

## LEE'S SUMMIT PLANNING COMMISSION

Minutes of Thursday, October 25, 2018

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The Thursday, October 25, 2018, Lee's Summit Planning Commission meeting was called to order by Chairperson Norbury at 5:00 p.m., at City Council Chambers, 220 SE Green Street, Lee's Summit, Missouri.

### OPENING ROLL CALL:

Chairperson Jason Norbury	Present	Mr. Herman Watson	Absent
Mr. Donnie Funk, Vice Chair	Present	Mr. John Lovell	Present
Ms. Carla Dial	Present	Ms. Dana Arth	Present
Mr. Don Gustafson	Present	Mr. Jeffrey Sims	Present
Mr. Jake Loveless	Present		

Also present were Mayor Bill Baird; Ryan Elam, Director of Development Services; Josh Johnson, Assistant Director of Planning Services; Hector Soto, Planning Division Manager; Jennifer Thompson, Staff Planner; Michael Park, City Traffic Engineer; Shannon McGuire, Staff Planner; Nancy Yendes, Chief Counsel Infrastructure and Zoning; David Bushek, Chief Counsel of Econ. Dev. & Planning; Kent Monter, Development Engineering Manager; Mark Phillips, Detective, Police Department; Jim Eden, Assistant Fire Chief I, Fire Department; Mike Weisenborn, Project Manager; Dawn Bell, Project Manager; and Sara Beck, Secretary.

Chairperson Norbury noted that an unusual number of people were attending tonight's meeting. He asked that those attending make an effort to not block aisles or stairways. He then welcomed Mr. John Lovell, a new Planning Commission member.

### 1. APPROVAL OF CONSENT AGENDA

On the motion of Mr. Funk, seconded by Ms. Dial, the Planning Commission voted unanimously by voice vote to **APPROVE** the Consent Agenda, Item 1 as published.

#### A. Minutes of the October 11, 2018 Planning Commission meeting

On the motion of Ms. Dial, seconded by Mr. Funk, the Planning Commission voted unanimously by voice vote to **APPROVE** the Minutes of the October 11, 2018, Planning Commission meeting, Item 1A as published.

### APPROVAL OF AGENDA:

Chairperson Norbury announced that there were no changes to the agenda, and asked for a motion to approve. On the motion of Mr. Funk, seconded by Mr. Sims, the Planning Commission voted unanimously by voice vote to **APPROVE** the agenda as published.

### PUBLIC COMMENTS

There were no public comments at the meeting. Chairperson Norbury informed those present that people wanting to comment about specific applications would be able to do so during the hearing.

2. **Continued Application #PL2018-098 – REZONING** from R-1 and PMIX to PMIX, and **PRELIMINARY DEVELOPMENT PLAN** – Streets of West Pryor, approximately 72 acres located at the northwest corner of NW Pryor Rd and NW Lowenstein Rd; Drake Development, LLC, applicant

Chairperson Norbury opened the hearing at 5:02 p.m. and announced that Application PL2018-098 was requested by the applicant to be continued to a date certain of November 8, 2018. He called for a motion to continue the application.

Mr. Funk made a motion to continue Application PL2018-098 to a date certain of November 8, 2018. Mr. Sims seconded.

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

On the motion of Mr. Funk, seconded by Mr. Sims, the Planning Commission members voted unanimously by voice vote to **CONTINUE** Application PL2018-098 to a date certain of November 8, 2018.

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

3. **Continued Application #PL2018-136 – PRELIMINARY DEVELOPMENT PLAN** – Pergola Park, 5th Plat, approximately 529 acres generally located west and north of Old Longview Lake; Inspired Homes, Inc., applicant

Chairperson Norbury opened the hearing at 5:04 p.m. and announced that Application PL2018-136 was requested by the applicant to be continued to a date certain of December 13, 2018. He called for a motion to continue the application.

Ms. Dial made a motion to continue Application PL2018-136 to a date certain of December 13, 2018. Mr. Funk seconded.

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

On the motion of Ms. Dial, seconded by Mr. Funk, the Planning Commission members voted unanimously by voice vote to **CONTINUE** Application PL2018-136 to a date certain of November 8, 2018.

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

**4. Continued Application #PL2018-145 – PRELIMINARY DEVELOPMENT PLAN –**  
East Lee's Summit Branch Library, 2240 SE Blue Parkway, Mid Continent Public Library,  
applicant

Chairperson Norbury opened the hearing at 5:05 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Jim Stufflebeme , architect with Sapp Design Associates in Springfield, Missouri, introduced Mr. Jim Staley, Mid Continent Library marketing and public relations director; Ms. Joycelyn Tucker Burgo , former chair of Mid Continent's Board of Trustees. Mr. Staley gave his home address as 7236 Charlotte Street in the Waldo neighborhood of Kansas City. He reminded everyone present that the new Lee's Summit branch was not a replacement for either of the two existing Mid Continent branches in town. This project would be followed by a remodel of the Colburn Road library and the original library on Oldham Parkway. The funding had been created via the 2016 vote.

Mr. Stufflebeme displayed a map showing the two existing libraries and the proposed third location. He pointed out the proposed new location on US 50 and Blue Parkway. Displaying a closer view, he pointed out the neighboring medical center to the west, three churches to the east and the Village Co-Op senior living center to the north. An unofficial site diagram showed the library on the south edge of the subject property, facing US 50, with an expanse of glass on the building' front. Parking was at the back, with a detention pond further north. The drawing also showed some of the required landscaping on this site. A colored northwest elevation showed the entryway at the back (north side). It also showed the clerestory between the two parts of the building, with the elevated section at the front. Mr. Stufflebeme pointed out the rooftop equipment screen. Another elevation showed a view at ground level and Mr. Stufflebeme described the appearance as a low-key, mid-century design, with most of the glass on one side. It would have a drive-up service window, as well as an extensive schedule of library programs. A view of the mostly glass US 50 side included a large sign, a covered open space and a small patio off the children's' area on the building's west side.

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

Mr. McGuire entered Exhibit (A), list of exhibits 1-16 into the record. He described the project as an 18,500 square foot building on about 3.8 acres. Vehicle access would be from Blue Parkway and from Battery Drive. The plan showed an area for future expansion, about 4,700 square feet on the east side. The property was currently zoned CP-3 (Planned Community Commercial District). Properties to the east and west were zoned CP2, and the Village Co-Op to the north was zoned RP-4. US 50 Highway bordered the site to the south. Materials for the one-story building's facade would be brick, glass and aluminum composite panels.

The applicant requested three modifications. The roof-mounted equipment would not be on the perimeter of the building but was moved inward on the lower side of the building, and the surrounding parapet walls, made of the same materials used on the facade, would be the same height as the equipment. This design met the UDO's intent of screening mechanical rooftop units from view. Staff considered this request reasonable and supported the request. The UDO required a high-impact screening buffer between the library and the RP-4 zoning, and the applicant proposed a low-impact buffer. This requested modification was based on the library being a much less intense use than generally allowed in either a CP-2 or RP-4 district. They

proposed using native vegetation and trees to create a parklike appearance. The library building would be about 300 feet from the RP-4 development; and one goal for public spaces was to encourage use from adjacent residents, so removal of the existing fence would allow the library to become part of the neighborhood. Staff believed that this screening approach would promote a more pedestrian-friendly environment.

The third request was for a modification to letter height on the south-facing sign. The UDO specified letter heights for wall signs as no more than 6 feet, and the proposal was for 6.75-foot letters, with a total surface area of 306 square feet; a total 9.6 percent of the facade with the UDO specifying a maximum of 10 percent. The basis for the request was both the south wall's proximity to US 50 and the sign being both a kind of architectural decoration and also in proportion with the total area of the wall. Staff also supported this modification. These modifications were covered in Recommendation Items 1 through 3, with Item 4 designating the use of aluminum composite metal as a conditional material and Item 5 requiring that "*the development shall be in accordance with the preliminary development plan date stamped September 18, 2018.*"

Following Mr. McGuire'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 opened the hearing for questions from Commissioners for the applicant or staff.

Concerning the requested modification to the landscaping buffer requirement, Chairperson Norbury noted staff's remark that it would create a pedestrian-friendly atmosphere. He asked for an explanation. Mr. Stufflebeme stated that a fence or wall as part of the screening would in effect create a barrier between the library and the senior housing development as well as residences to the north. This would not be a barrier that restricted access but nevertheless, as it was a library, the applicants wanted emphasis on it being open and accessible to all. He agreed with Mr. McGuire that a library was a much less intensive use than most commercial uses that could have been developed on this site. They were proposing adding more landscaping in lieu of a fence or wall, to create something similar to a park. The detention basin would be surrounded by grass, which would be mowed.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:20 p.m. and asked for discussion among the Commission members, or for a motion.

Mr. Funk made a motion to recommend approval of continued Application PL2018-145: Preliminary Development Plan, East Lee's Summit Branch Library, 2240 SE Blue Parkway, Mid Continent Public Library, applicant; subject to staff's letter of October 19, 2018, specifically Recommendation Items 1 through 5. Ms. Dial seconded.

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

On the motion of Mr. Funk, seconded by Ms. Dial, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL** of continued Application PL2018-145: Preliminary Development Plan, East Lee's Summit Branch Library, 2240 SE Blue Parkway, Mid Continent Public Library, applicant; subject to staff's letter of October 19, 2018, specifically Recommendation Items 1 through 5.

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

5. **Continued Application #PL2018-101 – REZONING** from PI to PMIX, and **PRELIMINARY DEVELOPMENT PLAN** – Woodland Glen, approximately 24 acres located at the northeast corner of SW Ward Rd and SW Scherer Rd; John Duggan,, applicant

Chairperson Norbury opened the hearing at 5:22 p.m. and stated that the applicant had requested that the hearing be continued to a date certain of November 8, 2018. He asked for a motion to continue.

Mr. Funk made a motion to continue Application PL2018-101 to a date certain of November 8, 2018, as requested by the applicant. Mr. Sims seconded.

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

On the motion of Mr. Funk, seconded by Mr. Sims, the Planning Commission members voted unanimously by voice vote to **CONTINUE** Application PL2018-101 to a date certain of November 8, 2018.

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

6. **Remanded Application #PL2018-084 and Application #2018-085 – PRELIMINARY DEVELOPMENT PLAN and SPECIAL USE PERMIT** for indoor climate controlled storage facility: Extra Space Lee's Summit, 700 SE Oldham Court, Hernley Associates, Inc., applicant

Chairperson Norbury opened the hearing at 5:23 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Stan Hernley of Hernley Associates, gave his business address as 1100 Rhode Island Street in Lawrence, Kansas. This project had been before the Commission last summer, and subsequently was heard by the City Council. Some issues were raised, and the project had been sent back for reconsideration. The owner and design team had met with City staff and had done some extensive redesigning. Some single-story buildings on the perimeter for outside-access storage had been eliminated from the plan. The multi-story building, formerly planned to be 45 feet high, had been reduced in height to 32 feet; and the units would now have interior access through a drop-off bay. The building's location had been moved further away from the west property line and the number of proposed signs were reduced. Because the storage would all have interior access, the facility would not be fenced. Staff had requested design modifications, which the applicant had done.

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

Ms. Thompson entered Exhibit (A), list of exhibits 1-18 into the record. She confirmed that Extra Space was an indoor, climate-controlled storage business. The original plan had been heard and recommended for approval by the Commission at the meeting on July 24, 2018. At its August 9, 2018 meeting the City council had recommended advancing the application to the second ordinance ready for final approval; however, at the August 23, 2018 meeting the Council remanded the application back to the Planning Commission. Concerns were raised concerning both the architecture and the number of requested UDO modifications. Since then, the applicant had revised and resubmitted the site plan and elevations. The property was a vacant platted lot, approximately 2.8 acres, located east of SE Hamblen Road on the north side of SE Oldham Parkway. It was zoned CS (Commercial Services), and surrounded by a mix of commercial (CP-2), PMIX and CS zoning. Nearby businesses included a small hotel, restaurant and grocery store. A Home Depot store was nearby to the south as well as a proposed future car dealership to the east. Ms. Thompson displayed photographs of some of these properties.

The applicant proposed a three-story, indoor climate-controlled storage facility, approximately 124,470 square feet. It would contain 669 storage units. The color palette and materials used would include gray and garnet brick masonry, prefinished architectural metal in slate gray and ash gray, with some EFIS accents in silver.

Ms. Thompson summarized the changes from the original site plan. The four buildings were now only one, and the square footage building height and number of units were all reduced. The drive-through location was now on the west instead of in the middle, the faux storage doors seen behind the windows were removed. The number of wall signs were reduced from five to one, and the FAR was lower. Windows and architectural features were added, and fewer modifications were requested.

Ms. Thompson then summarized staff's five Recommendation Items. Item 1 allowed the gray architectural metal wave panel was allowed as a conditional building material. Item 2 allowed a modification to the Floor Area Ratio to allow a 0.99 FAR, with 0.65 being the maximum allowed in CS zoning. Item 3, pertaining to the Special Use Permit, allowed a modification to the required 1:3 roof pitch. Item 4 was the standard requirement for the plan to be in compliance with the preliminary development plan dated September 18, 2018. Item 5 granted a 25-year term for the Special Use Permit.

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

Mr. Chris Maddox, of the law firm of Rouse Frets White Goss, gave his address as 4510 Belleview Avenue in Kansas City. He was present on behalf of the owner of the hotel to the west, and had also spoken with the manager of the restaurant about their concerns. Mr. Maddox summarized the requirements for approval of a preliminary development plan. One especially relevant criterion (4.260C3 ) stated that "*development incorporates adequate ingress and egress, and an internal street network that minimizes traffic congestion.*" The applicant had submitted a traffic memo indicating that the anticipated traffic volume would not warrant a study. However, this would still be a sizable building, with about 125,000 square feet and over 700 units, and traffic tended to get congested on Oldham Parkway, especially on weekends. These were peak hours for the hotel and the grocery store. Some of the storage business' customers might be driving large rental trucks they were not used to and this could potentially create more congestion and traffic.

Another concern for the hotel owner in particular was the aesthetics of a development next door, especially the building's size. Although exterior buildings were removed, the main structure was now 100 feet longer, and due to its height it would be the only view from some of hotel's rooms. Mr. Maddox also pointed out that the applicant had not provided an aerial view of subject property with an overlay of the proposed project. This would give a viewer an idea of the size and scope. Mr. Maddox had copies from Google maps, which he distributed to the Commissioners. He called their attention to the length of the building and its position on the property in particular. Mr. Maddox also mentioned that although a Home Depot, another very large building, was nearby, that building had a parking lot in proportion to its size. The building's footprint was at the center of many of the concerns.

Considering how close the development was to the property line, Mr. Maddox' client requested that the applicant install an earth berm, as required by the UDO, to provide additional screening along the west property line. If the building included a pitched roof instead of a flat one, it would look more consistent with the neighboring hotel, although the 1:3 pitch might not be possible in this instance. However, due to its size the angle of a pitched roof would make the building look even more massive. Mr. Maddox added that regarding Recommendation Item 5, a 25-year term for this kind of use was unusually long. Further, the applicant lived out of state and so would not be likely to be directly involved in the business. Accordingly, he requested that the SUP term be changed to 10 years.

Mr. Dennis Klein gave his address as 953 SE Oldham Parkway. He was the owner of 50 Highway Self Storage, about a block away from the subject property. Mr. Klein reviewed the criteria for a Special Use Permit. In a list of 16 criteria, #6 was the "*impact on the street system to handle traffic and/or parking.*" The application's narrative projected about 30 cars per day. His own property was half that size, with 350 spaces, and his business averaged 60 cars per day. It was more likely that this business would have closer to 100 a day, a large volume for a business on a small road shared with three other businesses. Mr. Klein confirmed Mr. Maddox' remark about storage customers driving unfamiliar rental vehicles, especially trucks. It was a familiar occurrence in that business, due to customers often needing bigger vehicles to transport what they were storing. Consequently, traffic moving in and out of the business would be slower than normal. It might actually be a little heavier than a gate cycle indicated, since a very large truck might be followed closely behind by a vehicle driven by someone helping with a move.

Criterion 9 on the list cited "*potential negative impact on neighborhood property values*". He had consulted two real estate brokers whose business was sales of storage properties, and they estimated a 30 percent loss at best, and it could be as high as 50 percent.

Criterion 11 cited "*economic impact upon the community*". Mr. Klein remarked that this kind of business typically employed only one or two people, so job creation was not a factor. Concerning tax revenue, Mr. Klein noted that Mr. Bob McKay had been adamant about any businesses on properties in major corridors that did not collect sales tax. Three approaches were used in determining property tax on business properties; but income approach was the most common. A property that did not do as well as projected would have lower property tax. The economic impact on the community would be close to zero.

Criterion 10 cited “*extent to which there is need of the proposed use in the community*”. Mr. Klein had consulted two people who did feasibility studies and they both considered the Lee's Summit market to be saturated as far as this kind of business was concerned. The national average was 6.5 among 11 facilities in a four-mile radius.

There was no unmet demand in Lee's Summit for storage space. This was why his own business had offered discount deals on move-ins plus a free month. Other fees such as administrative fees were waived; none of which would be happening in businesses where demand was greater than supply. Further, the proposed business was not any unique approach to storage. For example all the Lee's Summit storage businesses were climate-controlled. In the industry this meant insulation from ceiling to floor; however, this did not mean humidity was controlled. Some units in his business were also heated and cooled; however, these were not in enough demand for an owner to install temperature control in all the units. In short, the applicant's business plan was built on taking customers away from existing businesses rather than attracting any new customers. Special Use Permit requirements allowed planners to weed out this kind of business plan.

Criterion 14 specified that the business be “[in] *conformance to the UDO and current City policies and ordinances*”. Despite this requirement the applicant was asking to increase the FAR by 60 percent, making this a very dense development on a small lot. The request for composite metal material was most likely primarily a construction cost consideration; as this was cheaper than glass, brick or stone. The request for a modification to the pitched roof requirement would not be consistent with the surrounding properties. This was also the case with other storage businesses in Lee's Summit. When his own SUP had been approved the City would not allow his business to have a flat roof, and the applicant's request was another cost-cutting attempt. For this business to fit in the proposed setting, the building would have to be smaller and have to have a pitched roof. In conclusion, Mr. Klein asked the Commission to use the same standards in evaluating this application that they had for other businesses of this kind in Lee's Summit.

Chairperson Norbury asked if there were further questions for the applicant or staff. Mr. Funk asked Mr. Park for a summary of the parking study. Mr. Park stated that no traffic impact study had been required, since the development was not likely to reach the peak trip generation level that would warrant a separate study. The City's Access Management Code required a minimum of 100 peak trips. He generally did not dispute some of the numbers the Commissioners had heard about vehicles in a business day, as he had estimated about 160 vehicles in a 24-hour period. However, when the City looked at traffic congestion the focus was on the peak hours of traffic in the morning and afternoon. For this application, it would be about 17 vehicles during these periods, which overall was not a large impact on traffic, especially considering its Commercial Services zoning which would include high-traffic businesses such as convenience stores. The development also did not have any direct customer access to public streets, but rather access via a shared driveway. The secondary access was only for emergency.

Chairperson Norbury asked if the City had a maximum allowed building height, and Ms. Thompson replied that it did, and was 50 feet in the CS zoning district. Chairperson Norbury then noted that he had not seen removal of landscaping or buffer requirements in the conditions. He asked for clarification of Mr. Maddox' reference to a requirement for a berm between uses. Ms. Thompson answered that a medium-impact buffer was required along the west property line; however, that would be landscaping, with no berm required.



Chairperson Norbury then asked for a general summary of what the Council's concerns had been. Mr. Johnson related that the building's architecture, and its visibility from US 50 Highway, was the main concern. Chairperson Norbury asked how, in that case, the architecture had been improved. Mr. Johnson cited an increased use of masonry material and more pop-outs to add depth. Some of the pilasters wrapped as they extended above the parapet and window sizes increased to give the building a more office-like appearance. Chairperson Norbury then asked what was the reason for staff recommending a modification to the pitched roof requirement, and Mr. Johnson replied that the building's size was the main factor, as a pitched roof would increase its height and visibility. As this was a commercial building in a commercial zone, a pitched roof would not make any sense. Chairperson Norbury observed that the pitched roof requirement applied to most zoning districts, and Mr. Johnson replied that this applied more to smaller one-story storage establishments. These were the older style of self-storage business.

Chairperson Norbury asked if any non-storage business equivalent existed in Lee's Summit, where the architectural style was similar although the use might be different. The standards and requirements for a 'traditional' one-story, outdoor storage facility did not apply to this particular use. Mr. Johnson answered that it would probably be some kind of office or industrial use. Chairperson Norbury acknowledged that the requirement varied by zoning districts, but wanted to know if typically a pitched roof would be required for these types of buildings. Mr. Johnson answered that he would need to check but knew that the City did not require a pitched roof on an industrial building.

Chairperson Norbury then noted that earlier in the hearing, Mr. Maddox had made a request on behalf of his clients to shorten the Special Use Permit term to ten years. He commented that ten years was a term frequently granted in SUP requests. asked Mr. Hernley for the applicant's perspective on that request. Mr. Hernley stated that they would be satisfied with ten years.

Ms. Arth asked staff if they had done any research or analysis of the need in Lee's Summit for more storage businesses. Ms. Thompson replied that they had not.

Mr. Funk asked for clarification of the statement that "*the developer had assured staff that the row of doors would not be viewable from outside the property*". Mr. Hernley the only doors that were part of the project for vehicles were for entrances and exits on the west side of the building. A single-story drive-through bay, which would be approached from the north was indicated on that side. Mr. Funk asked for details about a photo the Commissioners were provided. Mr. Hernley stated that earlier versions reviewed by staff showed second-story windows on the southwest and northeast corners. The image Mr. Funk showed were where the faux doors were seen behind the windows. These had been taken out of the project at staff's request.

Ms. Dial wanted to know if staff had considered the aspect of sales tax revenue, brought up earlier in the hearing. Mr. Soto replied that they had not. Mr. Hernley added that there would be a small amount of on-site sales of accessories such as locks and storage boxes. However, property tax would definitely be a larger amount.

Mr. Hernley then addressed other issues brought up. In terms of traffic impact, the industry standard for this kind of business was two or three trips per hour. That indicated a fairly low impact on a day-to-day basis. Regarding the building's footprint, he pointed out that the building

was well within all the setbacks. The flat roof had been chosen not because it would be less expensive but because it better matched the building's style. It both gave it a more commercial look and also was more consistent with some other nearby businesses, especially car dealerships and the neighboring Home Depot. In terms of demand for this service, the owner's feasibility homework had shown a demand for climate-controlled spaces that included heating and cooling. This was the standard for the industry, not just insulation.

Concerning the traffic issue, Mr. Maddox acknowledged that at 9:00 a.m. this business would typically occupy a low-traffic alleyway. The main concerns were qualitative in nature, and specifically on weekends. These were days when people often did their grocery shopping and got supplies for any at-home projects. Saturday and Sunday were also days often scheduled by people who were moving, with the result being that activity for this business and the area around it would be especially busy on weekends. The site plan showed only 7 parking spaces, so on some weekends, people might park in nearby parking lots. The map that he had provided showed that SE Oldham Court as a public right-of-way. It would provide access on the east side. Regarding staff's comments about a berm or fence, the original plan did have a wall but it was removed. The code [Section 10.420] clearly stated that "*in any non-industrial district, a mini-warehouse facility must be enclosed on all sides by a wall or earth berm for the purpose of shielding the development from view*". If that was not planned to be done, the applicant should have requested a modification but that had not happened. The applicant currently complied with the side setback and buffering requirements, but not with the inflated FAR. What was requested for floor area ratio was about 50 percent above what the code allowed. This was one more illustration of the project being too big for the proposed site.

Chairperson Norbury asked what was the right of a building owner to a view that extended outside their property. Ms. Yendes answered that an unobstructed view did not exist as a legal right. This had recently come up during an eminent domain dispute. This was especially true in a zoning district where the obstruction might be a building height that was allowed in that district.

Chairperson Norbury then observed that the Commission did not see many applications in the CS district, and asked for some examples of typical CS activities. Mr. Soto replied that to an extent, the Commercial Services existed as a transition between general commercial and industrial uses. While straight office/warehouse uses might not be allowed, it did make allowance for a more intense type use. A convenience store, auto sales, or general commercial uses might all be allowed, and some examples could be seen further south along Century and Broadway. It was not intended to replace industrial zoning districts but rather to provide a kind of bridge between commercial and industrial. Chairperson Norbury noted that this scenario did not always include structures as tall as three stories. Mr. Soto checked and noted that general office uses would also be allowed, and that could be a multi-story building.

Chairperson Norbury requested that the photo provided by Mr. Maddox and Mr. Klein's letter be added as Exhibits 19 and 20. Hearing no further comments or questions from the Commission, he closed the public hearing at 6:10 p.m. and asked for discussion among the Commission members. He wanted to know specifically if tonight's hearing had addressed the City Council's concerns, or if he would need to re-open the hearing. Ms. Yendes stated that since this was a remand hearing, the prior information was already part of the record.

Mr. Funk noted that the multiple buildings were now one, but there had not been any discussion of the floor area ratio relating to the structure's size. Mr. Soto stated that the previous FAR was 1.03, even larger than what was mentioned at tonight's hearing.

Ms. Arth asked if the Council had any concerns about traffic or parking. Mr. Johnson clarified that these were not the major issues. The project had previously had an outdoor storage component and some familiar-looking units that resembled garages with garage doors, both visible enough from the highway to be a major concern for the Council. These had been eliminated from the plan.

Chairperson Norbury stated that he was rather conflicted about this application. He understood the concerns expressed by both people giving testimony. Although it was true that there was no Constitutional right to a view, the City needed to be broader than that in the sense of not doing something on no basis other than being able to do it. Mr. Klein had pointed out specific requirements for an SUP that should be taken into account. The Council had consistently been pro-development outside of some limited circumstances, and with that in mind he was inclined to believe that their concerns were addressed.

Mr. Funk asked if any other Commissioners had anything to say about the proposed SUP term of 25 years. Mr. Loveless felt that if the applicant was agreeable to a 10-year term, there was no reason to not reduce it. A shorter term would give the City more flexibility.

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

Mr. Funk made a motion to recommend approval of remanded Application PL2018-084 and Application 2018-085: Preliminary Development Plan and Special Use Permit for indoor climate controlled storage facility: Extra Space Lee's Summit, 700 SE Oldham Court, Hernley Associates, Inc., applicant; subject to staff's letter of October 18, 2018, specifically Recommendation Items 1 through 5, with Item 5 amended to grant the Special Use Permit for a term of 10 years. Mr. Sims seconded.

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

On the motion of Mr. Funk, seconded by Mr. Sims, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL** of Application PL2018-084 and Application 2018-085: Preliminary Development Plan and Special Use Permit for indoor climate controlled storage facility: Extra Space Lee's Summit, 700 SE Oldham Court, Hernley Associates, Inc., applicant; subject to staff's letter of October 18, 2018, specifically Recommendation Items 1 through 5, with Item 5 amended as stated.

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

Chairperson Norbury announced a break at 6:15 p.m. The meeting reconvened at 6:30 p.m.

**7. Continued Application #PL2018-079 – REZONING from AG to RP-4 and PRELIMINARY DEVELOPMENT PLAN:** Artisan Point Apartments, approximately 35 acres generally located at the northeast corner of SE Blackwell Rd and SE Blue Pkwy; Case Development, LLC., applicant

Chairperson Norbury opened the hearing at 6:31 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in. He stated to members of the public present that this was the first of at least two public hearings on this project. In every application, the public had an opportunity to comment and give testimony. The Planning Commission was legally called a “recommending body”, meaning that everything said, and the Commission’s vote up or down was a recommendation to the City Council, which would have the final say. This would not be the final hearing or final decision; and it was common for plans for an anticipated project to change as the process went along.

Chairperson Norbury added that he had seen rhetoric on social media concerning this application, and that what was acceptable or allowed on social media would not be in this meeting. He would cut off any testimony that reached the level of vitriol he had seen, and asked participants to keep it civil. He then asked the applicant to give their presentation.

Mr. Scott Case, president of Case & Associates gave his address as 4200 East Skelly Drive in Tulsa, Oklahoma. It was a family business, started in 1983 by his father. They were a full service management, development and investment company with ownership interests in each of their over 100 asset portfolios. The total was about 30,000 apartment units and a million square feet in five states. They managed Class A, B and C properties but the majorities were Class A, built after 1998. This would be a Class A development.

Over the past 20 years Case Development had built 50 apartment communities in 11 cities. Their goal was to provide “*professionals, young and old alike, and retirees an upscale place to call 'home' with an abundance of amenities.*” They were marketing to people who put a priority on not only amenities but “*security, luxury, safety and quiet*”, as well as maintenance-provided. Many people preferred an apartment to owning a house, especially if they liked to travel. Mr. Case then displayed a chart showing the history of the company’s developments, noting that over its 20-year history it had sold only two properties. Their policy was very much “buy and hold”. From 1998 through 2017, the average rent at start-up and today’s rent had actually improved for each asset. Those indicated in red were located in the more challenging markets. Today, Case’s properties averaged 94.9 percent occupancy. This year they had opened two developments in Waco, Texas and one in Oklahoma City. Currently four were under construction in Waco, Tulsa, Wichita, and in Oklahoma.

Mr. Case summarized the current application as a Craftsman-inspired, luxury apartment community, developed in two phases and located northeast of the Blackwell interchange on US 50. The buildings were two and three stories, with materials to include cement fiber siding and brick/stone veneer. Half the units would have one bedroom and half two bedrooms. The 282 Phase 1 units would be valued over \$30,000 and the 302 in Phase 2, beginning in 2021, would be over \$32,000. They would determine at that time whether the market could handle this number of units. No units would be Section 8 or subject to government assistance. Another slide listed the amenities: oversized floor plans, stainless steel appliances, Formica counters in kitchens and ceramic tile in the entry and bathrooms, fans, walk-in closets and vaulted ceilings in upstairs units. The property itself would offer a long list of amenities, from a clubhouse with a

fitness center to picnic areas, swimming pool with a cabana and a dog park. Garages, both attached and detached, would have remote controls.

Mr. Case then displayed photos of their most recent development in Oklahoma, pointing out the Craftsman style. Other photos showed the pool with adjoining three-story buildings, an outdoor social area and the fitness center. He explained that a “garage/loft” building in another photo, showing multiple living units above garages, was a sample of the buildings at the perimeter to serve as a visual barrier. They would not be on every side of the development. Interior photos showed the floor plan and a kitchen in white, gray and silver.

Prospective residents were subject to a criminal background check, with any violations above the level of parking tickets or moving violations being an immediate disqualifier. A credit check including payment history will also be done. Any bankruptcy from 7 to 10 years before or earlier would also disqualify a prospective renter. Residents would have to be employed at least one year, with income at least 3 times the rent. The current average was 6 times the rent. Rental histories would also be looked at.

The next slide gave a profile of the average Case property resident, in the 8 most recent developments in seven different cities. The current average rent was from \$950 to \$1,400 or \$1,500, with average gross income of \$61,230 a year. The average rent-to-income ratio was 18.6 percent, and the average number of occupants per unit was 1.39, about 14 people for every ten units. Variance in rents reflected extra charges for some amenities. Fireplaces, for example, would be an extra \$20 a month and \$80 to \$100 a month for garages. The more desirable internal locations, such as an apartment with a view of the pool, would also cost more. Typical industries that residents worked in were service, medical, education, energy and government, with some residents currently retired.

Mr. Case continued that people often assumed that higher-density developments were at risk for contributing to school overcrowding. However, higher-density housing actually had fewer families with children. According to a survey completed by HUD, the average number was 21 in multi-family units and 64 in single-family homes. Case's ratio was about 16 school aged children per 100 units. Phase 1 could add up to 45 children to the school district, and 48 for Phase 2. Traffic was also a common concern, so the applicants, so on staff's recommendation the applicants had completed a traffic study last March. Trans Systems Transportation had recommended a roundabout at the southwest corner, and interior collector streets, and other road improvements were planned. Mr. Case added that they were not seeking any economic assistance from the City or other government entity.

Other developments nearby were Ashton, Windsboro and Summit Mill. The applicants had met with the HOAs in September and earlier in October. Concerns raised were impact on schools, traffic, property values, and crime. Over the past 180 days, they compared activity at five area apartments including New Longview. The average time units stayed on the market ranged from 29 to 47 days. Concerning ratings on social media, Mr. Case pointed out that they took every comment seriously. Regarding concerns about crime, their properties had a history of crime being low.

Benefits included job creation, sales tax revenue and improved infrastructure. On a national average, more people were renting than owning their homes, going from 69.1 percent in 2005 to 63.6 percent in 2017. Each phase would create 8 to 10 jobs, including office and maintenance

staff. The residents, who would have a lot of disposable income, would bring considerable sales tax revenue into the area. Roads would be widened and extended, sidewalks constructed and sanitary sewer improvements made. In June of 2017 the *Kansas City Star* had run an article about the need for multi-family housing. It stated that “*Lee's Summit could support an additional 2,500 luxury apartments*” and that “*in Lee's Summit, 30 percent of the renters in apartments are new households. . . 70 percent are older adults who are from existing households.*” Some 'new' renters were actually moving up from lesser-quality apartments. Case had done some homework, including their own market surveys, and found that occupancies were stable at high market rates. Despite complaints that Lee's Summit might have an oversupply of apartments, a Council-requested study done by Vogt Strategic Insights in 2017 confirmed that the market could absorb another 2,500 apartment units.

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

Mr. Steve Mauer, of Zerger and Mauer LLP (Kansas City) first stated that he was present representing the property's owner, Robbins Trust. Chairperson Norbury told him he would be able to speak after staff's presentation.

Mr. McGuire entered Exhibit (A), list of exhibits 1-18 into the record. He related that the applicant proposed to rezone about 35.36 acres from AG to RP-4. The property was located on the north side SE Blue Parkway, about 1/4 mile east of SE Blackwell Road. It was unplatted property historically used for agriculture. The property to the north was zoned R-1, and those to the south, east and west were also undeveloped land with AG zoning. The R-1 property had an HOA, a pool, common areas and the Highland Park elementary school was nearby, to the north of the subject property's boundary. Traffic improvements included widening Blue Parkway, as well as a new roundabout on Blue Parkway and a new road bisecting the proposed project and link the roundabout to the eastern city boundary. Parking would be provided via a combination of garages and surplus parking stalls. In accordance with the UDO, the preliminary development plan also served as the preliminary plat.

Phase 1 would have 282 units for a total building area of 307,756 square feet and a density of 16.72 units per acre. Parking spaces totaled 587, with 499 being open parking spaces and 88 in garages. Phase 2 would have 302 units for a total building area of 319,945 square feet and a density of 17.29 units per acre. Parking spaces totaled 547, with 619 being open parking spaces and 64 in garages. Proposed exterior materials were stone and brick, with shake shingle and lap siding. Two slides displayed the materials and colors proposed for the clubhouse and a typical 2-bedroom unit building with garages.

The applicant requested a modification to the maximum density of 12 units per acre in RP-4 zoning, to allow for 17 units per acre. Staff supported this modification as the development would have significantly less impervious coverage and more open space. This was comparable to similar and recently approved apartment applications. They had also asked for a modification to screening requirements. The UDO required a high-impact screen along the north property line. Staff considered the applicant's proposal to install a medium-impact buffer to be reasonable, as it would provide a 70 percent, semi-opaque screen between the dissimilar land uses. It would partially block views from nearby and create a separation between adjoining properties. Mr. McGuire displayed a sight line diagram showed significant distances between the proposed development and the single-family neighborhood. Due to this, the fence included in high-impact screening would have little effect. Additionally, the buildings on the north side

would be set back, about 135 to 204 feet from the north property line and the storm water detention basin would be located between the buildings and the landscaping, creating an additional visual buffer.

The 2005 Comprehensive Plan had not established a recommended land use for this property; so the applicants tried to support the Comprehensive Plan via addressing many of its objectives and goals. The Thoroughfare Master Plan's future land use map identified it as medium- to high-density residential. The land use plan did not establish any mandate for future development but was rather a general guide. Vogt Strategic Insights' 2017 housing study projected a demand for a little over 2,300 market rate rentals over the next 10 years. The typical occupancy rate in similar markets was 95 percent, compared to Lee's Summit's 98.4 percent. A vacancy rate of less than 5 percent indicated demand exceeding the supply.

The application had generated considerable market comment. Many comments concentrated on the proximity to a school, about 538 feet from the nearest building, with concerns about capacity and school safety. City staff was not in a position to speak for the Lee's Summit School District on specific impacts. The District was aware of the project, and to date no spokesperson had contacted City staff with any concerns. Regarding traffic increase, a traffic impact study was always done for a development this size, and in this case it had concluded that the traffic increase would be negligible. The project would have no direct vehicle access into the adjoining residential neighborhood with all access being from Blue Parkway.

Mr. McGuire summarized staff's conditions for approval. Recommendation Item 1 granted the modification to the high impact buffer requirement, allowing for a medium impact landscaping buffer. Item 2 granted a modification to the density maximum of 12 units per acre in RP-4, allowing for 17 units per acre. In Item 3, the development would be "*subject to the recommended road improvements outlined in the Traffic Impact Analysis prepared by Michael Park, dated October 18, 2018.*"

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

Mr. Steve Mauer stated that he was present on behalf of the Robbins Trust. Mr. Robbins, the property owner, was also present. He gave a brief history of the property. He understood that everyone liked to look out their back window and see deer or wild turkeys. The land was currently undeveloped but was very close to US 50 Highway. The Robbins Trust partners had purchased it, a total of 105.2 acres, in 2004. About 35 of the acres would be rezoned to RP-4.

Mr. Mauer displayed a map that showed land that MoDOT had taken during the Blackwell interchange's construction, with the Robbins property indicated in yellow. It had actually been taken as commercial property. The parcel being considered tonight was indicated in green, and was clearly the furthest away from the interchange. In 2007 and 2008 it had been subject to a TIF that the City had previously approved. It was part of the US 50 corridor improvement plan, which had produced the Price Chopper shopping center and the hospital. Had it developed in 2007 or 2008 it would generate no tax income but this had not happened due to the 2008 recession. Since the applicants were not asking for any financing assistance, this was a great windfall for the City. The 2007-2008 plan had concentrated heavily on retail development. This would have generated considerably more traffic than was likely with the apartments. The original plan would not be nearly as much a problem for neighbors as tonight's project would be.

Mr. Robbins still owned most of the property and wanted a high-quality development. He had formed a partnership with the developer, and had even offered to pay for some of the road improvements. Further, the new Lee's Summit hospital was very close to this site and because of the employment opportunities two high-end high-end luxury apartments had been developed.

Chairperson Norbury noted that this was one of the largest groups to be sworn in that he had seen on the Commission. Due to time considerations, comments would have to be limited to three minutes.

Mayor Bill Baird stated that he was not speaking either in favor of or opposed to the application. He thanked the citizens present at tonight's meeting, and commented that this was a sign of a healthy and engaged citizenry. Too often, people waited until the last minute to voice their concerns at a City Council meeting; but this was the best opportunity for people to speak up and get their comments and concerns on the public record. He thanked everyone for voicing their concerns at the right venue and the right time, and thanked City staff for working with citizens to help them follow the development process. Staff also worked with businesses and developers who wanted to invest in Lee's Summit and were committed to remaining unbiased. He emphasized that the Commission, City Council and Mayor tried to remain unbiased in hearing applications and would do so with this one. It was central to the Planning Commission's mission to thoroughly vet projects and provide due diligence. The City, including the Mayor, trusted the process and would reserve decisions until they had all the information. To the Planning Commission members in particular, he stated that the City Council wanted to provide a supportive environment for their decisions, regardless of anything that had occurred in the past. He thanked them for carrying out their duty to consider all factors associated with the project and asked that everyone take the time to make the best decision and to treat all involved in a respectful manner.

His only comment on the application was that Lee's Summit had a history of providing a safe environment for citizens, including prioritizing budgeting to keep the Fire and Police departments in the best shape. Similarly, the School District was responsible for addressing situations such as being under- or over-capacity. If the District had concerns, the City was more than willing to help resolve them. He appreciated all involved in the process and asked that community stakeholders, partners and citizens treat each other with respect.

Chairperson Norbury then asked that anyone wishing to speak come to either of the two microphones and first clearly state their name and address.

Ms. Marlene Haley gave her address as 2912 SE Bingham Court in Lee's Summit. She was speaking on behalf of a group of citizens opposing the application. She also had emails from people who could not attend tonight. She had over 400 petitions for opposition, gathered in just four days. This was after two meetings with the developer. They had also started a digital petition that now had about 900 signers. She had done an online search and was skeptical of the numbers Case had cited. She had found Google and city-data.com reviews that were not favorable. Complaints focused on lack of upkeep and poor quality of materials. Others reported electrical and plumbing as being low-grade, and in general no upkeep on the complexes once they were built and had tenants.



During the testimony, speakers were called for time and members of Ms. Haley's group yielded their time to the speaker.

Ms. Haley stated that the group had found a Department of Labor news release from January 20, 2017 that referenced repeat OSHA violations. A court case again reported problems and complaints due to lack of maintenance and repairs. Further, they were not accredited with the Better Business Bureau and were rated "F" at Sierra Apartments, Riverbend Apartments and Waterstone Place Apartments. Ms. Haley also reported that Case deleted all negative comments on their Facebook page.

Mr. Brian Wood stated that he was a real estate agent and was in favor of growth. He noted that the applicant had asked to increase the density to 17 per acre, when the stated maximum was 12. The total 282 units planned, even for just the first phase, was far too many. With the total number of over 500 units after Phase 2, it was also unlikely that there would be only about 93 children, as the applicant had estimated. He had grown up living in apartments, and knew that children from the apartments could be attracted to the Summit Mill subdivision's playground. He generally considered this a bad location for what the applicants wanted to do.

Mr. Joe Hudson gave his address as 432 SE Stillwater, less than 200 feet from the subject property. He noted that staff's presentation referenced a 465-foot sight line diagram showing the between the apartments and the single-family neighborhood; and added that SE Millstone Avenue had a major grade change. He was in the construction industry and sat on the TIF commission for the City, but he opposed to the project. When he moved into his current home in 2003, he had known that this property would be developed. At the time, it was projected to be commercial. While most commercial development was one-story, this project would be a massive development with almost 600 apartments in three stories. Anyone driving down the hill on Millstone would look straight into the complex, as well as into his and his neighbors' back yards.

Regarding property values, Mr. Hudson noted that Mr. Case had not talked about the average around Lee's Summit but specifically about the average sale in other complexes. He emphasized that after Phase 2 was completed, this development would be twice the size of any other apartment complex in town. He added that the political reality was that the Planning Commission and the City at large as well as the schools would want a development like this and he understood why the current owner wanted to sell. But he wanted the Commission to also consider the people from the neighborhood attending tonight's hearing. This property could be used for another development, possibly a commercial use.

Mr. Hudson stated that while he had expected this land would be developed, he had not known that the Commission had approved the thoroughfare plan going through the development as well as changing it from commercial to medium- and high-density residential. Staff members had also stated that a road would go through the property and did not see any issue with traffic and schoolchildren. Also, he'd understood that the property just east of this one and across the street from his home was owned by Jackson County. Currently the thoroughfare plan was to put a road through the development but it would come to a dead-end until such time as the County property was developed or annexed. Mr. Hudson added that the property was actually surrounded by single-family owners, with a lot separating them on one side.

Ms. Donna Gordon gave her address as 1142 NE Country Lane Place. She did not live next door to the subject property; however, she did have some concerns about multi-family housing in Lee's Summit. While the Vogt survey mentioned overall demand in Lee's Summit, the larger picture was that a boom in multi-family development was happening throughout the Kansas City metro area. Figures from the Fannie Mae multi-family outlook published this year included 134,000 units of multi-family housing in the metro area. Of these 6,200 were now underway and 12,700 were in planning stages. It amounted to a 14 percent increase. The census numbers showed a decline in home ownership, but this was also a national trend, influenced heavily by affordability on both coasts. According to the Kansas City Home Builders Association, 70 percent of development in 2015 was multi-family, 45 percent in 2016 and 28 percent in 2017. Lee's Summit was fourth in the metro area in single-family development, as of last September.

Regarding stories about millennials not being interested in home ownership, the *Business Journal* had reported in January that High Line a real estate marketing firm, had conducted a housing survey of people living Downtown. They had projected that within five years, most of the respondents would live elsewhere and many of them would be looking for neighborhoods in suburban areas. Overall 74 percent said they wanted to buy, not rent, their next dwelling. The South Kansas City alliance had surveyed Cerner workers and out of 600 responses, 75 percent expected to be living in a single-family home within the next five years. Ms. Gordon concluded that multi-family appeared to be getting overbuilt.

Ms. Sallee Alway gave her address as 646 SE Joel Avenue, the last street before the subject property. Regarding Mr. Case's reference to meeting with Home Owners Associations, she noted that not everyone in the area had an HOA, including residents on Joel and Jonathan Streets. She had not been notified about it until someone pointed out a sign. She noted that the traffic there was very heavy and increasing. It was a nice neighborhood and she liked living there but she doubted that many young people were looking to rent in Lee's Summit.

Mr. Jonathan Smith gave his address as 607 SE Joel. He fit the young professional category, the claimed target demographic for the development. In considering what kind of people Lee's Summit wanted, it would be best to have people who would have a long-range stake in the community. He had grown up in Lee's Summit, went away to school and returned to work for a Kansas City company. He had bought a home in Lee's Summit and was involved in the community. Regarding Google reviews, there were 65 in the last 24 hours and 114 before that, doubling the count in a day. All the reviews in this time got 4 or 5 stars but before that, most ratings were 1 or 2. Mr. Smith was also opposed based on the proposed size and density. Lee's Summit was not a college town and did not need a lot of multi-family housing but rather needed to work with what they already had. A target market of people who wanted to move around, as the applicant had referenced, was not a population that had an investment in the community.

Ms. Lisa Burl gave her address as 2428 SE 7th Circle in the Ashton subdivision. She stated that the neighbors were not opposed to development but this was their neighborhood and they wanted to be involved in the planning. She noted Mr. Case stating that the development would not likely impact traffic. This was difficult to believe in view of the number of units when the project was built out. It could be as many as 300 or 400 vehicles and that would definitely have an impact. Shenandoah already had some problems with accidents. This was a huge development for a small area and the surrounding residents were not being considered.

Ms. Annie Timmons gave her address as 420 SE Stillwater Court. Her main concern was privacy and security, since the development would face directly into her back yard. She shared the opinions that this development was grossly oversized and did not fit the neighborhood. When it was built out it might house as many as 1,200 people, with inevitable traffic increases. With five new apartment complexes in Lee's Summit, she was doubtful there was a need for such large apartment developments.

Mr. Seneca Spiese gave his address as 2825 NE Marywood Lane, a neighborhood just north of the proposed development. His impression was that this was "spot development", something just thrown in that didn't match anything around it. What was around it was single-family development, a school and some high-end luxury houses. The development could impact property values, since someone looking at the more expensive homes might not want to live close to an apartment complex. While the applicant might assert that these were luxury apartments, they would not be luxury dwellings if the complex could not be filled. If that did not happen, an owner typically had to reduce rents and bring the wrong kind of elements into the neighborhood. This very large apartment complex did not fit the neighborhood altogether and he would like to see some development that was compatible with the area.

Ms. Kara Doak gave her address as 221 SE Quail Drive. She had also noticed that the City's limit on density was 12 units per acre but the applicant wanted to raise that to 17. There was no reason to have a Unified Development Ordinance, designed to regulate and control the development of land and promote the public safety, health and general welfare of the community if the city was not following it. It did not look like comprehensive planning for the whole Lee's Summit area was happening.

Mr. Jeremy Hauhgy gave his address as 313 Golden Lane, a few blocks north of the school. He had experience in construction, and was in favor of multi-family development. However, it being next to a school was a concern. At the meeting this was brought up, specifically about construction going on possibly into 2021 or beyond. The company used subcontractors, and while they might screen potential residents, it was not likely that this applied to employees of subcontractors. That meant heavy equipment and unvetted workers would be close to the school every business day for a long while. Further, he had worked on apartment projects and landlords often complained about fair housing laws and their inability to screen out undesirable applicants. Although fair housing laws probably served a good purpose, a background check might not reveal mental problems. Background checks would not remove risk.

Mr. Clyde Turner gave his address as 612 Pennington Drive. When he had bought his house in May of this year, it was appraised at \$240,000. He had been told by the appraiser that the house would lose value if an apartment complex was nearby. He had not made this investment to live next door to an apartment complex.

Ms. Stacey O'Brien gave her address as 2427 SE 6th Terrace. She noted that the UDO required high-impact landscaping buffers for RP-4 developments, and wanted to know why the City would allow medium-impact buffering. She also wanted to know what land use was assumed for the traffic origin-destination study, according to the ITE trip destination guidelines when they were designing the Blackwell interchange. Modifying a roundabout was difficult and expensive, as the central island diameter controlled vehicle speeds and all the drainage structures were on the outside. Ms. O'Brien also wanted to know if this was a noise compatible

planning, per FHWA. A well-planned city did not build noise-sensitive buildings adjacent to a highway. If that happened, noise barriers might become necessary in the future, and taxpayers would be paying for them.

Ms. O'Brien then read from "Planning and Zoning Procedures for Missouri Municipalities": "*when zoning is not based on a comprehensive plan, there is a tendency for an undesirable development pattern to occur.*" She asked where was the comprehensive master plan for this area that was done with citizens' input; and specifically why the City was considering allowing a massive apartment complex to set the tone for Lee's Summit's eastern gateway. It amounted to treating this gateway as if it were not worth the proper planning. She requested a moratorium on rezoning and development in this part of town until a comprehensive master plan specifically for this area, done with citizen input and thorough impact studies, was in place. Chairperson Norbury requested those present to observe procedure by not applauding.

Mr. Bill Haley gave his address as 2912 SE Bingham Court, across the street from the elementary school. In the last few days he had attended meetings with many of the people present. None of them opposed development in that part of town. The reaction the Commission was seeing tonight was a reaction to an out-of-town developer coming to Lee's Summit and finding a piece of property and submitting an application to use this property as part of his business. He assured the Commission that everyone attending tonight's meeting was more invested in Lee's Summit than any out of town developer. Even as an investment, based on the number of units the company managed this project would represent only about 2 percent of its portfolio. The homeowners were all invested in Lee's Summit. They had invested in their homes because they liked what Lee's Summit had to offer. He considered it an injustice to Lee's Summit's citizens to simply react to a developer's plan rather than plan for the community's development, and specifically for the east corridor. Mr. Haley noted that in tonight's earlier library application, no neighbors had objected; and there were other uses for the subject property that also would not inspire opposition.

Chairperson Norbury announced a short break at 8:00 p.m. The meeting reconvened at 8:08 p.m.

Chairperson Norbury then asked if the Commission had questions for the applicant or staff. He added that since the hearing was still open, public comments could continue after that.

Mr. Funk remarked that some of the residents had mentioned that they had expected a commercial development. He asked for a comparison between anticipated traffic levels if the apartments were built and what they would be if it was commercial development. Mr. Park responded that he had not done an assessment; however, any type of commercial mixed use would generate more traffic than the apartments. In comparison to other residential zoning, the apartments would generate more traffic than single-family homes. The TIF plan had shown higher-density commercial mixed use, and the long-term interchange improvements had involved other research and design as well, including projecting traffic growth over a 20-year period and the continued growth of other properties beside tonight's subject property. Mr. Park was confident that the interchange was able to handle this development as well as other growth in that area.

Mr. Funk mentioned some remarks about the Comprehensive Plan, and asked Mr. Johnson what land use was designated for the subject property. Mr. Johnson replied that it had no land

use designation in the Comprehensive Plan. The Thoroughfare Master Plan was an appendix to it and they planned future roads for medium- and high-density residential.

Chairperson Norbury asked if this piece of land not having a designated land use in the Comprehensive Plan would limit the Commission's ability to recommend approval or denial of the application. Mr. Johnson answered that the UDO specifically said that in general the Comprehensive Plan could not be used to deny just on that basis. The Commission could recommend approval or denial, absent a Comprehensive Plan designation, or it could direct an applicant to do a Comprehensive Plan designation between now and the City Council hearing, or it could continue the application to give the applicant more time to get the designation.

Mr. Gustafson asked what assumptions staff made about land uses to the east and west of the subject property. Mr. Johnson answered that a road to the east was planned, starting at the subject property. As it continued east, the road would become a dividing line, with more intensive uses by Blue Parkway, possibly commercial or office use, and a lower density zoning on the other side, possibly RP-2. Mr. Gustafson asked if some of the properties to the west could be lower-density residential and Mr. Johnson answered that it could, although the site plan he was referencing did not go that far west. It could include some kind of transition, such as duplexes.

Mr. Loveless recalled testimony that there had been no feedback from the School District pertaining to the impact. He asked if it was possible to request a projection from the District about what impact they projected from this development. Mr. Johnson answered that staff had tried twice to contact them but could try again and emphasize that the Planning Commission needed the information about projected numbers. Mr. Loveless commented that this would be helpful information. Regarding public safety, he wanted to know if the city's Police and Fire Departments were confident about handling the additional population density a project of this size would bring. Chief Eden replied that currently the Fire Department could do that. Typically an apartment complex of this size generated about 25 calls a year. Much planning went into this and they might ask for extra personnel.

Detective Mark Phillips stated that the Police Department had the same position: he did not believe that this complex would overtax the Department.

Mr. Loveless then asked staff for a response to the citizen comment about their approving a medium-impact buffer. Mr. Johnson stated that the fence that would be used in high-impact screening involved two issues, security and visual privacy. He displayed a diagram showing the change in grade from the property line, showing that the fence would have little visual effect. However, he did not think that requiring a high-impact buffer would be a make-or-break issue for the project.

Mr. Loveless asked what the discussion was with the applicant regarding the request for both phases to be approved at the same time. Phase 1 could have been approved now, with the second phase being a separate application. Mr. Johnson explained that if the preliminary development plan was approved, it would make more sense to go through the public hearing process all at one time. Normally a final development plan would follow via an administrative process. Mr. Case stated that the property owner had requested that they purchase the entire 36-acre tract. Instead of constructing 584 units all at once, they wanted to break it up into two phases. Otherwise they would have requested rezoning for the entire acreage.

Noting that the project included both attached and detached garages, Mr. Loveless remarked that much of the recent product in Lee's Summit, including multi-family, had very large attached garages. He asked for some details about garages. Mr. Case answered that they planned about 100 garages, and displayed a photo of a 'garage building' with six bays. The building in the image had a one-bedroom and a two-bedroom unit above the garage. The two garages at the end of the building were considered attached, with an interior stairwell; and the four in the middle were considered detached. A neighbor across the parking lot might want to rent that for their car. The larger three-story, 24-unit buildings would have 4- bay or 6-bay garages. The garages opened into a breezeway, so technically these were detached garages. The total count was 88 garage parking spaces for Phase 1. Phase 2 would have a currently unspecified number of more garages but fewer units.

Mr. Loveless asked if they anticipated having any 3-bedroom units, and Mr. Case answered that they did not. Mr. Loveless noted that when the applicant was showing additional designs, it had showed drive-up units, but not as many as he wanted to see in a class A property. He also commented that open breezeways were not considered an element of a class A apartment property in Lee's Summit. Closed breezeways did provide some additional security. Mr. Case confirmed that the project would not have any elevators.

Ms. Arth noted to Mr. Case that he'd mentioned only two of his company's properties had been sold in 20 years. She asked if they had any specific plans for retaining or selling this project. Mr. Case answered that they got 10-year financing on the property. After those 10 years they would either sell or refinance for another ten, or sometimes 15 years.

Referring to the information about other apartment projects in Lee's Summit, Mr. Lovell noted some figures: 515 total units at New Longview and a projected 312 units for the Village at View High. He asked staff if they had any information about the school impact from the multi-family development at New Longview. Mr. McGuire replied that there was previous testimony concerning that in previous applications; but staff did not have any updated numbers.

Chairperson Norbury noted the mention of Formica countertops in kitchens. Mr. Case answered that this was correct. It was a state of the art version called FX180. Chairperson Norbury remarked that while there was a wide choice of finish choices, but granite countertops were currently the most popular. Mr. Case answered that the FX180 product did have a granite look and was quicker to install as well as being cheaper and keeping construction costs down. It was as durable as granite.

Chairperson Norbury then noted the comments about the allowed density being 5 per acre over the UDO maximum. The numbers showed that almost all the multi-family developments the Commission had approved had a density higher than 12 per acre. Ms. Doak had asked why the UDO included that requirement if the City never paid any attention to it. Mr. Johnson answered that this was a peculiarity of the way zoning was done in Lee's Summit. In another zoning structure, zones would have assigned densities. In the case of Lee's Summit, the UDO allowed for modifications. Every time a property was rezoned, the Council would record an ordinance that could have modifications or special stipulations. This effectively created a zoning just for that site and just for that project. Sometimes an applicant could just go to another zoning designation, such as Planned Mixed Use but this was not a mixed use project. Chairperson

Norbury remarked that it might be constructive to have the development ordinance reflect reality instead of setting theoretical limits.

Mr. Funk noted to Mr. Case that he had referred to the project as luxury apartments. However, the mention of no elevators in 3-story units and countertop materials were examples that were not consistent with that. He asked what other amenities other than the pool and fireplace options were offered that would be consistent with a luxury apartment project. Mr. Case stated that elevators would require 4-story buildings at a minimum and that would both require larger buildings and increase the density. A pattern at their other complexes was that third story apartments tended to not rent as quickly as the first two floors. Their architect did have a 4-story plan they could consider, since there was enough land for that. However, 3 stories were sufficient and they had not found any justification for elevators in a 3-story building.

Mr. Funk remarked that the Commission had seen a number of applications for apartment projects and applicants all seemed to want to refer to them as "luxury". He wanted to know what amenities would be available that would tend to make these fit that description. Mr. Case pointed out that the pool was a \$200,000 pool with a 'beach' entry, a cabana lounge with a 70-inch TV and social areas. The clubhouses had fitness rooms and game rooms, and the one at the clubhouse had a pool table and shuffleboard court. A dog park was also provided, for both large and small dogs, and picnic areas throughout the development. The units had stainless steel appliances, ceramic tile in the entry, kitchen and baths. What often defined apartments as class A was the amenities as well as interior features.

Ms. Arth suggested a scenario where the project got to Phase 2 and the apartments were no longer feasible, with the property now having multi-family zoning. It might be more constructive to do the rezoning to mixed use in that case as it would prevent getting locked in. The City had on other occasions approved a project at the maximum density level and the developer later came back with a number of changes. She was not sure if they would be able to approve it one phase at a time.

Chairperson Norbury remarked to Mr. Park that the Commission had a lot of projects and a lot of applicants that came through that required an independent traffic study. He noted that it was common for people to think a new development close to them would create a lot of traffic, and he asked Mr. Park for a summary of what standard was used. Mr. Park agreed that staff always did its own assessment of a development regarding traffic. When a development reached a certain point in terms of peak trip generation, the developer or applicant was required to hire a professional engineer to do a study on their own behalf. Then they could present their situation, which usually entailed roadway improvements, and there was no appearance of bias on the part of staff.

The engineer had to show certain qualifications, experience and expertise in conducting and interpreting traffic studies. They had to be registered in the state of Missouri. Methods of conducting an impact study were fairly standardized within the industry. There were standard measures of trip generation for developments like this one, and surveys across the country gave an idea of a typical application and how much traffic a project would generate. The engineer's judgment was usually supported by existing traffic counts and patterns. They would do an analysis of adjacent intersections during peak traffic hours; which were usually from 7:00-8:00 a.m. and 5:00-6:00 p.m. There were industry standard measures of performance for intersection operations based on delay, and they then quantified results into levels of service. The City had

adopted standards of what would be considered adequate level of service and whether or not the study indicated those levels were met would determine what staff would recommend.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he stated that there was enough time for a little more public comment.

Ms. Kat Wistens gave her address as 209 SE Quail Court, very close to the subject property. Her daughter was in the 6th grade. Her daughter said people could sit on the decks watching the kids at recess, and she did not want to be shot.

Ms. Shelley Gibbon gave her address as 615 SE Joel Avenue. She stated that she did not know where the numbers cited tonight came from. She also cited the negative Google reviews and a one-star Yelp review. The issue involving the review was that having accurate, transparent and truthful conversations were needed when people had complaints about a landlord. They had claimed to not have any negative comments on their Facebook page despite a video that was viewed over a thousand times, but with no accompanying comments. That looked clear that negative comments were being deleted, and did not address online rumors that garages in their other complexes had collapsed on cars, ceiling fans fell or problems with roaches. She had also heard of people who wanted to move but were stuck with leases. She cited Mr. Case's claim that the vacancy rate was one reason for 3-story buildings not having elevators. However, on other occasions the claimed occupancy rates in the 90 percent range. Ms. Gibbon also pointed out that this area was a major eastern gateway to Lee's Summit and could generate a lot of income, and this development would not do justice to that.

Ms. Amy Davis gave her address as 2409 SE 5th Street and mentioned some of the concerns about schools. She had attended some of the community engagement meetings recently and had learned that Highland Park was designed for 634 students. In the 2017 school year the school had 558 students. An additional 90 children, the applicant's estimate of the maximum number in the development, would put the school at slightly above capacity. An additional concern was the developer's mention that turnover rate of apartments averaged 50 percent. That meant that much of the school's student body would change every year. Ms. Davis added that if this very large complex was half the size, there would be about half as many children, so this was related to the high density. Also, concerns about traffic included a question as to whether the complex would have a connection to Millstone Drive, the road that ran in front of the school. If that happened, the street in front of the school would become a collector. A development like New Longview, also with a school, had a lot of young people and a lot of shops and restaurants; whereas this was just a huge apartment complex without even sidewalks to take a walk.

Ms. July Tosier gave her address as 548 SE Asheville. She noted a comment about the applicant having met with homeowners, which had not happened. The argument and displayed statistics about home values was a very simplistic answer to concerns about home values. She wanted to see a more thorough response to the legitimate concerns about property values. Concerning the decision to eliminate any wall, detention ponds were often a hazard for children both in the complex and in the neighborhood.

Mr. Gustafson asked what would be the process or time frame for including this area in the Comprehensive Plan. Mr. Johnson replied that this plan was approved by the Planning Commission. One option was to put the plan on hold until the Comprehensive Plan was revised



to add a designation, which they could direct staff to do. That would require a 15-day public notice. Mr. Soto clarified that the first opportunity for the Commission to address this would be the first meeting in December. Mr. Johnson added that they could make that recommendation tonight, which would probably need a recommendation for approval with the addition to the Comprehensive Plan as a condition.

Ms. Courtney Arnold gave her address as 261 SE Quail Drive. She added that the Summit Mill HOA had refused any easement rights that the applicant had requested for sewer lines. She added that if these were being advertised as luxury apartments, they would need to back that up with action, including elevators for third floor dwellings. She asked for the City to not rush and take some closer looks.

Chairperson Norbury closed the public hearing at 8:50 p.m. and asked for discussion among the Commission members.

Chairperson Norbury brought up the Comprehensive Plan question, noting that this section of land was annexed in 2005 and for some reason was not in the Comprehensive Plan.

Ms. Dial was in favor of postponing this application until after a revision to the Comprehensive Plan, which Lee's Summit had in all other areas. This particular area was a major gateway.

Mr. Gustafson wanted to have the assurance of the Comprehensive Plan for this whole gateway area, not just the subject property.

Mr. Loveless commented that if the Comprehensive Plan was revised, he still wanted to see a better product and a little more control over the phasing.

Ms. Arth agreed that this area should be included in the Comprehensive Plan. It would also be an opportunity to add other areas in town that might have been left out.

Chairperson Norbury commented that in terms of patterns of development, there was an argument that the proposed use fit the overall concept but he considered a public hearing to revise the Comprehensive Plan a good idea.

Mr. Lovell stated that what had worked out at New Longview might not work here but nevertheless, this was a very similar number of units brought into his neighborhood, which had been zoned R-1. His neighborhood also had a school nearby and over the last five years, they had seen property values increase. They had also not seen negative effects on the school and New Longview had continued to grow. Moreover, the City had the resources to get the right information on traffic. But rent rates, finishes and amenities did matter as tenants would be living with them on a daily matter. He was not telling the people who had testified tonight that their concerns were not valid but he had seen this kind of development work and hoped they would feel a little better if there was continuing conversation with the developer and staff.

Mr. Funk stated that Lee's Summit had the growth for multi-family. However, he did not want people living in apartments referred to as "those people" or invaders. He still did have concerns about the product living up to the "luxury" label.

Ms. Arth stated that she was impressed with the concentration on facts in the testimonies. She had heard in the past that an influx of about 90 children into a school was not typical of luxury apartments. She had liked some of the aspects of the plan, such as the LED fireplaces, pool and public areas but the reference to kitchen materials did not imply luxury, and attached garages with no breezeways would be a major safety improvement. And even on a second floor, let alone a third floor, she would not want to carry groceries upstairs in what was billed as a luxury dwelling. She agreed that more planning and information was needed.

Chairperson Norbury said that this was a threshold product. He knew that there was no product, luxury or otherwise, that the neighbors would be in favor of. Aside from the particulars of this project, this was a buffer area in that there would not be single-family development along a highway frontage road. Commercial development might have happened when they had a tax incentive but in the last 10 years this had not happened. The Commission had to deal with the project in front of it, and there was no competing development. He had done some homework on apartment complexes and nearby property values in the metro area and had found a complex, the Coventry Trace apartments at 119th and Quivera that backed up to homes and these homes had values up to \$300,000. He also cited the mixed use New Longview development, with higher home values. He did not think there was evidence that an apartment complex nearby lowered home values. He had some similar concerns but the Commission was more insulated from public opinion than the City Council. They were driven more by general ideas about development and how it could occur. He did not consider an apartment complex in their neighborhood a bad thing so in this situation the Planning Commission's conclusion might not agree with their concerns, which he believed to be a little misplaced.

Chairperson Norbury did not see any reason why a high-impact buffer should not be on the border of the development. He had some skepticism about what would constitute a luxury apartment but people did need to understand that Lee's Summit could not limit its population to people who could pay a quarter of a million dollars for their home, or an apartment rent of over \$1,100 a month.

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

Mr. Gustafson made a motion to recommend that continued Application PL2018-079: Rezoning from AG to RP-4 and Preliminary Development Plan: Artisan Point Apartments, approximately 35 acres generally located at the northeast corner of SE Blackwell Rd and SE Blue Pkwy; Case Development, LLC., applicant be continued until such a date that City staff could present to the Commission an amendment to the Comprehensive Plan to include this general area in the plan.

Ms. Yendes advised wording to continue the application to a date certain of December 13.

Mr. Gustafson amended the motion to continue the application to a date certain of December 13, 2018. Ms. Dial seconded.

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

On the motion of Mr. Gustafson, seconded by Ms. Dial, the Planning Commission members voted unanimously by roll call vote to **CONTINUE** continued Application PL2018-079: Rezoning from AG to RP-4 and Preliminary Development Plan: Artisan Point Apartments, approximately

35 acres generally located at the northeast corner of SE Blackwell Rd and SE Blue Pkwy; Case Development, LLC., applicant; to a date certain of December 13, 2018.

Chairperson Norbury confirmed for Ms. Yendes that Mr. Gustafson's motion included staff being directed to bring back a Comprehensive Plan amendment.

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

## **ROUNDTABLE**

Chairperson Norbury asked Mayor Baird if it was too early to stay on the record about a possible joint work session. Mayor Baird confirmed that this was on Tuesday, November 20.

## **ADJOURNMENT**

There being no further business, Chairperson Norbury adjourned the meeting at 9:11 p.m.

PC 110118