Planning Commission
Staff Report

August 31, 2020

TO: Chairwoman Wendy Bailey
Planning Commission Members
Anna Krstulic, Zoning Counsel

FROM: Kim Young, City Clerk and Abbie Aldridge, Assistant City Clerk

APPLICANT: Henry Kloever of Kloever Architects on behalf of MREM Fairway Property

The legal description for the lot(s) is: 4200 SHAWNEE MISSION PARKWAY; 9-12-25 BG 1073.15' W & 30' S NE CR NE1/4 PT BEING S RTWY/L 55TH ST E 337.23' SE 54.65' TOWLY RTWY/L JO DR SWLY 159.26' & 95.13' NW 210.99' NWLY & NLYALG CUR TO RT 66.82' N 14.09' TO POB 1.0091 ACS M/L FAC 280B

Zoned: B2 – Office District

Section 15-235 – Preliminary Site Plan Review
In the B-1 and B-2 district:
• Any exterior structural construction activity, alteration or replacement of a structure, except activities that may be considered ordinary maintenance;

Applicant is proposing demolishing the existing 6200 square foot structure and constructing a new 6500 square foot single story, multi-tenant building with space for three tenants. The new structure will be situated a slightly more north on the property.

Section 15-362(a) Block Design (2) Street Edge
(a.) All blocks shall have a street edge between zero feet (0') and ten feet (10') from the public right-of-way or private lane (see Subdivision VII of this division, Figure 15-438-7). The street edge shall be formed by any of the following site elements:
1. The front facade of a building;
2. A two and one-half-foot (2½') to four-foot (4') decorative fence or wall matching the architectural style and materials of adjacent buildings; or
3. A dense four-season vegetative screen where no more than fifty percent (50%) of the screen exceeds four feet (4').

On the 55th Street side, the new structure is in line with the parking garage structure to the west.
Sec. 15-388(a)(2) (block design in B-2) is very similar, but requires street edge between 20' and 50' from ROW, which accords with B-2 dimension standards—the property is zoned B-2. Zoning Counsel believes there to be some latitude here for the Planning Commission.

Along Shawnee Mission Parkway, the applicant proposes a 2½-foot retaining wall with compatible modular block wall to match building façade.

The proposed site plan appears to comply with the remaining subsections of 15-362.
Section 15-363 (b) - Drive Through Facilities

The project will include a drive-through window for service for one of the anchor tenants and requires Planning Commission approval to grant a Special Use Permit. Due to the topography of the site, the menu board may not be visible. The architect has provided an elevation on sheet A-200 #8. The menu board is over 50 feet from adjacent houses and should not be audible. Hours for the drive-through service window are 5:00 a.m. to 9:00 p.m. The DT menu board complies with the size requirements.

Section 15-387 – Dimension Standards

The project appears to comply with the dimension standards for the B2 Office District.

Section 15-389 - Special Conditions.

a) Retail and service. All retail and service uses allowed subject to special conditions in the B-2 district, according to Section 15-264, shall subject to the following standards:
   (1) Retail and service uses that are not integrated into an office building shall be developed according to the B-1 district site design standards and any special conditions in the B-1 district.

The building design, entrances, facades and landscape and open space design appear to meet the Code requirements.

The project meets most of the block design and lot design requirements with the exception of 15-362 (a)(2) street edge site element (more than 10-feet away) and (4) e. Street trees planted along sidewalk. Additionally, 15-363 (b) lot design requires direct pedestrian connection from perimeter sidewalk of block. There are no perimeter sidewalks and the slope of the lot does not make installation of one feasible.

15-550 – Sign Use Table; 15-552 – Signs Permitted in Business Districts and 15-557 - Deviations

The project incorporates signage for each tenant on the North and South facades as well as signage on the west and east elevations for a total of 8 wall signs. The anchor tenant is also requesting a monument sign to be placed on the existing brick base used by the former tenant Strouds.

The proposed signage will require a deviation due to the number of signs and combination of both monument and wall signs.

Section 15-552 – Signs Permitted in Business Districts

(2) b. Planning Commission shall consider whether the size, appearance and other characteristics of the sign are harmonious with the neighboring and surrounding areas and surrounding signs, and whether the sign meets the requirements of the sign regulations, other applicable City ordinances and the Comprehensive Plan. When appropriate to ensure traffic safety, the Planning Commission may request the applicant to provide a traffic study of the area in which the sign is to be located.

c. Wall signs and monument signs require approval by the Governing Body. After reviewing the proposed sign, the Planning Commission may recommend to the Governing Body that the sign be approved, approved with stipulations, or rejected.

(4) Standards for wall signs. Each building may be permitted two (2) permanent wall signs; provided, however, that the Planning Commission may recommend that the Governing Body approve a deviation for additional wall signs for multiple tenants when the circumstances regarding the use and design of the building support that deviation.

(5) In lieu of wall signs described in Subsection 15-552(4) above, a detached monument sign may be permitted.
The Planning Commission may recommend approval of the deviation under the following criteria:

**Sec. 15-557. - Deviations.**

Upon the Planning Commission’s recommendation, the Governing Body may grant a deviation to this subdivision with regard to the size, color, location, illumination of, and number of signs, based upon unique architectural treatments, special project conditions, or specific hardship. The consideration of a proposed deviation shall review whether the proposed deviation:

1. Complies with the general purpose and intent of this subdivision and other City ordinances.
2. Will adversely affect neighboring property owners, and whether the image presented by the proposed deviation is consistent or compatible with the area as a whole. It should be considered whether any lighting will disturb residents on nearby residential properties.
3. Adversely affect public safety, or traffic on adjacent streets. For monument signs, a safe sight-distance setback is required, and the sign location should not encroach upon potential future right-of-way needs. The proposed deviation should not significantly distract traffic on adjacent streets.
4. In addition to all existing or potential future signs in the nearby and surrounding area, significantly clutters or negatively impacts or blights the visual landscape.
5. Is intended to account for topography, landscaping, existing buildings or unusual building designs that would otherwise substantially block or impair the visibility of the applicant’s existing or proposed signs. Deviation may be appropriate to provide reasonable visibility of a business entity’s main sign.
6. Is of high quality and is compatible and integrates aesthetically with the daytime/nighttime color, lighting, and architecture of the area as a whole.

Applicant has provided a statement regarding the request for the sign deviation.

**Section 15-683 – Special Use Permit Procedure**

(a) A special use permit application shall be accompanied by any applicable fee and made on any forms provided by the City. The requirements for the application and the procedure for the review of the same shall follow those specified for a rezoning (see Section 15-234);

Applicant has provided a statement for the request for the Special Use Permit.

**Section 15-684 – Standards of Review**

f. **Review and recommendation.** A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the Special Use Permit to the Governing Body. If the Planning Commission fails to make a recommendation on a special use permit request, the Planning Commission shall be deemed to have made a recommendation of disapproval.

See attached responses from the applicant.

**Section 15-685 – Conditions**

(a) In granting a special use permit, the Governing Body may impose any conditions on the special use it deems appropriate to meet the requirements of approval. Such conditions must serve a legitimate zoning purpose and:

1. Be clearly expressed with sufficient clarity to give notice of the limitations on the use;
2. Relate directly to the proposed use; and
3. Address a legitimate zoning purpose that bears a relationship to the public health, safety, and welfare.

**STAFF RECOMMENDATION:**
This is a preliminary site plan, sign deviation request and Public Hearing for the Special Use Permit. The applicant will come back before the Planning Commission on September 28, 2020 with a final site plan based on the recommendations and discussion from this meeting.
August 26, 2020

Kim Young  
City Clerk  
City of Fairway  
5240 Belinder  
Fairway, KS, 66205

RE: 4220 Shawnee Mission Parkway

Kim,

This letter is in response to your review comments, received in your email dated August 24, 2020. You will find your comments in **bold** and our response in *italics*.

1. **The 37.66 feet distance on the North side noted on the preliminary site plan- is that from the building to the property line?**
   
   *Correct, the 37.66 feet is the distance between the building and the north property line.*

2. **The retaining wall on the South side-what are the materials?**

   *Retaining walls will be modular block walls, see attached spec sheet for reference on what we plan to install. An exact color of block will be chosen at a later date to match the building façade.*

3. **The North side-street edge site element-is it the building façade?**

   *Per section 15-388 of the municipal code, the site shall have a street edge between 20’ and 50’ from the public right of way or private lane. Our project provides a two and half foot retaining wall along Shawnee Mission Parkway with materials and style that match the proposed new façade to comply with option 2 of section 15-388-a-2. Please see the attached spec sheet for the modular wall as referenced in our response to comment #2.*

4. **Sidewalks-Discussed this with Patrick. Proposed is 5-feet but need it to be 6-feet.**

   *Sidewalks have been modified to all be 6’ minimum in width.*

5. **Courtyards-discussed with Patrick and he was going to confirm if the proposed courtyards cover 5% of the block?**
- 5% of the total site area = 2,360 SF minimum coverage. The current design provides approx. 3,000 SF of courtyard planting areas.

6. Drive-through menu board-please confirm size. Is this visible from 55th Street side? I thought maybe with topography it might not be seen. What are the hours of use-Patrick was going to check on this.

- D.T menu board is approximately 27.5 SF, less than the 36 SF allowed by ordinance.
  - Menu board is only 5'-2" off the ground. 55th street is at a roughly 913’ contour and the menu board sits up at about a 921’ contour. Therefore, the road sits about 8’ below our drive thru lane, if you are driving along 55th St, you would see about 8” +/- of the menu board just based on the site grading. The menu board will be further concealed by the trees and vegetation on site, we have added a diagrammatic site section to the A200 sheet illustrating this.
  - Operating hours will be standard 5am – 9pm.

7. The signage will require PC to grant a deviation due to the number of wall signs in combination with the monument sign. Be prepared to address this. Deviations is in Section 15-559.

- Per section 15-552-4:

  “Each building may be permitted two (2) permanent wall signs; provided, however, that the Planning Commission may recommend that the Governing Body approve a deviation for additional wall signs for multiple tenants when the circumstances regarding the use and design of the building support that deviation. No wall sign shall exceed thirty square feet (30 sq. ft.) in sign area and five feet (5′) in height, and the wall sign shall be attached firmly to the building parallel with and adjacent to the wall to which it is attached. All wall signs shall be constructed of materials and designed in a way as to be compatible with the buildings located on the same property. Wall signs shall not contain elements that extend above the top of the wall on which the wall sign is located.”

Our proposed building is a multi-tenant design and is proposing 3 tenant spaces. The limit for 2 wall signs only on this building would create a hardship for leasing to 3 tenants. We are currently proposing a wall sign for each tenant on all facades. This would be 3 walls signs on the north and south façade, and 1 wall sign on the east and west facades for a total of 8 building signs. This configuration is standard to multi-tenant buildings throughout Johnson County as well as close to the site such as the Einstein Bros Bagels. (while not in Fairway technically, it is the closest comparable building to the site). The request for wall signs above the maximum required 2 signs would be appropriate to provide reasonable visibility for all three tenants which would face all roadways so that visitors entering the site can adequately navigate to each of the three businesses, failure to provide signs for all the tenants would create a hardship for future businesses in drawing customers to their location and to be competitive with the surrounding businesses. The additional wall signs would conform to the restrictions and size limitations as set forth in 15-552-4 as well.
8. Please provide statement addressing Section 15-683 why the SUP is being requested, how it conforms to Comprehensive Plan and the purposes, intent and standards, nature and character of current zoning district, immediate vicinity, justification on how the requested use will conform to that character.

- The proposed special use permit is asking to allow for a drive thru use on the multi-tenant building located within the B-2 zoning district. The B-2 zoning district is intended for large scale office building and employment centers as well as the supporting commercial services in proximity to these uses. The multi-tenant building with a drive thru offers a convenient access to service industries directly relating to these nearby office buildings as well as for nearby residents. The building is designed to provide a scale and architectural design to complement the existing surrounding buildings in terms of its materials and sizing to be both pedestrian friendly and blend in with the surrounding community. A national tenant such as the proposed, requires investment into the community as part of their design standards. The new multi-tenant building is replacing a similar sized restaurant use in this area; because of this traffic to and from the site will be comparable to what exists today. By allowing for multiple tenants for restaurant, retail, and drive thru, the project offers a diversity to the commercial uses in the site to benefit the surrounding area. The drive thru is designed to run east to west, therefore keeping any headlights out of neighboring properties to the north, with the pickup window on the west side of the building and not visible from the street. The drive thru speaker itself is on the north side of the building where there is a large slope to the site and the speaker sits 8' above the adjacent 55th street to the north and will be screened from view via the difference in topography. The closest housing to the speaker is roughly 150' away, to over simplify the science of sound decreasing over a distance: The speaker average output is 90 decibels, over a distance of 150 feet this sound will fall to roughly 46 dB, which excludes any other white noise sources provided in the area. For reference a normal conversation is around 60 dB and a whisper are around 30 db. With the traffic along Shawnee Mission Parkway being much louder, it is safe to say that any noise coming from the order box should be barely audible to anyone standing outside the homes to the north, and not audible at all to any residents inside the homes. The comprehensive plan of Fairway calls for goals as follows:

Goal #1: Facilitate redevelopment that maintains and enhances Fairway’s character and quality.
Goal #2: Create a reliable and convenient multi-model transportation network that connects Fairway, locally and regionally.
Goal #3: Preserve and expand public spaces and amenities within Fairway.
Goal #4: Maintain and advance public infrastructure as the foundation for quality development.

The proposed drive thru use offers a redevelopment of a currently vacant space without major disturbance to the surrounding area and actually reduces the current impervious area surrounding the site, allowing for more greenspace. Since this is a redevelopment, the building maintains access to the multi-modal amenities directly adjacent such as the walking trails and bike paths and provides bike racks to promote alternative means of
transportation. The proposed multi-tenant building also offers several public green areas in excess of the minimum required 5% of the site to offer space and unique amenities to the residents. Since we are reducing the impervious area of the site, there are no needed improvements to public infrastructure and will actually allow more water to be absorbed into the ground, therefore reducing strain on existing city infrastructure.

Furthermore, the development will maintain all the existing trees on site. There are several large mature trees on site fronting both Shawnee Mission Parkway and 55th street that will remain.

For these reasons above, we feel that the approval of the SUP to allow for a drive thru on this multi-tenant building is not only appropriate but will further enhance the character and business variety in the City of Fairway.

This concludes our response to your comments. Please feel free to give us a call should you have any additional questions or concerns.

Henry C. Klover
President

CC: Beth DuBose
Attachments: 3 SETS OF DRAWINGS & SITES
Client project #: Klover project #: 19132.001
ORDINANCE NO.  
SPECIAL USE PERMIT NO. 2020 -  

AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A DRIVE-THROUGH WINDOW AT 4200 SHAWNEE MISSION PARKWAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FAIRWAY, KANSAS:

SECTION 1. SPECIAL USE PERMIT GRANTED. Pursuant to regulations set forth in Fairway City Code, Chapter XV, permission is hereby granted to use in the manner set forth in Section 2 hereafter, the following described property:

All that part of 9-12-25 BG 1073.15' W & 30' S NE CR NE1/4 PT BEING S RTWY/L 55TH                      
ST E 337.23' SE 54.65' TONWLY RTWY/L JO DR SWLY 159.26' & 95.13' NW 210.99'                       
NWLY & NLYALG CUR TO RT 66.62' N 14.09' TO POB 1.0091 ACS M/L FAC 280B                           
(Commonly known as 4200 Shawnee Mission Parkway, Fairway, KS)

SECTION 2. ALLOWED USE AND DURATION. That, subject to the provisions contained in Fairway City Code, Chapter XV, Division 4, Sections 15-363 and the conditions and stipulations set forth in Section 15-681, 15-682, 15-683, 15-684 and 15-685 hereafter, the permittee (Starbucks) shall be allowed to install a drive-through service window and menu board upon the above-described property through and until October 1, 2030; provided, upon the recommendation of the Planning Commission and the permittee’s showing of both the continued need for the allowed use, the Governing Body may renew this special use permit for one additional 5-year term (through and until October 1, 2035). If the permittee is found to be in non-compliance with this special use permit and the conditions and stipulations thereof, this special use permit will become null and void within 60 days of written notification of noncompliance, unless the noncompliance is corrected. All Zoning Ordinances and Regulations of the City of Fairway affecting the use of the above-described property which are inconsistent with this special use permit are hereby made inapplicable to the said property for said period of time.

SECTION 3. CONDITIONS AND STIPULATIONS. The special use permit granted in Sections 1 and 2 above is contingent upon the performance and observation of following additional and supplementary regulations, stipulations, conditions and restrictions, the violation of which shall be basis for revocation in addition to those specified in Fairway City Code Section 15-686:

   a. The allowed use shall be in accordance with Exhibit “A” (containing the application, site plan, photo simulation), which is filed in the office of the city clerk at City Hall, and is incorporated by reference as if set out in full herein. Under no circumstance shall the service window and menu board exceed the size and dimensions set forth in said exhibit, and any and all modifications or substitutions will require further City approval. Provided, the Planning Commission may approve a revised site plan for a modification or substitution of the drive-through service window and or menu board that are similar in smaller in size and scope to the drive-through service window and menu board set forth in Exhibit “A”, and further provided, city staff may approve a modification or substitution of any equipment or facilities that are not external or otherwise visible from the exterior of the building, unless city staff determines in its discretion that the modification or substitution should be reviewed by the Planning Commission or by both the Planning Commission and the Governing Body.

   b. The allowed use shall follow and comply with all applicable federal and state codes, laws and regulations, as well as all applicable codes, regulations and standards of the City, unless specifically exempted by the Governing Body.

   c. The permittee will obtain all required building permits.

   d. All structures, equipment and facilities shall be properly maintained and shall comply with any and all appropriate federal, state or local guidelines, requirements and applicable technical or safety standards.

   e. No additional related equipment and facilities shall be placed or maintained on the property without City approval.
GENERAL LANDSCAPE NOTES

1. The Contractor shall verify and coordinate all final grades with the Landscape Architect and all design plans prior to construction.

2. Location and placement of all plant material in accordance with the Landscape Architect.

3. Location of all trees is approximate, the Landscape Architect shall, however, be responsible for any coordinate corrections that are required.

4. Refer to City Drawings for all grading and landscaping requirements, utilities and site access.

5. The Contractor shall coordinate and conduct a pre-construction meeting with the Landscape Architect prior to work.

6. Plant quantities are for information only, drawing placement is subject to contractor discretion. Contractor is responsible for calculating own quantities and bid accordingly.

7. The Contractor is to notify the Landscape Architect when work is complete and before permits are obtained.

8. Tree locations in area adjacent to slopes, walls and light fixtures may be field adjusted in accordance with the Landscape Architect.

9. The Contractor shall report to the nearest applicable Landscaping Inspector.

10. The plan is subject to change based on permit size and availability. All changes or substitutions must be approved by the City of Kansas City, Aerial and the Landscape Architect.

11. Aluminum landscape edging is to be used in all landscape beds, including gutter areas, as noted on landscape plans.

12. Landscape contractor is responsible for working at all material land use designations as indicated on landscape plans.

13. The Contractor shall show proof of procurement,不经意 (a note added for emphasis) written contract, to the use of hardscape, pavers, and plants within 30 days of granting the work orders.

14. Contractors shall provide maintenance for the newly landscaped areas for a period of at least one year after the date of final acceptance. At the end of the one-year maintenance period, the Contractor is responsible for all maintenance, labor, and materials required to keep the landscape in good condition.

15. Landscape Contractor shall provide such maintenance to be approved by the Contractor.

GENERAL IRRIGATION NOTES

Irrigation plans to be provided during permitting phase of development.

1. Irrigation system design to be reviewed and approved by the landscape architect.

2. Minimum operating pressure for spray heads shall be 30 psi. Minimum operating pressure for drip emitters shall be 40 psi.

3. The Contractor shall ensure that all piping is properly drained at each end of the line. All temporary lines shall be removed at the conclusion of the project.

4. Plants and trees, 12" above the ground level and parallel to curbs and walls, grouped together to be easily spaced.

5. All irrigation heads to be flush with surrounding grade.

6. Irrigation control and rain sensor shall be located in lower approved location.

SITE DATA

Site Data:

- Open Space:
  - Open space required: 3.5 acres
  - Open space provided: 3.5 acres

Legend:

- PROPOSED USE:
  - Bauer Commercial
  - Proposed Use:
  - Landscape
  - Landscape

- PROPOSED USE:
  - Proposed Use:
  - Landscape
  - Landscape

- PROPOSED USE:
  - Proposed Use:
  - Landscape
  - Landscape

- PROPERTY LINE:
  - Property Line

- ROOF OF ANY LINE:
  - Roof of Any Line

- Little Rock (as shown above):
  - 3.448 acres

- 3.735 acres

- 3.735 acres