent problem, a suggestion that was not very practical: few people knew how to acquire and introduce these kinds of animals. The animals had gradually come back but this project would evict them all over again and result in the same disruption.

They also had concerns about lights and traffic. Turning on Windburne to access Langsford and Todd George was already difficult and the applicant planned to put in about 100 parking spaces. Regarding noise, her property was right up against the trash bins from Temp Stop, as well as a Papa Murphy's, a Subway and a bank and they already heard the banging of trash bins all night. This project would increase the noise pollution, which could have a significant impact on neighbors and their quality of life and some of these neighbors included veterans with disabilities. While the trail was attractive, the noise level could also scare off migratory birds and people who had previously enjoyed wildlife in general in this neighborhood had seen it disappear. Light pollution was just as severe a problem and again, promises made by earlier developers had meant nothing. In short, the neighbors had no reason to think that this project would not have a major negative effect and that was the reason for the protest petition.

Mr. Paul Hiesburger gave his address as 212 SE Brownfield Drive. He also recalled that the last developer had made promises, and was skeptical about how many seniors had expressed an interest. He did not see why this project had to be put on this small property when there was other property close to CVS and Walgreens. He noted that the one access on the north side of the parking lot was to Todd George and a left turn was impossible due to the median. Anyone exiting would have to turn right, and the lot would have a little over 100 spaces. The intersection of Todd George and 5th Street by the school did not have the flashing light it needed at peak hours; so even right turns could cause traffic to back up. A similar situation existed on Langsford and this development would add to the traffic problems.

Mr. Hiesburger was also not sure that 72 units would not cause water pressure problems, and the proposed building was altogether too big to be compatible with the surrounding neighborhood. For that matter, he did not understand why the City was determined to put tall buildings Downtown. He believed that only profits were being considered, and that this was happening at the expense of the homeowners. He added that following the promises of no flooding he'd had to spend \$800 putting drains in his yard, and pointed out on the displayed map a drain on the south side that carried trash right onto the flood plain. The property owners had even promised good landscaping and Parks and Recreation was constantly having to cut down weeds in the parkland to the west. In short, a multi-family dwelling

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did not belong in this area and no one could promise that seniors would even be interested in living there. If that happened, an issue would come up concerning how the building would be used and they already had some Section 8 housing nearby. He concurred with Ms. Clark's concerns about noise and light pollution as well.

Mr. Terry Green gave his address as 9902 S. Windsor. He stated that he was the previous developer the neighbors had been referring to, and was the owner of the TempStop as well as the leased Papa Murphy's and Subway as well as the subject property. He also owned a vacant lot that was already zoned for a fast-food restaurant. He had not previously heard about any water problems and no one from the City had contacted him; and suspected that the water the neighbors were getting was from their own back yards, with the fence they had wanted put up stopping the water from running north, as it had before the current development went in. If something else was needed, he would be willing to look at it and install French drains. Regarding increased traffic, Mr. Greene pointed out that the zoning had not been for offices but for retail, and the area was a Community Improvement District. This development would actually cost them because it would not bring in any CID money to repay the developers for the improvements they had done to Todd George and Langsford. What had been approved was about 20,000 square feet of light retail, which would bring in 3,000 to 4,000 cars a day to the area. The kind of housing the applicant was proposing tonight would generate about 1.5 trips per day per unit. The end result was a reduction in traffic over what could have been developed. They had met with staff about going ahead and putting in the proposed strip center and were going to start after this center went in at Todd George and US 50. As this was 90% filled today, this would be the time to start that commercial development. The proposed development would generate much less traffic and they were even putting in a wall to block any noise including the noise from trash collection.

Mr. Brian Smedley gave his address as 210 SE Brownfield Drive. He was also representing Mr. Byron Fischer, who held the mortgage on this home. Addressing Mr. Green's reference to the fence, he pointed out that the fence actually sat on top of a berm. It was the berm that could affect water flow, with the fence only being a visual screen. The residents' yards tapered from south to north, with the berm trapping downhill flows. Mr. Smedley emphasized that he would turn his home into a vacant lot rather than live with the proposed project. Along with the other residents, he had enjoyed the wildlife and the water issues had severely impacted his home as it was. His yard had taken about 10 days to dry out after the last big rain, which was not normal. Mr. Fischer, who had formerly lived in the house for 7 years, had not had any issues and it was quite clear what was causing the water problems. Silt had also built up and he would have to

put in new grass at his own expense if he wanted to keep a yard, in addition to the erosion it had caused. The constant slamming of the 'barn doors', actually 8x10 foot steel gates, in the nearby trash enclosures created constant noise as did the trucks that went through there in the middle of the night.

Concerning the claims about the height of the building, Mr. Danner's claim that it would not be much higher than the gas station was not correct and it was already difficult to access Langsford Road off Windburne. An addition of about 70 cars at 1.5 trips per day would have an impact, and his job required him to get in and out more than one time per day, and he knew that taking a left turn was almost impossible. Concerning the proposed landscaping, half the trees that had been planted on that side and on the berm had died and had never even been removed. They had even created an ant problem. Accordingly, he was skeptical that landscaping would address any noise problems. The fence, again, was already an issue and another added building would create an eyesore for people who had lived there for years. He lived on a dead-end street where it was safe for his daughter to ride her bike; Parks and Recreation had done a great job with the trail and the park on the north side of the creek and disrupting the area by putting an oversized building on this small space was not necessary. He remarked that he had been a resident of Lee's Summit for the past 25 years but would probably move away if the City allowed a neighborhood's quality of life to be destroyed just to have one facility have access to a Walgreen's and a CVS.

Chairperson Norbury then asked if the Commission had questions for the applicant or staff.

Ms. Roberts asked if the Todd George/Langsford intersection had a crosswalk. Mr. Park answered that there was.

Chairperson Norbury asked for the applicant and staff to address the concerns that had been brought up, starting with stormwater. Mr. Monter stated that since this was the applicant's project, they would need to address that. Mr. Walquist stated that the existing creek was in a flood plain and had been for many years. He believed that the flooding issues were actually drainage issues due to the fence. These had come up in the last five years and the creek was in fact a flood plain. The houses were out of the flood plain but their back yards did include some of it. This had probably been an issue in the past and it was what it was. Chairperson Norbury said he wanted specific information about stormwater control on the subject property and this specific development. It would have to at least not make the existing problems worse.



Mr. Danner mentioned new inlets they planned to put in. A large berm was on the south side where the trail ended and a lot of water flowed down from that. The individuals who were concerned about the water were on the south side where the fence was located. He believed the problem was with the fence, although there could also be grading issues with the bank and how water flowed off Mr. Greene's lot. They had not yet put in curbs and gutters or any of the stormwater abatement that was originally designed and approved by the City. The applicants had spoken with staff about stormwater management and he believed that they were complying with all the City's regulations. They would address these concerns when they submitted a full set of engineering drawings. They could also work with Mr. Green and the bank about mitigating the issues along the fence. There was not much they could do about homes near the creek, which would rise in heavy rains. This was a flood basin and they would utilize stormwater management as specified in the City's codes.

Mr. Monter stated that this was a preliminary plan and he was aware of the previous drainage issues. City staff had worked with the previous developer to address those issues and do the correct grading. He remarked that this project was actually infill of a previously approved plan. They were modifying some of the things that were put in and as with any final development plan, staff would make sure there was no increase. He agreed with the applicant's observation that these problems were in the lower parts of the watershed, adding that in fact the water did drain away to the southwest.

Chairperson Norbury summarized the testimony as being that the stormwater on the property itself drained away from the nearby houses. Mr. Monter answered that it would drain underground and the lower middle portion of the property was an area inlet that would catch the flow and direct it to an underground storm sewer system and drain the water to the north and west. Mr. Danner stated that Mr. Green had felt that the fence was acting as a barrier to stop water from draining correctly. It was not their intent to increase water flow to the residences.

Chairperson Norbury asked Mr. Park to address the traffic concerns and give some details about traffic. Mr. Park stated there was a plan reviewed for this same location on the property that was retail in nature, namely the strip center. That plan was approved with supporting zoning and moving forward with that plan would be an administrative process as long as there was no opposition and they were conforming with the plan. What had been previously approved would generate more traffic than what was proposed for this development. A senior living center would not generate as much traffic at any time of day as the strip center; and when staff had evaluated this in terms of traffic impact, it was on the consideration of what would

already be allowed and what changes were being considered.

Mr. DeMoro recalled hearing several comments about a wall separating the bank from the neighboring properties and asked if it terminated at the trail. Mr. Danner answered that it terminated at the west property line. It went east-west along the south property line. He confirmed for Mr. DeMoro that they could not touch the mature trees at the creek, as they were in the parkland. They would add more trees at the property line. He added that there was more than one exit, at the north end going into the TempStop. The traffic would not all have to go to Langsford. Mr. DeMoro wanted to know if there was something impeding or diverting the water, or if it was all just flowing according to gravity. Mr. Danner answered that he did not know for sure and did not remember having that specific discussion at the neighborhood meeting. He did intend to mitigate any problems but had not been aware of any issues when he had bought the property. If something was impeding the flow, it could be the fence.

Mr. DeMoro remarked that the water was running in the natural direction and something was making it back up. Mr. Danner did not agree that it was backing up, but rather running at a very fast rate. Noting the testimony of a neighbor about erosion in his yard, he stated that this was not an indication of water pooling. A heavy unexpected rain would result in anyone's yard taking a long time to dry out. He did not believe there was anything impeding or redirecting the flow.

Mr. Monter added that the area to the west was a mitigated area that could not be touched, and this was part of the previous plan. He pointed out on a displayed slide the inlet where the water drained, which was in this area. The applicants would take care of everything on the site if there were issues there, and they had said they would assist individual homeowners in addressing problems. Mr. Monter did not think this development would make the problems worse.

Chairperson Norbury asked Mr. Danner to address the objections to the building's height, including the comparisons to neighboring buildings. Mr. Danner related that the TempStop was at an elevation of 957.8 feet and was 26 feet 8 inches high. The subject property's base elevation was 950 feet. If the units had 9-foot ceilings, the height for each floor would be 10 feet; with 8-foot ceilings it would be 9 feet. Accordingly, the height of the building would be either 36 feet or 40 feet, with the top being the top of the structure where the roof would start. A flat roof would make the building look like a hotel and be out of place, so it would probably have a pitched roof. That could add another 8 to 12 feet; however, all the extra height would be for the roof and would not provide any view of the surrounding properties. Considering the slight difference in base elevation, there would

not be a drastic difference between the heights of the two buildings.

Chairperson Norbury noted that from Todd George the building would look somewhat taller than the TempStop. Mr. Danner stated that someone standing in front of the TempStop looking west would see just the roofline. Chairperson Norbury observed that most of the concerns were about the view from the west, and Mr. Danner emphasized that the south side would have no windows except in the fire escape. All views would be to the west where the park was. He considered the project to include a lot of buffering and the screening would work very well. This was a good infill lot although not easy to develop and this product might actually generate more tax revenue on this lot than a retail development would.

Regarding Mr. Green's comments, Ms. Clark stated that when he came to build the TempStop the neighbors had been treated dismissively and rudely. They had been told that if they did not like the project, they could purchase the property themselves. They had also been informed that they would get only a berm, although she and other neighbors told him they wanted to fence as well. They had been able to convey some of their complaints to the City Council and despite the denials and references during testimony, it was the berm and not the fence that was causing problems. They had also been told that the development would be a strip mall behind offices and she did not believe that a few offices behind a strip mall would generate more traffic than an apartment house with over 70 units. Concerning the property having two exits, the one onto Todd George did not allow for a left turn. The road at that point did not provide any opportunities to turn around in the other direction unless the driver wanted to turn around in someone's driveway.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 6:03 p.m. and asked for discussion among the Commission members.

Chairperson Norbury noted that this was the second time in the past few months that the Commission had seen an application for a building taller than usual in Lee's Summit. PMIX development. The previous one had been for the Downtown core and required some different calculations. Height was an important consideration but this piece of land had been zoned for business use for 38 years and he understood the neighbors' attachment to the grass and the animals but the question was what was the best development use for the property. There were a lot of considerations and factors that the Commission had to weigh, with traffic, nearby uses and their impact and stormwater being among them. He acknowledged that the latter was a major concern in that part of town and had in fact been a major impediment in the Price Chopper development.

“Do no harm” was certainly the bare, minimum standard and he commended the applicant for their willingness to improve the situation. He urged staff to consider this when looking at the final development plan when submitted. In view of all these considerations, he was in favor of the application. This was a relatively low impact project in comparison to the strip mall the applicants could have been able to put in; in which case the Commission would not have seen it and the neighbors would have had no voice and no say in the matter.

Ms. Roberts had concerns about the water, particularly the repeated comments that 'we want it moved as quickly as possible.' She wanted to see greater infiltration on site rather than just focusing on moving it out quickly. When the final development plan came forward she wanted to see more green infrastructure and not just concrete pipes; especially in view of this involving people living on or near a flood plain. Just sending the water downstream as fast as possible accomplished nothing other than passing the water problems on to another part of town. She had asked about the crosswalk because analyzing traffic and its impact did not include vehicle traffic only. This application was specifically for a senior living center; and that would mean a significant increase in people walking across Todd George to get to businesses on the other side. This specific development would cause an increase in pedestrian traffic, due to the demographic it would be marketed to. Further, the other driveway would look like a shorter route so there would be some pedestrians trying to cross without a traffic signal. While the applicants were proposing an attractive development, especially considering the increasing percentage of seniors in the population, she was concerned about the impact on current residents. The residents of the complex might not hear gates banging, but the neighbors would. Ms. Roberts added that an increase in pedestrian traffic was usually a plus in a neighborhood.

Mr. DeMoro as always, these were hard decisions and a lot of heartburn was involved because the Commission did hear from the public. He did travel on Langsford Road and went through this particular area twice a day and he had an account at Great Southern Bank. He had some first-hand knowledge of the Clubhouse Drive intersection. Often there were three or four cars ahead of him but had not had any serious problems with traffic. There was plenty of time to turn left. The Langsford/Todd George intersection was a very active one, one of the routes into Legacy Park; and it had crosswalks at all four corners. He thought this was a good use for the property and the neighbors might otherwise have had to deal with a shopping center with heavy traffic. The ages of the tenants would probably keep traffic down and a lot of them would use public transportation. He did hear the concerns about stormwater although that was something people

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could not always control. The applicant had testified that he would work with the homeowners and he applauded that.

Hearing no further discussion, Chairperson Norbury called for a motion.

Mr. DeMoro made a motion to recommend approval of Application PL2016-084, Rezoning from CP-2 to PMIX and Preliminary Development Plan: Lee's Summit Senior Apartments, 110 SE Todd George Pkwy.; North Star Housing, LLC, applicant; subject to staff's letter of June 10, 2016, specifically Recommendation Items 1 through 4. Ms. Roberts seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

Chairperson Norbury reminded the residents in the audience that this plan would go forward to the City Council for a hearing.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

**A motion was made by Board Member DeMoro, seconded by Board Member Funk, that this Public Hearing - Sworn was recommended for approval. to the City Council - Regular Session, due back on 7/7/2016 The motion carried unanimously.**

[2016-0302](#)

PUBLIC HEARING - Appl. #PL2016-088 - PRELIMINARY DEVELOPMENT PLAN - QuikTrip, 120 SW M-150 Hwy; QuikTrip, applicant

Chairperson Norbury opened the hearing at 6:34 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Andrew Smith, Real Estate Project Manager for QuikTrip, gave his address as 5725 Foxridge Drive in .Mission, KS. He stated that QT planned to replace the existing store and replace it with one of their new Generation 3 model stores. On a displayed plan of the Generation 2 store, he pointed out the fuel canopy with 10 pumps and 20 spaces, the right-in-right-out entrance on M-150 and the lane with access to Market Street, the QT store and the bank with some cross-access. He then displayed colored renderings of elevations for the planned Generation 3 store. They showed the side entrances, the two front entrances, tile columns with some brick architecture, and stepped variations in the roof line. The store would also have an attractive sign package. Mr. Smith added that another project manager would be proposing the same changeover for the store at M-291 and Mulberry. Elevations of the updated fuel canopy showed materials that matched the ones used for the building. It had the same number of pumps and spaces.

Mr. Smith pointed out the new main building's location on the displayed

site plan, showing the building facing M-150. They had considered using the existing facility and refacing it; but the grade change was too extreme to get enough clearance under the canopy. Mr. Smith pointed out the various places all around the building to park as well as three lots across from the building. Employee parking would be behind the store. The landscaping plan showed trees around both frontages and behind the store as well as shrubs in the islands.

Mr. Smith then addressed staff's eight Recommendation Items. Item 1 called for a modification to allow a 9.91 setback along Market Street. The applicants had requested this in order to leave room for enough parking on that side as well as drive aisles spacious enough for traffic circulation that was both quick and safe. The request for increased lighting under the canopy from a maximum 30 to 67 footcandles was related to the company's security practice. Their security system had complete lock coverage and QT being a 24-hour business made a very well-lit fueling area essential. The cameras needed a high light level in order to work as intended and at this location, there was no adjacent residential property.

\*\*\*\*\*Recommendation Item 3 required an automatic door lock "capable of being locked from the cash register counter." Mr. Smith stated that Quick Trip had a very thorough security package. He had been a trainer for about two years and knew that every employee had a pager at their side. In an emergency an employee could push a button on the pager and the security desk in Tulsa would immediately contact police, an ambulance or any other emergency responder. The automatic door locks would not only be rather redundant, the building had four entrances. Items 4 and 5 both pertained to QT's use of polychrome mesh for screening on both the roof and trash enclosure. The material was compatible with the building, and a viewer could not distinguish it if not very close. Regarding Item 5 specifically, QT stores emptied trash five times a day and the heavy steel gates could be a hazard considering how often they were used. They were always kept in good repair.

[Item discussed below revised by staff on July 1, 2016 as indicated in "Commentary"]

Regarding Item 6, which asked for a modification to the required minimum CDO point score, Mr. Smith stated that they were making improvements including pedestrian facilities such as picnic tables.

Item 7 recommended removing the Market Street access as recommended in the Transportation Impact Analysis. Mr. Smith asked that they be allowed to retain it as a right-in-right-out access point. They understood that left turns at that point would often cause traffic congestion but they

also wanted to maintain direct access to the fuel canopy. Drivers going east on M-150 would already have to turn left to use the side entrance; and this access point was shared by the bank as well. As a neighbor on the same property, QT needed to keep the traffic flow as orderly as possible.

Following Mr. Smith's presentation, Chairperson Norbury asked for staff comments.

Mr. Soto entered Exhibit (A), list of exhibits 1-16 into the record. He specifically addressed the applicant's modification requests. He pointed out the existing parking lot alignment along Market Street, explaining that most of it already had only a 5-foot setback. The proposed modification would actually almost double that and allow for a little additional green space as well as for the planned sidewalk to the southwest corner where the air station was. Mr. Soto added that the existing site was a lawful non-conforming use.

Items 2 and 3 were based on CPTED requirements that were adopted as part of the UDO in 2009. At that time QuikTrip had actually served as the model for these requirements. Best management practices had changed over the last 7 years and QT was a leader in this regard. They had made a case for the footcandle requirements being increased to provide more accurate security camera images. Regarding the door locks, staff had contacted the Police Department and they fully supported moving away from this requirement considering the possibility of a dangerous person being locked inside the building with staff and customers. The remote sensors and alarms were a safer alternative. Items 4 and 5 pertained to mesh screening material, which the Commission and Council had both discussed and they were used at other locations in the metro area. Mr. Soto stated that he had seen it used and it did provide an opaque visual barrier.

[Revised by staff] Recommendation Item 6 was a modification to the minimum 250 CDO points for the M-150 corridor. Mr. Soto referred the Commissioners to his comment that this was something staff was actively looking at based on earlier applications. They would bring in any requests for adjustments to the scoring system but it was something staff was considering. Mr. Soto displayed an aerial view of the area was the high percentage of undeveloped property within the CDO boundaries. This offered the City an opportunity to direct new development in this part of town, and the first requirements and scoring had made some assumption that development would be on the larger pieces of property. This approach had not taken cases of an existing facility being upgraded into account. It was not the type of infill where an entirely different use was going in. A significant number of the points available pertained mainly to mixed-use

developments and would not fit this particular site. That would make getting the minimum number of points very difficult. Staff had identified about 130 points, with a possible few additional points getting picked up at the final development stage. A lighter-colored 'cool' roof, for example, would mean 15 to 20 points.

Following Mr. Soto's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none, he then asked if the Commission had questions for the applicant or staff.

Mr. DeMoro noted that under "Code and Ordinance Requirements", ['Planning and Codes Administration'] Item 13 referred to the development being "subject to the Crime Prevention Through Environmental Design (CPTED) requirements of Article 9 of the UDO. Compliance with said requirements shall be checked at the time of final development plan and building plan review." He asked if there was a conflict involved between this language and granting a modification to a CPTED recommended procedure. Mr. Soto answered that most of CPTED's requirements were concerned with the building's interior but in these two cases there was a clear need for modification based on current technology.

Ms. Roberts noted that first it was Walmart that did not fit what was written for , followed by a church that did not fit and now a QuikTrip. Mr. Soto answered that Walmart had actually brought their application in before these requirements were in effect. Ms. Roberts asked if the intentions should just be thrown out the window with a little bit of timing. She acknowledged that what QT provided for pedestrians was well above what most businesses currently had and recalled that the discussion about the church application included public space. Items like wider patio space out front was in effect a private entity creating public space. However, there was enough flexibility in the list for the applicants to come up with some points on their own. She felt that the Recommendation Item was saying there was nothing else that QuikTrip could possibly do even though they had produced such fantastic security over the years. They might consider making the air station for cars a little more accessible for bicycles or changing water use inside the building. The 'cool' roof could be used on the fueling canopy as well as on the main building and in the parking lot, the reflective difference between concrete and asphalt might be considered. Since this business sold fuel, she would like to see some details about minimizing fuel runoff. In general, she believed there was much more that could be done and it was very frustrating to see the City just giving up on these kinds of requirements.

Chairperson Norbury stated that regarding Recommendation Item 6, one



question was whether there was something additional the applicants could do to increase their CDO score. There might also be more the City could do to identify things that were being done. QuikTrip had been a partner with the community and he fully supported the Generation 3 stores; however, the UDO was a matter of law and the City had done an extremely poor job of bringing through applications in the context of these Community Development Overlay projects in particular. Staff might consider looking at QT's practices with the purpose of identifying current practices that could garner points. These practices, after all, would not necessarily show up in an application. Even getting to 200 points instead of 250 would be a major improvement. In earlier applications, the City Council had expressed some skepticism about the applicability or practicality of these standards. It would be helpful for staff and the applicant to search for anything that might have been overlooked.

Chairperson Norbury remarked to Mr. Park that this was a difficult intersection in a part of town with heavy traffic. There were not many detours off M-150 and that would increase when the new Walmart was constructed. He had read the arguments about closing the Market Street entrance but wanted to know if a right-in only entrance could be feasible. This same question had come up in the case of the improvements to HyVee's gas station at Langsford. Mr. Park answered that in cases where the City had gone with a restricted access entrance, it was a location where at least a minimum space could be provided for a vehicle to slow down for a turn. That was one of the concerns for this driveway continuing at its location. At present, the traffic itself was already restricting it. A right turn would take a vehicle to the south but that would not address northbound traffic and there was not much space between the M-150/Market Street intersection and the potential 'conflict point' at the entrance. He had taken the projected increase of traffic in this area into consideration. The new Walmart would probably result in Market Street being widened. This particular site was not atypical of QT's stores and the redevelopment provided a new drive aisle, but public safety had to be his main consideration.

Ms. Roberts stated that looking at some of the things QuikTrip was doing did need to be documented in any case. She was in favor of the City also taking a closer look at practices that might be included on the list.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 7:00 p.m. and asked for any comments from the public, or discussion among the Commission members.

Chairperson Norbury stated that as a matter of procedure, someone could

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propose an amendment to the access issues, although he believed that Mr. Park had made excellent points. Since the Commission was a recommending body, it had some options. The application could be moved forward with a recommendation for denial on the basis of M-150 CDO points, and the applicant and staff could look for ways to increase the point score. They could also approve it and pass it on to the Council for a decision. He concurred with Ms. Roberts' frustration over the track record of applying these standards and was aware that staff was looking for amendments. However, this might be a point where the Commission stood on the current requirements.

Hearing no further discussion, Chairperson Norbury called for a motion.

Mr. DeMoro made a motion to recommend approval of Application PL2016-088, Preliminary Development Plan: QuikTrip, 120 SW M-150 Hwy; QuikTrip, applicant; subject to staff's letter of June 10, 2016, specifically Recommendation Items 1 through 8. Mr. Rader seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

**A motion was made by Board Member DeMoro, seconded by Board Member Rader, that this Public Hearing - Sworn was recommended for approval to the City Council - Regular Session. The motion carried unanimously.**

OTHER AGENDA ITEMS

None

PUBLIC COMMENTS:

None

ROUNDTABLE:

None

ADJOURNMENT

**This matter was adjourned at 7:05**

For your convenience, Planning Commission agendas, as well as videos of the Planning Commission meetings, may be viewed on the City's Internet site at "[www.cityofls.net](http://www.cityofls.net)".