

Minutes

DVD No.

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:00 P.M. on Monday, January 6, 2020. Mayor Peggy Dunn presided.

Councilmembers Present: Julie Cain, Chuck Sipple, James Azeltine, Jim Rawlings, Debra Filla, Andrew Osman and Lisa Harrison

Councilmembers Absent: Mary Larson

Staff Present: Scott Lambers, City Administrator
David Ley, Public Works Director
Chris Claxton, Parks & Recreation Director
Mark Tepesch, Info. Services Specialist III
Richard Coleman, Comm. Services Director
Holly York, Cultural Arts Coord.

Patty Bennett, City Attorney
Chief Troy Rettig, Police Department
Nic Sanders, Human Resources Director
Ross Kurz, Info. Services Director
Chief Dave Williams, Fire Department
Kelly Varner, City Clerk

Others Present: Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. **PLEDGE OF ALLEGIANCE** Led by Darren McKeever and Camden Silva from Troop 449
2. **APPROVAL OF AGENDA**

Mr. Lambers added an Executive Session to the end of the meeting for attorney-client privilege for a topic of conversation not on the agenda.

A motion to approve the amended agenda was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion carried with a unanimous vote of 7-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

Cary Shaw, 9618 High Drive, Leawood, KS, appeared to speak about Item 7E in reference to the renovations to the former City Hall and the Fire Station. He and his neighbors have no interest in the deeds and restrictions being removed from the home at 9619 Lee Boulevard. They have no issue with the Fire Station because it is not obtrusive, but they feel that the size of the proposed Fire Station is inconsistent with the nature and character of the neighborhood. He stated he does not want a park near his yard, either. He stated a desire to have meetings to talk about the deeds and restrictions, pointing out that a licensed surveyor was contracted to evaluate the property.

Mayor Dunn invited Mr. Shaw to participate in the planning process and asked Mr. Lambers and Ms. Bennett to ensure that the deed restriction paperwork is in order.

Mr. Lambers stated that the paperwork would be evaluated and sent out formally as the official map of the participative area.

Mayor Dunn stated that the process was, indeed, not moving quickly and that many meetings had been held to discuss it.

John Martin, 4503 W. 126th Street, Leawood, KS, addressed the stormwater situation at Patrician Woods, complimenting the process. He shared concerns about the evergreen trees at Patrician Woods East, pointing out that four or five homeowners are in violation of Code Nos. 13-408 and 8-521 because of the condition of their diseased and dead trees.

Mayor Dunn stated she would ask for Leawood Codes Enforcement to review the paperwork presented.

4. PROCLAMATIONS – Martin Luther King Jr. Day, January 20,2020

Mayor Dunn read parts of the proclamation into the record.

5. PRESENTATIONS/RECOGNITIONS-None

6. SPECIAL BUSINESS – None

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2019-50 and 2019-51
- B. Accept minutes of the December 16, 2019 Governing Body meeting
- C. Accept minutes of the November 12, 2019 Parks & Recreation Advisory Board
- D. Accept minutes of the November 6, 2019 Public Works Committee
- G. Resolution approving and authorizing the Mayor to execute Amendment No. 1 to the contractor agreement between the City and Black & McDonald, dated December 21, 2015, pertaining to streetlight and traffic signal maintenance.
- E. **Resolution No.5292**, Resolution approving and authorizing the Mayor to execute an agreement between the City and Richards Construction Company pertaining to the demolition of house, cell tower, and underground storage tank, located at 9617 and 9619 Lee Boulevard in the amount of \$37,800.00 (project no. 80158)
- F. **Resolution No. 5293**, Resolution approving and authorizing the Mayor to execute a construction agreement, between the City and Dondlinger and Sons Construction Company in the amount of \$80,698.30, for the Roe Avenue Wall Replacement Project (project no. 72088)
- G. **Resolution No. 5294**, Resolution approving and authorizing the Mayor to execute Amendment No. 1 to the contractor agreement between the City and Black & McDonald, dated December 21, 2015, pertaining to streetlight and traffic signal maintenance.

Councilmember Sipple requested Consent Agenda Item 7.E. be pulled.
Councilmember Harrison requested Consent Agenda Item 7.F. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 7-0.

- 7.E. Resolution approving and authorizing the Mayor to execute an agreement between the City and Richards Construction Company pertaining to the demolition of house, cell tower, and underground storage tank, located at 9617 and 9619 Lee Boulevard in the amount of \$37,800.00 (project no. 80158)

Councilmember Sipple asked about the disposition of building materials. He asked if removable fixtures were donated to Habitat for Humanity.

Mr. Ley stated that Taylor Construction Services would come in to remove doors, cabinets, fixtures, the HVAC system and other fixtures prior to demolition.

Mr. Lambers pointed out that the contract is separate and because it is less than \$5,000, he signed it per his authority.

Councilmember Harrison asked Mr. Ley how long the demolition would take.

Mr. Ley replied that it should take a couple weeks to demolish the house, pull out the tanks, and remove the cell tower, weather permitting.

A motion to approve Consent Agenda Item 7.E. was made by Councilmember Sipple; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.

- 7.F. Resolution approving and authorizing the Mayor to execute a construction agreement, between the City and Dondlinger and Sons Construction Company in the amount of \$80,698.30, for the Roe Avenue Wall Replacement Project (project no. 72088)

Councilmember Harrison asked if the wall would be built in the same manner as the existing wall.

Mr. Ley stated that the current wall is supported with a footing, and the proposed wall will be a gravity wall that is much thicker at the base and thinner at the top. The drains will be inspected and repaired as needed.

Councilmember Harrison asked if drains would be added.

Mr. Ley replied that drains would be added as needed.

Councilmember Harrison stated that the walls are impacted by the sprinkler systems and pools in the adjoining neighborhood. She asked if homeowners would be asked to help preserve the wall.

Mr. Ley stated that if an issue were to arise, the City could speak with the residents. He stated rocks would be added to the top so that water would drain around the wall. Any underground water will drain and be taken to the storm sewer.

Councilmember Harrison asked if there would be a guarantee on the wall.

Mr. Ley stated that it would have a two-year warranty on maintenance.

A motion to approve Consent Agenda Item 7.F. was made by Councilmember Harrison; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0

8. MAYOR'S REPORT

- A. Wished everyone Happy New Year!
- B. Had the privilege of accepting a \$2,370.00 gift donation to Police and Fire Department from The Cloisters Homes Association, presented by President Robert Arther. The donation is from the residents on a voluntary basis in appreciation for services both rendered and available. The Cloisters Homes Association has been doing this for more than fifteen years.

A motion to accept the \$2,370 donation to Police and Fire Department from the Cloisters Homes Association was made by Councilmember Filla, seconded by Councilmember Osman. The motion was approved with a unanimous vote of 7-0.

Councilmember Filla asked if they could get on the agenda at the annual Homes Association meeting to share their tradition.

- C. Mayor Dunn extended sincere sympathies to former Governor Jeff Colyer and his family on the recent passing of his 93-year-old mother Lorene. She attended her funeral held in Leawood at St. Michael the Archangel Catholic Church.
- D. Joined Police Chief Troy Rettig and members of his leadership team at a Corinth Elementary DARE graduation. Officer Phil Goth, who does a wonderful job with the students, spearheads the program.
- E. Had the pleasure of attending the Kansas City, Missouri Business Leadership Council Special Meeting, hosted by the Greater Kansas City Chamber of Commerce, where Kansas City Mayor Quinton Lucas provided his remarks on his hopes and dreams for Kansas City, Missouri.
- F. Mayor Dunn extended congratulations to the Leawood Stage Company, who, in partnership with Vida Dance Studio, produced a terrific rendition of "Cracked!" a reimagined Kansas City Nutcracker which was very well done.
- G. Congratulations to Police Chief Rettig and the Police Department who recently swore in seven new officers, perhaps one of the largest classes ever at one time.

9. COUNCILMEMBERS' REPORT – None

10. CITY ADMINISTRATOR REPORT – None

11. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

12. PUBLIC WORKS

Update from the Public Works Committee re: Crosswalk request on Lee near 89th Street

Councilmember Osman, Chairman of the Public Works Committee, stated that street improvements from 103rd to 95th Street were made on Lee Boulevard. The next section will be 95th Street to 83rd Street.

Several residents requested a crosswalk, and Public Works agreed that a study should be done to determine what crosswalk lights will be placed at the intersection.

Mayor Dunn confirmed that the recommendation would come back for a possible amendment. She asked for a motion to have the study done.

A motion to recommend a study to determine what crosswalk lights should be placed at the intersection was made by Councilmember Osman, seconded by Councilmember Cain. Motion carried with a unanimous vote of 7-0.

13. PLANNING COMMISSION – None
[from the November 26, 2019 Planning Commission Meeting]

- A. **Ordinance No. 2971**, approving a Rezoning to R-1 (Planned Single Family Low Density Residential), Special Use Permit for a Place of Worship and Elementary School, Preliminary Plan, Preliminary Plat, Final Plan and Final Plat for Cure of Ars Catholic Church and School, located south of 93rd Street and east of Mission Road. (PC Case 102-19) **[ROLL CALL VOTE]**

Due to a potential conflict of interest, Mayor Dunn recused herself turned the floor over to Presiding Officer Councilmember Julie Cain.

Richard Coleman reviewed the case. Cure of Ars is proposing phases of construction. The issues with the proposal have been resolved, including the north entrance/exits. Public Works agreed to allow them to be temporarily reduced.

Dan Zeller, Gould Evans, 4200 Pennsylvania, Kansas City, MO, appeared and stood for questions.

Councilmember Osman stated support for the project. He expressed concern about the 8:00 a.m. and 3:00 p.m. traffic flow. He mentioned personal experience with a backup at those times. With the addition of the building in the front and consolidation of the lanes, he asked about the effect on traffic flow at those times.

Mr. Zeller replied that the worst condition is in the afternoon. To address this, they have added two lanes on the east side of the school that stack the traffic. The west side already has two lanes for stacking, and they will add two more lanes in front of the church on a temporary basis to keep cars off Mission Road.

Councilmember Osman asked about the time frame for construction.

Mr. Zeller stated that the construction of the performing arts center in the gymnasium on the south side will begin upon approval, before school gets out. The renovation of the school will occur during summer when school is out of session, with construction anticipated to be complete before school starts.

Councilmember Harrison asked if the gymnasium would go where the current basketball courts or the current playground are.

Mr. Zeller replied it would take the place of the current playground.

Councilmember Harrison asked if any parking spaces would be lost with the new building.

Mr. Zeller pointed out that no spaces would be lost with the new building but that some would be lost on the east side to meet the city ordinance of a 25' setback on the east property line.

Councilmember Harrison asked as a member of the Sustainability Advisory Board if there has been any talk about making the building's roof a cool, green, or live roof.

Mr. Zeller replied that it is a cool roof, meaning it has a white reflective material on it. It is a super insulated building to reduce the energy load it takes to heat and cool it.

Councilmember Osman asked staff about the process for the second and third phases of the project.

Mr. Coleman stated that there is a two-year plan provision, but the applicant intends to begin in the spring. Financing is a factor, but all phases are planned to be completed in ten years.

Mr. Zeller confirmed that funding will affect the completion date.

Mr. Coleman pointed out that the applicant will return for approval for each of those phases.

Councilmember Sipple asked about the funding for the project, assuming it was a result of fundraising at the school. He asked if it could be done in ten years ideally.

Mr. Zeller replied that funding is a result of fundraising and that the plan shows a breakdown of dates provided by Cure, contingent upon fundraising and future needs. The general time frames are 2026-2028 for Phase Two and 2030-2031 for Phase three.

Councilmember Sipple pointed out that both phases will require separate approvals.

Mr. Zeller agreed and stated that Phase Two will include a traffic study to alleviate any concerns about traffic that should be addressed during Phase One.

Councilmember Sipple asked when Phase One would be completed ideally.

Mr. Zeller confirmed it is scheduled to be complete by the start of school.

Presiding Officer Cain asked for a motion.

A motion to approve Item 13A was made by Councilmember Filla, seconded by Councilmember Osman. Motion carried with a unanimous roll call vote of 7-0.

Mayor Dunn returned to the meeting.

- B. **Resolution No. 5295**, approving a Final Plan for City of Leawood Public Art – Women of the World, located south of Town Center Drive and west of Tomahawk Creek Parkway. (PC Case 121-19)

Mayor Dunn stated that the donor of the art was Astoria Healthcare and Nueterra Capital.

Chris Claxton, Parks and Recreation Director, addressed the relocation of the piece Women of the World, which was easily unnoticed in the previous location and was not well maintained. Once the footings are bid, the contract will come back before the Governing Body, potentially in March.

Councilmember Harrison pointed out that the piece is one of her favorites as a former geography teacher. She appreciates the new location, but she also feels that it is not as visible as it should be for vehicular traffic. She requested that art be placed in more visible locations in the future. She wanted Point Defiance closer to Mission Road.

Mayor Dunn stated that the art would be raised and would potentially be visible from Town Center Drive.

Ms. Claxton said she was not sure because the foundation is 4 feet tall, plus the size of the globe, which is 8 feet in circumference. To Ms. Harrison's point, the City will work with the Arts Council to redevelop the brochure and add five more pieces. Additionally, a new Public Arts Master Plan will be developed.

Councilmember Filla stated that the open house for the Justice Center will provide opportunity for people to see the art. She talked about the bike tour with Spoke'n Art and encouraged revisiting that idea.

Mayor Dunn confirmed that it will be lit.

A motion to approve Item 13B was made by Councilmember Filla, seconded by Councilmember Cain. Motion carried with a unanimous vote of 7-0.

- C. **Resolution No. 5296**, approving a Final Plan for City of Leawood Public Art – Inspiration, located south of College Boulevard and east of Tomahawk Creek Parkway. (PC Case 122-19)

Mayor Dunn stated that the donors of Inspiration are Leawood residents Bill and Mary Walker.

Chris Claxton, Parks and Recreation Director, addressed the installation of Inspiration toward the end of April, beginning May to coordinate with the artist, Rita Blitt's schedule. She spends her winters in San Francisco and will return in the end of April. Ms. Blitt is excited to have the piece in Leawood. The footings are more involved because of the size of the piece.

Councilmember Cain expressed surprise about a 30" retaining wall in the installation.

Ms. Claxton stated that it is enough to raise up the piece for the purposes of exposure.

Councilmember Cain asked for clarification on the piece being donated, as the notes mention purchase by the City.

Mayor Dunn confirmed that Mary and Bill Walker were the donors.

Councilmember Sipple asked about the best eye level for visibility for a driver going northbound or southbound at the intersection. He expressed concern that the pedestal will not be tall enough.

Ms. Claxton stated that the grade falls back to the east. She felt that the piece would still be visible because it is large and yellow and will be oriented to the cross-section of the intersection.

Councilmember Sipple expressed concern about passing traffic having to look down into the shallow area to see the entire piece.

Mayor Dunn asked if Continental engineered the footing and if their recommendation was the 30” retaining wall.

Ms. Claxton confirmed that was correct.

A motion to approve Item 13C was made by Councilmember Cain, seconded by Councilmember Sipple. Motion carried with a unanimous vote of 7-0.

- D. **Ordinance No. 2972**, amending Section 16-3-9 of the Leawood Development Ordinance entitled “Deviations” and repealing existing Section 16-3-9 and other sections in conflict herewith. (PC Case 124-19) **[ROLL CALL VOTE]**

Richard Coleman, Planning Director, addressed the proposed amendment to change the Leawood Development Ordinance (LDO) to allow for a deviation at the build line as well as the lot frontage. Currently, an 80% deviation to the lot width is allowed, but a deviation is not allowed on the build line. This amendment makes the build line and the lot width consistent.

Councilmember Cain asked if a request prompted the proposed amendment.

Mr. Coleman stated that a request had come through recently.

Councilmember Filla asked if this allows the lot and the build line to be bigger.

Mr. Coleman clarified that it would allow the lot to be narrower. It would be a deviation allowed in the planning stage. There have been situations in which the actual property line is on the right-of-way, and the deviation narrows it down, but there is no deviation at the build line, so it is inconsistent. It ends up making the lot the same width, regardless.

Councilmember Filla asked why it was necessary to give approval to do that.

Mr. Coleman stated that it isn’t required but that some people would like the deviation. Currently, it is not an option, and this negates the deviation they are requesting.

Mayor Dunn stated that she has heard cases that have gone before the Board of Zoning Appeals regarding this situation, and the board requested staff to review it.

Councilmember Osman gave an example of a corner lot, which would have two frontages. Previously, it was not allowed, but this would allow a homeowner to redevelop the home.

Mr. Coleman replied that with the information presented, it seemed accurate.

Councilmember Osman stated that he had attempted to redevelop his house but that it was not allowed because he was on a corner lot with two frontages.

Mr. Coleman pointed out that a replat of a subdivision, this amendment would take effect.

Councilmember Osman stated that it would be the same situation if his house were torn down and rebuilt.

Mayor Dunn advised that it would be contingent upon Governing Body approval.

Councilmember Osman asked if the code applied to unique lots.

Mr. Coleman stated that it wouldn't necessarily need to be a unique lot. If a property were developed into three lots, but without a deviation, it could only be two lots, this amendment could help.

Councilmember Harrison asked if this would have impacted the situation at 151st and Mission, where a builder wanted to build bigger houses on smaller lots.

Mr. Coleman replied that it could have allowed another lot because of the configuration of the curves on the street.

Councilmember Harrison asked if they could then come back and ask to redraw the lots.

Mr. Coleman said that was a possibility.

Ms. Bennett stated they could come back anyway and that this would affect R-1 (Planned Single Family Low Density), RP-1 (Planned Single Family), and AG (Agriculture).

Councilmember Harrison asked about lot sizes with smaller homes that couldn't be done in Leawood because the lot minimums were too big and wanted to know if this fixes that problem.

Mr. Coleman stated that it wouldn't affect the size of the lot in the LDO. Someone could ask for a deviation on lots in R-1, for example. If it was allowed, they could then have smaller frontages on their lot with this amendment.

Councilmember Harrison stated that it doesn't seem like a big change.

Mr. Coleman agreed but stated that it affects how the subdivisions are laid out.

Councilmember Harrison stated that she is in support of allowing smaller lots.

Mr. Coleman said that this would allow smaller lots, but that is not the purpose of the amendment. Mixed-Use developments can have very small lots for single-family homes.

A motion to approve Item 13D was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion carried with a unanimous roll call vote of 7-0.

- E. **Ordinance No. 2973**, amending Section 16-1-4.2 of the Leawood Development Ordinance entitled "Minimum Standards" and repealing existing Section 16-1-4.2 and other sections in conflict herewith. (PC Case 123-19) **[ROLL CALL VOTE]**

Patty Bennett, City Attorney, addressed the amendment, which addresses concerns of cell tower owners and the City. KCP&L meter boxes for the DAS, monopoles, and streetlights are 56 inches. Leawood currently has provisions that give staff the ability to grant administrative approval for 55 inches and under. This ordinance increases that number to 56.

Councilmember Filla talked about the issue with KCP&L with burying utilities at 92nd Street, where there was concern about the lines blocking line of sight. While the administrative approval eases the process, she wanted to ensure the towers are not interrupting lines of sight.

Mr. Coleman stated that the City reviews placement and considers sight triangles.

A motion to approve Item 13E was made by Councilmember Filla, seconded by Councilmember Harrison. Motion carried with a unanimous roll call vote of 7-0.

- F. **Ordinance No. 2974**, amending Section 16-4-12.4 of the Leawood Development Ordinance entitled “Distributed Antennae System (DAS) and Small Cell Facilities (SCF)” and repealing existing Section 16-4-12.4 and other sections in conflict herewith. (PC Case 113-19) **[ROLL CALL VOTE]**

Patty Bennett, City Attorney, addressed the amendment, which addresses changes as technology continues to evolve. This amendment allows for 5G technology to come to Leawood and allows for a different configuration of equipment on the light poles. This would have three plate-like antennas that go around the top of the pole. It is a different look, but staff worked to balance the city’s desires while still allowing the technology to come in. The City is incentivizing carriers’ use of light poles, but this ordinance addresses when carriers put up their own poles.

Mayor Dunn asked if poles can be limited to exclude front yards.

Ms. Bennett replied that Kansas statute does not allow the City to do that. Poles are allowed anywhere in the right-of-way.

Mr. Coleman pointed out that the 4G technology will remain on the poles along with the 5G technology.

Councilmember Sipple asked for a clarification on the carriers’ ability to put poles where they would like in a right-of-way.

Ms. Bennett replied that the City can impose aesthetic guidelines, but Kansas law allows for carriers to locate the poles in the right-of-way. The City can require attachments, matching colors, and size. Public Works has a required standard distance for poles as well.

Councilmember Sipple asked if a homeowner has the ability to push back on the location.

Ms. Bennett replied that a homeowner cannot deny placement on the right-of-way.

Councilmember Azeltine asked if it was Kansas or the Federal Communications Commission (FCC) that imposed the requirements.

Ms. Bennett replies that the FCC has rulings that inhibit the City’s right to do certain things with the poles.

Councilmember Azeltine pointed out that the FCC ruling tied the City’s hands over the placement.

Ms. Bennett stated that the FCC ruling speaks to fees and application processing speed. The state statute more clearly gives them the right to be in the right-of-way.

Mayor Dunn pointed out that any lobbying could go through the state legislators.

Ms. Bennett agreed and stated that the industry has asked for more but maybe not this year and that the cable industry is looking to join in.

A motion to approve Item 13F was made by Councilmember Filla, seconded by Harrison. Motion carried with a unanimous roll call vote of 7-0.

- G. **Ordinance No. 2975**, amending Section 16-4-7 of the Leawood Development Ordinance entitled “Landscaping and Screening Requirements” and repealing existing Section 16-4-7 and other sections in conflict herewith. (PC Case 111-19) **[ROLL CALL VOTE]**

Richard Coleman, Planning Director, addressed the proposed amendment to the Landscaping and Screening Requirements section of the LDO. One is required landscaping in parking lots based on number of parking spaces, and the location the trees should be planted wasn't clear. This amendment proposes one tree per island side, so a double island that is 36'x8' would require two trees.

Councilmember Osman asked about a circumstance with a tight area with no space to put a second tree.

Mr. Coleman stated that some situations don't allow for the end islands of sufficient width. In that case, only landscaping would be required.

Councilmember Osman asked if that is stated in the amendment.

Mayor Dunn pointed out that the amendment includes exception language.

Mr. Coleman stated that the staff is always balancing the need for required number of parking spaces and appropriate landscaping. Occasionally, one LDO requirement affects another and creates an issue with moving things around.

Councilmember Harrison asked about the visuals in the presentation that demonstrated various trees crossed out.

Mr. Coleman stated that not all the graphics removed were wrong, but that the graphic represented the new requirements.

Councilmember Harrison asked if the new ideal would be twice as many trees in certain islands if they are 8 feet, minimum.

Mr. Coleman confirmed that was correct and that end islands would have two trees rather than one.

Councilmember Harrison stated that the ideal tree lawn in Leawood is 10 feet.

Mr. Coleman stated that he checked with Brian Anderson on the distances and that he agreed they would be appropriate.

Councilmember Harrison said that she had an issue with the fact that the City is telling residents the ideal tree lawn is 10 feet wide on the street, which is a tree lawn cramped between a concrete sidewalk and a concrete street, and we are telling developers in a parking lot with more impervious area and more heat that they need to plant more trees in a narrower space, which could cause buckling of curbs and asphalt.

Mr. Coleman replied that an 8' space is enough to plant almost any tree and that the reason that the amendment is written as such is that parking spaces are not 10' wide.

Councilmember Harrison stated that she was not sure that parking lots make good homes for trees on little islands when they are not irrigated and are surrounded by so much concrete.

Mr. Coleman stated that the trees are supposed to be irrigated. Adding the islands and green spaces in the parking lot mitigates the heat island effect and creates a microclimate. The less landscaping, the higher the heat and the less the survival. A 3' green strip will not do well. This is a compromise between having a big area and a little area.

Councilmember Harrison agreed that many street trees are being watered by sprinklers but that she had never seen a parking lot that had automatic sprinklers. She spoke about it being a maintenance nightmare. She did not like the idea of requiring more trees when the trees have trouble surviving in the spaces to begin with.

Mr. Coleman stated that more trees create a better survival rate unless they are overcrowded.

Mayor Dunn pointed out that irrigation has been a requirement for quite a while.

Councilmember Filla expressed support for encouraging prevention of heat islands and defining natural spaces that don't have to be mowed. She asked if there is any specification for shade trees.

Mr. Coleman stated that it would be a medium- or large-size tree. The City has a list of trees provided by the Regional Landscape Association.

Councilmember Filla stated that she has learned that many tree issues are caused by quality of soil.

Mr. Coleman pointed out that it is not mentioned specifically.

Mayor Dunn said that the Chamber President has advocated amending the soil.

Councilmember Filla stated that soil amendment is one thing, but not packing it is another. She asked if further direction on workmanship could be added.

Mr. Coleman replied that many factors go into a successful planting, including soil and plant material.

Councilmember Filla spoke about Greensburg, a city that was rebuilt after a tornado, which had a well for irrigation. She asked if Leawood had looked at their standard.

Mr. Coleman said that Greensburg had swales to direct water into planting areas on Main Street, but the planting lawn was not as big as the area being discussed in Leawood. Greensburg has 10-15 inches of rainfall a year, which is significantly less than Leawood.

Councilmember Filla stated that she always considers what Leawood would do differently if it were California with the extended drought. She wondered if it would make sense to consider following Greensburg's model of water conservation.

Mr. Coleman stated that a new section would have to be created for landscaping to address that. Downtown Kansas City did some of that with structural soils, amended soils, and underground drainage.

He stated that it could be overkill in Leawood. He said it would be welcome if a developer wanted to do it voluntarily.

Councilmember Filla agreed and asked if Leawood could provide a guide for that.

Mr. Coleman stated that it could be available.

Councilmember Azeltine stated concerns that the LDO has not distinguished between required maintenance of natural areas and other formally landscaped areas. He wondered about the wisdom of defining a natural area because an area could be presented as natural when it is potentially an eyesore.

Mr. Coleman said that this amendment would address tracts of natural area that remain in Leawood, including the drainage arm behind City Hall and along Tomahawk Creek. There are a number of subdivisions that have tracts with natural areas. Occasionally, homeowners have removed vegetation from common areas.

Councilmember Azeltine worried that an employee could cite a citizen for weeds and the citizen claims it is a native plant.

Mr. Coleman stated that the amendment would relieve that issue.

Councilmember Azeltine pointed out that the native areas weren't recognized in the ordinance previously.

Mr. Coleman said that weeds along Tomahawk Creek Trail shouldn't be there if native grasses aren't recognized. The amendment does not apply to noxious weeds listed by the state.

Councilmember Sipple asked if this would be for parking lot developments going forward and if existing parking lots would work with existing plans.

Mr. Coleman confirmed that was correct.

Councilmember Filla clarified that this ordinance does not pertain to individual residents but that it could be something to consider in the future. Sustainable landscaping is a topic of conversation and something she would like to see encouraged in Leawood, including native grasses that help stormwater.

A motion to approve Item 13G was made by Councilmember Filla, seconded by Councilmember Cain. Motion carried with a vote of 6-1, including a nay vote from Harrison for reasons stated.

- H. **Resolution No. 5297**, approving the Planning Commission's recommendation to deny a request for approval of a Revised Final Plan for Ranch Mart North Shopping Center – Redevelopment, located north of 95th Street and east of Mission Road. (PC Case 120-19)

Curtis Petersen appeared on behalf on the applicant. A flyover was shown which reflects the updated Final Development Plan. The entryway to the courtyard was shifted east, so it was adjacent to Meat Mitch, the hopeful restaurant tenant. He expressed the need for traffic control in the area. Price Chopper requested to keep the existing brick but would make improvements both inside and outside. The plan will be welcoming to pedestrians as well.

Councilmember Filla clarified that turning right into the parking field is not an option, but going straight and around into the parking field is.

Mr. Petersen stated that there are several spots where parking is a free-for-all and traffic control needs to be in place over by McDonald's and O'Neill's.

Councilmember Filla asked if Mr. Petersen had a close-up picture for McDonald's.

Mr. Petersen said that it would be possible to zero in on that image later. He wants to get started immediately if it is approved. KCP&L will be doing extensive powerline burial. Meat Mitch, the barbecue restaurant, will moving into the old Seasonal Concepts building. The permit for the demolition of the bowling alley is ready to be submitted. He spoke about the changes from the originally approved plan that planning staff opposed in the Planning Commission meeting the month prior. To address the perceived issues, he felt more images would help the Governing Body see the quality in the project and he questioned if the currently proposed plan would have been better received had both Planning Commission and Governing Body not evaluated and approved the previous plan. Various contractors helped create a budget, and the general contractor and landscape artists got involved in Spring 2019, which resulted in adjustments to the current Final Plan. The adjustments fall into three categories, the first of which is due diligence. This included items such as the concrete patterns, access-point bollards, and natural stone. The second category is tenant coordination, which included moving the southern access point to the courtyard, tenant loss in the courtyard kiosk, and Price Chopper's design preferences. The third category is the challenge of redevelopment, which includes height reduction to better secure the parapet. He emphasized that the cumulative effect of the changes was nothing short of quality and was not meant to cheapen the project. He showed the Sources and Uses from the CID (Community Improvement District), which illustrated additional costs of \$4.5 million. He pointed out that the applicant is not requesting more in the CID. The currently approved plan cannot move forward, while the proposed plan can move forward with greater cost, no change to the CID, and as a better long-term project.

He talked about stipulations that the applicant would like to either clarify or delete, including Nos. 11, 12, 14-17, and 36. Stipulation No. 11 requests natural stone in place of manufactured stone, which was proposed as an accent only. He pointed out that today's manufactured stone is much different than the troubled stone the City has experienced in the past because the installation is superior and has a 50-year warranty with a reliable company. He asked for deletion of the stipulation.

Mayor Dunn asked if he also wanted to remove stack-stone walls on Mission Road and 95th Street.

Mr. Petersen asked to revisit that later in the presentation. He emphasized the importance of the issue and requested that he did not want this stipulation to hold up the process and asked that if it were to potentially delay the process, to stipulate that the developer will follow what the City decides about natural stone as a whole. Stipulation No. 12 relates to parking lot flumes, which are ubiquitous in a redevelopment such as this. The alternative to flumes involves significant regrading. He pointed out that the redevelopment at Camelot Court had flumes that are not an eyesore and asked that they be allowed by deleting No. 12. Stipulation No. 14 refers to a 3' screen wall faced with natural stone. The applicant would like this stipulation to be deleted because stacked stone creates maintenance issues with mowers, bikes, and salt, and the design team proposed a high-quality, attractive concrete perimeter wall. Stipulation No. 15 refers to the number of ornamental grasses. He asked that it be deleted because the proposed number of ornamental grasses to be planted as plugs is appropriate based on Rosehill's recommendations.

Councilmember Azeltine asked how long it takes a plug to get to the requested size.

Mr. Petersen stated that Rosehill has reported the plugs need approximately six months to get established and longer to get to the container size.

Councilmember Cain stated it would take a couple years.

Mayor Dunn said that the LDO has specific coverage requirements, and the applicant would have to ensure the coverage is met, which could be different than the plugs.

Mr. Petersen agreed and stated that Rosehill pointed out that larger plantings would be required at different times of the year. No. 16 refers to eliminating CMU (Concrete Masonry Unit) on the exterior of the buildings, and the applicant would like it deleted because the existing CMU is in the back alley and covered with utility hookups, and removal of that would be cost-prohibitive. No. 17 refers to removing metal siding screening the roof of Price Chopper. He would like it deleted because the flashing on the grocery store runs into the Price Chopper building, is not visibly obtrusive, and is an integral part of the wall. Removal would be invasive and cost-prohibitive. No. 36 refers to offsite signage, which would prohibit signage for McDonald's and the bank because they are separate parcels with signs on the Ranch Mart property. He asked for verbiage to carve out those situations.

Mr. Coleman spoke about No. 36 and clarified that the LDO requires a Special Use Permit (SUP) if the signs are not on the property.

Councilmember Filla asked if the minutes could reflect support for the two signs.

Mr. Coleman stated that they would have to come forward in a separate application. He spoke about the landscaping issue and pointed out that the currently proposed plan doesn't meet the LDO according to the landscaping staff. Staff's main issue is manufactured stone. He spoke about a recent meeting about manufactured stone and reported that there is almost no cost differential between real and manufactured stone. He also pointed out that natural stone is a timeless material dating back to the 1800s in the Kansas City area and is not a maintenance headache as it was described. Stone walls should be 4 inches above ground and at least 2 inches above concrete to avoid the salt issue.

Mayor Dunn stated that if the City approves the natural stone, Mr. Petersen had said he would abide by that ruling.

Mr. Petersen agreed but also stated that he would need to return to evaluate a different material.

Mayor Dunn pointed out that it should be fine if the goal was to save money since there was not a big price difference.

Mr. Petersen replied that there is more to the discussion, which will most likely occur when the case is taken up to discuss prohibiting manufactured stone.

Councilmember Filla asked about the plans for the kiosk.

Mr. Petersen stated that the tenant backed out but that they are hopeful to attract another similar tenant.

Councilmember Filla asked what type of business would thrive in the spot.

Mayor Dunn stated that in the past, a photo shop and candy store had been kiosk tenants.

Mr. Petersen said that the kiosk would be on the east side of the grocery store, and he imagined it would be a tenant that could serve pedestrians but would not need grease traps.

Councilmember Filla asked about the Hallmark façade that showed red brick. She asked if manufactured stone was chosen because of the color, speed of construction, or weight.

Chris Hafner, Davidson Architecture and Engineering, 4301 Indian Creek Parkway, Overland Park, addressed the brick with the limestone look above and rough-hewn limestone look below on the columns. He said that stone up high would be smooth-faced to allow signage panels.

Councilmember Filla asked if the red parts were manufactured stone.

Mr. Hafner stated they were brick and anywhere that shows white is manufactured stone.

Councilmember Filla stated that it is being proposed as background for the signage. She then asked about the plugs versus the plants. She observed that the spacing was increased between the plugs while decreasing the size and didn't feel that it was appropriate to do both.

Mr. Hafner stated that Rosehill was tasked with the goal of 60% coverage.

Councilmember Filla asked about the cost differential between the plugs and the #1 containers.

Mr. Hafner said that while there is a cost savings, the warranty came into discussion, and Rosehill claimed that the plugs would meet the requirement based on the growing season.

Councilmember Filla asked when the 60% coverage would be achieved.

Mr. Petersen believed it would be achieved by the time of Final Certificate of Occupancy.

Mayor Dunn said that the focus of the conversation should be on meeting the requirement of the LDO.

Mr. Petersen stated that he would remove the stipulation because the landscaping would still be required to meet the LDO requirements.

Mayor Dunn asked when the request for occupancy would be made.

Mr. Petersen was not sure because of the multiple phases.

Mr. Hafner pointed out that Stipulation No. 28 speaks about the 60% guideline.

Mr. Coleman stated that plugs don't meet the requirement when they're planted.

Councilmember Filla stated that the 60% is not the issue; the issue is whether the percentage is determined at time of planting or time of occupancy.

Mr. Petersen stated it is almost 7,000 plugs.

Mr. Coleman said that there is no way to know how fast the plant material will spread.

Councilmember Filla asked if the requirement applies at the time of planting or occupancy.

Mr. Coleman stated that it is usually assessed upon installation because that is when the inspection occurs.

Mayor Dunn asked if the current approval met the requirement.

Mr. Coleman felt that it did.

Mr. Petersen mentioned that the area has 2,198 perennials and 4,068 ground cover in addition.

Mr. Lambers stated that the time of planting is when the coverage is evaluated. If a developer moves forward with something that is not in compliance, it will need to be replaced, and the City needs to issue citations. He felt that the Landscape Plan needs to be in conformance upon planting in order to remove subjectivity and that the issue of the size of planting wasn't worth the conversation.

Councilmember Azeltine stated that if it is 60%, it does not matter what size the plants are, so the stipulation could be removed.

Mayor Dunn pointed out that what is approved currently talks about it.

Mr. Coleman stated that the plan is not approvable because it won't meet the LDO because the plugs will not meet the 60%.

Councilmember Azeltine asked if there were other plantings in the area of the plugs.

Mr. Coleman replied that many of the areas only had plugs.

Councilmember Cain asked if the 60% is not an aggregate of the square footage that is covered by landscaping but rather every individual square yard.

Mr. Coleman replied that the plan doesn't show percentages to come up with an aggregate and that every area is supposed to be 60% covered.

Mayor Dunn requested to talk about meeting the 60% as required in the LDO in the stipulation so the applicant could work with Rosehill to ensure that happens.

Councilmember Sipple asked to exhaust conversation about each stipulation before moving on to discussing the next one.

Mayor Dunn stated that the natural stone issue was resolved because Mr. Petersen said he would follow the City's decision on the upcoming case. Regarding No. 15, he would comply with the LDO.

Councilmember Azeltine stated that he heard Mr. Petersen say that if the natural stone gets voted down, the applicant will go with regular stone or some other material.

Mr. Petersen clarified that it would be an approved material.

Councilmember Azeltine pointed out that it could lead to approving undesirable accents. He watched the Planning Commission meeting, and he noticed that a disproportionate amount of discussion was on the

stone issue, which was less than 10% of the façade. He heard that if the stone is installed correctly, it will last a long time. He thought it was not worth fighting because it was less than 10% of the façade.

Councilmember Sipple pointed out that Ranch Mart South has natural stone on the buildings, but the retaining wall on 95th Street is brick. He wondered if the natural stone substitute be for the retaining wall as well.

Mr. Petersen replied that the strong feeling was that the form liner would work on the retaining wall.

Mr. Hafner stated that 95th Street has undulating berms, and Mission has a berm running up to the retaining wall. He stated that the berms, screening, and landscaping lead to a great deal of soil up against the stone, which is not good for it.

Councilmember Sipple asked if the preference would be the formed concrete to be made to look like a natural stone wall.

Mr. Hafner stated that it would be intricately colored as well.

Councilmember Harrison stated that manufactured stone is currently allowed and wondered if the City could legally deny the stone.

Mayor Dunn stated that the City has been asking for the use of natural stone for ten years because of the issues with manufactured stone.

Councilmember Harrison asked if the owner would have to fix any issues that would arise with the manufactured stone.

Mayor Dunn confirmed that the owner would be required to do so.

Councilmember Osman stated that he had researched the difference between natural and manufactured stone to determine pros and cons. Kevin Jeffries took it upon the EDC (Economic Development Council) to have a mini work session within the EDC and community leaders to discuss the issue. He and Jim Rawlings attended the meeting, along with multiple architects, developers, and installers. Many spoke to the installation being the focus, not the material as well as if the color is blended all the way through. Corinth has had problems matching the natural stone in their development, and the limestone has chipped over time.

Councilmember Rawlings agreed with Councilmember Osman's comments and stated that manufactured stone is much better than it has been with color all the way through. He encouraged considering manufactured stone in the LDO.

Councilmember Osman agreed with Councilmember Harrison's question about requiring a developer to change materials if they are allowed, which manufactured stone currently is.

Mayor Dunn confirmed that it is currently allowed and that the original plan was approved with natural stone.

Councilmember Osman agreed and understood that staff didn't want the manufactured stone and is now pushing through an item to add it to the prohibited materials list.

Mr. Coleman stated that it didn't happen that way.

Mayor Dunn stated that the discussion was continued from a few months prior.

Councilmember Osman stated that it was continued because of a lack of facts.

Mayor Dunn said that she understood that installation is a big piece, and the applicant is willing to have a stipulation regarding installation if manufactured stone is allowed.

Councilmember Cain did not disagree but stated that the difference to her was that some of the other items being opposed have logical reasons, but no compelling reason has been given to switch to manufactured stone from natural stone. She wondered if the applicant would agree to go back to the natural stone if the manufactured stone is prohibited in the future decision.

Mr. Petersen addressed the reason for the change, which is longevity. The manufactured stone has a 50-year warranty. Additionally, there are many types of stone. The common type is limestone, which is beautiful but doesn't stand the test of time. One of the developer's big successes was Corinth in Prairie Village, and there have been issues in that development. He is trying to avoid that with this development.

Councilmember Cain asked if the same experts didn't know the information in April at the time of the original plan approval.

Mr. Hafner stated that longevity and matching the old limestone to new limestone in the future present maintenance issues. Manufactured stone would mimic the look but allow for consistency. They knew stone was the preference, but upon more research, they found that manufactured stone was preferred, especially since it will be on the signage banner.

Councilmember Azeltine reiterated that it is less than 10% of the façade, is allowed by the LDO, and will prompt a citation if it is not kept up. He encouraged moving on.

Mayor Dunn suggested discussing the flumes.

Councilmember Sipple stated that since they were allowed at Camelot, they should be allowed at Ranch Mart North.

Councilmembers Azeltine and Harrison agreed.

Mayor Dunn assumed that the maintenance would be closely watched.

Mr. Petersen agreed.

Mayor Dunn assumed they would use a three-coat process on stucco.

Mr. Petersen agreed.

Mayor Dunn moved on to No. 14 and asked for comments.

Councilmember Sipple agreed with the applicant that most would be very low to the ground and would be hidden when the bushes mature. It would then look like a stone wall but would last longer. He asked about an example of a stone wall that has deteriorated versus a concrete wall.

Mr. Hafner said that a stacked-stone wall isn't how most walls are built anymore. Most of the time, the options would be a concrete wall with a form liner or a stone veneer. With the freeze-thaw, water infiltration, and soil burden, a stacked-stone wall is not something common in modern construction.

Councilmember Sipple asked for an example of the formed concrete in Johnson County.

Mr. Hafner didn't know of one off the top of his head, but he offered images.

Councilmember Sipple stated that it would be 3 feet above the ground at its highest point, and it would be screened when the bushes grow. He asked if it would be visible from 95th and Mission or from the parking lot.

Mr. Hafner stated that along Mission is a consistent berm line and that the goal is for the students to be able to walk from Cure, going south. The wall was moved toward the parking lot to protect people from traffic. The site had limited green space. The parking lot layout increases the green space and keeps the sidewalk. In the parking lot, the stacked-stone wall would be visible.

Councilmember Sipple asked how thick the wall would be.

Mr. Hafner replied that it would be 12 inches thick.

Councilmember Sipple stated that an \$80,000 wall at 127th and Roe had to be redone, and it was a poured concrete wall. He asked how different it would be.

Mr. Hafner said that it sounded like hydrostatic pressure was pushing the wall and that 99% of the time, issues are caused by water.

Councilmember Sipple asked if it would have a French drain on the Mission Road side.

Mr. Hafner confirmed that it would and that along 95th, the wall would be broken up in key spots to be artful. The berm would be undulated, so some of the stone would be visible, but landscaping would be intermixed on both sides.

Councilmember Rawlings asked what color the wall would be. The renderings showed a battleship grey, and he wondered if it would be a color that looks more like stone.

Mr. Hafner said they could work with staff to come up with a color of the concrete. He noted the redevelopment has a great deal of grey, white, and black, so they would want to stay in that range.

Councilmember Cain wanted to confirm that the form liner would be on all three sides of the wall.

Mr. Hafner stated that the top wouldn't have it.

Mayor Dunn said that the picture showed it on the top.

Mr. Hafner said it would have a cap on it, so it would be level.

Mayor Dunn pointed out that it would be safer if a child got up there.

Councilmember Azeltine asked if it would look like flat cement.

Mr. Hafner said it would have a cast-in-place cap with the exposed portions on the horizontal edges be a form liner.

Mayor Dunn suggested moving on to No. 15 and suggested that it would have to meet the LDO's 60% coverage rule.

Councilmember Sipple added that it would be 60% upon completion.

Mr. Petersen confirmed that it would be what the LDO requires.

Mayor Dunn confirmed that was correct.

Councilmember Filla asked if No. 28 would still be required.

Mayor Dunn suggested leaving No. 28 because what was previously approved had the #1 container.

Mr. Petersen said that he understood that the LDO stands on its own and if they don't comply, they face the sanctions.

Mayor Dunn asked Ms. Bennett to comment.

Ms. Bennett suggested the following wording: "Prior to issuance of a building permit, the applicant shall provide revised plans to show that open space consists of a minimum of 60% living materials, prior to issuance of Certificate of Occupancy." The idea is that the 60% requirement is met when the materials go into the ground.

Councilmember Filla asked if No. 28 could then be deleted.

Mayor Dunn pointed out that No. 28 is a standard stipulation, and No. 15 is a revision to the currently approved plan.

Mr. Petersen asked to clarify that the landscaping had to meet the 60% requirement in each phase rather than landscaping the entire project in the next phase.

Ms. Bennett asked about the phases.

Mayor Dunn stated that she understood the entire project would last a year and a half.

Mr. Petersen said that this is continuous construction.

Ms. Bennett said that the landscaping requirement is not unusual because the 60% requirement will remain but the requirement to use a #1 container will be removed.

Mr. Petersen recapped by saying that the landscaping will comply with the LDO on a phase basis.

Mr. Coleman asked about Phase One and whether it included Meat Mitch.

Mayor Dunn said that it would be a construction zone for a while.

Mr. Coleman said they wanted to do Meat Mitch first, but it isn't in the first phase of the plan, so they wouldn't do any landscaping except what is near Meat Mitch.

Mr. Petersen stated that Meat Mitch is an amazing tenant who has been patient. The intent is to get them open as soon as possible. The landscaping would not necessarily be done at that time, which would necessitate a TCO (Temporary Certificate of Occupancy). He stated that the landscaping would have to be done, bottom line. He stated that they will need help on the phasing.

Mayor Dunn said that she didn't realize that Phase Three was now Phase One.

Mr. Petersen clarified that it was more that an amazing tenant was ready to go in a space that is in Phase Three.

Mr. Hafner reiterated that this is a continuous construction project.

Ms. Bennett wanted to confirm that the applicant indicated they understood a TCO would be applied in some instances.

Mayor Dunn confirmed that and then suggested moving on to No. 16. She asked about the comfort level with the 6' fence.

Councilmember Sipple asked if the tenants come and go through back doors or if the area is not frequented often.

Mr. Hafner replied that trash is set in the back.

Councilmember Sipple asked if the concrete block is grey or painted.

Mr. Hafner said it was painted white.

Councilmember Sipple said that the gate was a good idea but that it should be painted to match the color palette. He didn't want to see grey blocks.

Mr. Hafner agreed to painting the blocks.

Councilmember Azeltine asked if the gate would block the utility attachments from view to passersby.

Mr. Hafner said that it would block the view for most people.

Mayor Dunn confirmed that the gate would be closed.

Mr. Hafner didn't find the area attractive, so the gate was the suggestion. He noted that the main focus of the center is on the west side.

Mr. Coleman asked how tall the concrete wall is.

Mr. Hafner said he thought it was about 14 feet.

Councilmember Azeltine asked how high up the utility mounts go.

Mr. Hafner replied that some power is higher than the gate. He suggested painting it.

Councilmember Azeltine suggested changing the words in the stipulation to, “The applicant shall shield CMU.”

Mayor Dunn added that it should be painted a natural color. She said it didn’t sound like the gate would shield it.

Mr. Hafner was confident that it would shield the majority of the gas meters.

Mayor Dunn asked if increasing the height to 8 feet would help.

Mr. Petersen said it is approximately 170 feet.

Mr. Hafner said that the entire alley is built with CMU and electrical on all three sides.

Councilmember Osman stated that he threw out trash in that area as a teenager. He was certain no one would go back there except to throw out trash. He also pointed out the safety issues with pulling down utilities. He believed the gate would screen well.

Mayor Dunn asked about self-closure.

Councilmember Sipple pointed out that would be an emergency exit for people in the stores, so he wouldn’t want it to be electronic.

Mayor Dunn said it could be spring-closed and painted whatever the architect deemed to be less obtrusive.

Mr. Petersen wanted to confirm that the height would remain 6 feet. He also said the developer is saying that the trash company may have an issue with a spring-loaded gate.

Councilmember Sipple asked if a trash truck drives back there.

Mr. Petersen confirmed that trash trucks do go back to empty dumpsters.

Mayor Dunn said that the important thing is that the gate stays closed.

Councilmember Filla said that there could be a door for pedestrians.

Mr. Petersen pointed out that pedestrians won’t want to go back there and that they would want the gate closed as well.

Mayor Dunn moved on to No. 17 with regard to the metal siding.

Councilmember Azeltine asked if the metal siding would just be painted.

Mayor Dunn asked Mr. Hafner to ensure the paint color works with the center.

Mr. Hafner confirmed they could do that.

Councilmember Harrison asked about the bollards. She was under the impression that bollards served as a safety measure for bad drivers in courtyards and entrances.

Mr. Hafner stated that Price Chopper has bollards in front of the store, and they have many drive lanes that head north-south. The bollards remain in front of the pedestrian area. They were in a different location originally, but the traffic wouldn't come through the original area.

Councilmember Harrison asked about the west side.

Mr. Hafner stated that the only access points to the pedestrian plaza are from the north, the east, and the south. Other businesses have grease interceptors, and trucks would empty those out. Additionally, as power lines were buried, transformers were set on the northwest corner of Meat Mitch. KCP&L said bollards could not be placed there because they would block access to the transformers.

Councilmember Harrison asked if the bollards could be lifted out in an emergency.

Mr. Hafner said that removable bollards exist, but they don't make sense with the grease interceptors being emptied out once a week. On the north side, the traffic all runs east-west and not directly into that area.

Mayor Dunn asked about the reasoning for replacing the fritted pattern glass with traditional window glass.

Mr. Hafner stated that the tenants for the second-floor office preferred vision glass because of the natural light and signage opportunities. The proximity of the fritted glass to the corridor was tight as well.

Mayor Dunn stated that No. 36 needed clarification but that it has to happen as a request for a Special Use Permit.

Councilmember Cain asked if that meant the approval process would be delayed.

Mayor Dunn stated that they would just have to come back with a separate application.

Mr. Hafner clarified that the sign package submission was tabled while McDonald's was working on the digital display. Once McDonald's heard whether or not the digital display would be allowed, the sign package could come back through. The reason for the move is the two entrances were consolidated to one, which meant the sign needed to move in order to get more parking and more green space.

Mr. Petersen stated that he hoped to not go through any process with the bank because it was existing.

Mayor Dunn stated that a Special Use Permit is required if it is not on the property.

Inaudible comments from Mr. Coleman

Mayor Dunn confirmed that only McDonald's would have to put in a request.

Mr. Petersen stated that it is a legal, nonconforming situation, so it should be allowed to exist.

Staff agreed with this statement.

Councilmember Rawlings asked Mr. Petersen to address what was agreed upon with each stipulation.

Mr. Petersen agreed and reviewed the stipulations. With No. 11, he still had a question.

Mayor Dunn stated that it would be left but with a focus on installation. She was concerned that if manufactured stone were not required, the applicant could return with a proposition of stucco.

Mr. Petersen confirmed that he did not know what material would be proposed if manufactured stone were not allowed. He stated manufactured stone is preferred with additional verbiage with respect to installation requirements.

Mayor Dunn stated she would ask staff to come up with language for that.

Ms. Bennett asked if it would be something like, "The applicant will install manufactured stone shown on the plans to the highest standard possible" or something to that effect?

Mr. Petersen stated that ASTM (American Society for Testing and Material) standards are spoken of highly.

Mr. Coleman spoke about a new manufactured stone association that could be referenced.

Mr. Lambers stated that to satisfy both sides, an independent contractor should be hired by the city to be there for the inspection. If the possibility exists that manufactured stone will be allowed, this would most likely become a common stipulation.

Mr. Coleman stated that the City often uses a third-party reviewer for structural welds and other engineering/architectural elements, which could also happen with the manufactured stone. The applicant would hire the third party and pay for it.

Ms. Bennett offered the following language: "The applicant will install the manufactured stone in accordance with installation standards, and such installation will be inspected by an independent party approved by the City of Leawood at the applicant's expense."

Mayor Dunn and Mr. Petersen agreed.

Mr. Petersen stated that No. 12 would be deleted to allow for the three flumes. No. 14 would be modified to allow for the form liner approach on the 3' screen walls, but the wall color would be discussed with and agreed upon by staff. There would be a smooth concrete cap on top as well.

Ms. Bennett offered for No. 14: "The applicant will obtain staff approval for the color for the 3' screen wall surrounding the parking fields, which color shall blend with the development."

Mr. Coleman was unsure of what the cap on the wall would be because a smooth surface would just be flat concrete.

Mr. Petersen stated that it will be wider than the wall itself by definition of a cap and will be smooth on top. He also asked for the revisions to No. 15 be reread.

Ms. Bennett read, “The applicant shall provide revised plans to show that open space shall consist of a minimum of 60% living materials prior to issuance of Certificate of Occupancy,”

Mr. Petersen referred to the phasing and agreed.

Councilmember Filla asked if No. 28 needed to be deleted because it was redundant.

Councilmember Azeltine pointed out that No. 30 says the same thing.

Mayor Dunn stated that No. 28 is a standard stipulation.

Councilmember Azeltine pointed out that it doesn't hurt anything.

Mayor Dunn asked to move on to No. 16.

Mr. Petersen stated that he understood it would be modified to state that the applicant would install a 6' tall gate and cause the walls of the alley to match the project.

Councilmember Sipple asked if “fence” could be added to the wording because the gate would be very wide.

Councilmember Cain asked if the gate should be self-closing.

Mayor Dunn reminded of the concerns with the trash truck and the self-closing.

Mr. Petersen stated it would be hinged at the building edges.

Mr. Coleman stated that CMU exists outside the gate.

Councilmember Azeltine stated that it should all be painted.

Mayor Dunn pointed out that the painting will help what is visible outside the gate.

Councilmember Cain asked how the gate would open and close for the trash truck.

Mr. Petersen stated that it would be manual entry and that the gate would serve as a large trash enclosure.

Ms. Bennett stated that it would read, “The applicant will install gates, and paint all CMU located on the exterior facades of the buildings, including existing CMU, working with staff to agree on a color.”

Mayor Dunn moved on to No. 17, which spoke about the siding, which will remain but will be painted a more aesthetically pleasing color to camouflage.

Ms. Bennett stated, “Prior to issuance of a building permit, the applicant shall remove or paint the existing metal siding a color approved by staff, including the screening on the roof of Price Chopper.”

Mr. Petersen clarified that it would be, “Prior to the issuance of a new building permit.”

Ms. Bennett replied that she is talking about building permits and revised the wording, “The applicant shall remove or paint existing metal siding a color approved by staff, including that screening the roof of the Price Chopper.”

Mayor Dunn stated that they simply wanted to paint.

Ms. Bennett offered to remove the words “remove or” from the stipulation.

Councilmember Sipple asked about the area next to the barbecue restaurant heading north, including the chairs and tables for Meat Mitch on one side and a plain red brick wall on the other side. He felt that it would feel like an alley if the restaurant is closed.

Mr. Petersen replied that east of the grocery store is three tenants, the passageway, and Meat Mitch. It has artwork included.

Mayor Dunn asked what the wall was.

Mr. Hafner replied that the wall would be the demising wall of Foot Spot.

Councilmember Sipple stated that he liked the artwork but that the brick wall was too much for him.

Mayor Dunn agreed and asked for some articulation on the wall.

Mr. Petersen replied that the whole wall will be artistically decorated.

Mr. Hafner pointed out that the space is 65 feet deep with manufactured stone, stucco, brick and murals.

Mayor Dunn asked if a modification like that had to be in cooperation with staff.

Mr. Coleman replied that it would be part of the sign package and could end up coming before the Governing Body since it is outside the box.

Mr. Hafner stated that the sign package would be updated and brought forward.

Councilmember Cain asked about the City Administrator comment and wondered if anything needed to be done with the Redevelopment Agreement and the CID application even though the applicant is not asking for additional CID funding.

Mr. Lambers stated that there are many firsts with the CID process, including the current situation with an approved Preliminary Plan and an applicant that submitted a Final Development Plan and a CID application. Then, the Final Plan draft will go through the planning process. The Final Plan then jumps over to the CID process with the Governing Body, where it is reviewed in a work session. It shows what is subsidized with taxpayer dollars to take the project to another level. The intent is not to make it viable; it is to take a good project and make it better. That happened last April when the Final Plan, the Redevelopment Agreement, and the CID were approved. Since the applicant is coming back with a Revised Final Plan, if the Governing Body agrees with staff and the Planning Commission and deny the application, everything remains in effect. With the possibility of approving the Revised Final Plan, the idea is that the CID application needs to match it. They should technically be put on hold until the City has a chance to review it with the CID portion of it. He suggested a work session on January 22nd to

review the CID and then put both back on the agenda for January 22nd to approve the Final Plan with any changes made at the work session. All could then be approved on January 22nd.

Mayor Dunn asked if that was a requirement for the current meeting.

Mr. Lambers stated that it was not but that the problem is the CID application was predicated on a Final Plan that will be null and void.

Councilmember Azeltine agreed but also wondered if the Governing Body could allow the applicant to move forward with the understanding that the CID and Redevelopment Agreement will match up with the plan.

Mr. Lambers stated that the current plan is not the same as the previously approved plan, which would then suggest that the CID may be reduced in terms of participation. In that case, they may decide they want to redo the Final Plan in order to capture taxpayer money.

Mayor Dunn asked for a motion to extend the meeting.

A motion to extend the meeting by 30 minutes was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 7-0.

Councilmember Filla asked if the CID approval could remain with the update to reflect the most current plan. If the applicant cannot receive more money from the CID, she didn't see a need to postpone a decision.

Mayor Dunn pointed out that Ms. Bennett would have to make modifications.

Ms. Bennett pointed out that she had to do paperwork because the Development Agreement is broad enough to encompass the Revised Final Plan. However, when the applicant places reliance on one plan to grant a CID and it is then revised, the question is whether a work session is required to determine if the plan still justifies the bottom dollar line.

Mr. Lambers said that if the Governing Body would like to accept the Revised Final Plan and leave the Redevelopment Agreement and the CID in place, the prior approval is predicated on something that doesn't exist. It is the decision of the Governing Body whether that is acceptable.

Mayor Dunn pointed out that the plan could be approved with the understanding that the CID would still be reviewed.

Councilmember Azeltine stated that the applicant needs to understand the risk.

Ms. Bennett said that currently, the Redevelopment Agreement reads that upon plan approval, the plan becomes part of the Redevelopment Agreement. The applicant would then have no need to return.

Mr. Lambers said that is what he meant by this being new territory.

Councilmember Azeltine said that the next time a Revised Final Plan with a Redevelopment Agreement and CID involved, they should all be reviewed concurrently but said that it was too late to do that.

Mr. Lambers stated that the case before them came with a recommendation of denial. If it was a recommendation for approval, it would be fine. He said that the Governing Body could approve the Final Plan and be fine with the Redevelopment Agreement and the CID application; he just reiterated that the plan that was approved in April goes away, and a CID is based on a plan that has not been considered from a CID perspective.

Mayor Dunn said she would still be more comfortable asking Ms. Bennett to review the numbers and determine if additional discussion is necessary for various reasons, including a chart that was just presented for the first time.

Ms. Bennett stated that the chart had an added column with the price going up.

Mr. Petersen stated that the key point is that the current plan will cost more. He didn't see the efficacy of having Ms. Bennett do more review because the CID hasn't been implicated. He pointed out that Mr. Lambers was correct that if people on the dais doubted this was a quality project that is deserving of the CID, a work session would be appropriate. If not, he didn't feel that it would be a good use of time.

Mr. Lambers stated that the application has items in it that are not going to be funded because they don't exist anymore, which is what creates conflict.

Mr. Petersen pointed out that the only thing that would conceptually included in that was the kiosk, but even if they choose to not do the kiosk, they will receive less CID money.

Mr. Lambers said that if they would agree that financing for any items in the previously approved Final Plan that are not part of the Revised Final Plan will be removed, he would be fine with the process.

Mayor Dunn assumed a motion would be made to approve and asked if it would be a roll call vote.

Ms. Bennett said it would not be a roll call vote, but it would be an override of the Planning Commission's recommendation and therefore would require a super majority.

Councilmember Filla asked to see the financing chart.

Mayor Dunn reviewed it and asked if public art was funded by the CID.

Mr. Petersen stated that nothing had changed in the column that showed CID funding. All that was added was a revised private investment. The result shows the new product cost, which is \$51 million instead of \$46 million.

Mr. Lambers stated that a motion for the Final Plan would need to be separate from the motion that anything in the prior plan not included in this one would not be funded through the CID.

Mr. Petersen clarified that the distinction would be made in the categories listed in the exhibit. The plan being approved and the budget are both real, and the CID column shows parking lot, drives, and courtyard for \$1.5 million. Anything that falls in that category can be funded with the CID.

Mr. Lambers stated if something is called for funding in the previously approved Final Development Plan, those items are not subject to be used as part of the CID.

Councilmember Cain asked for an example.

Mr. Petersen stated that the approved categories were broad.

Mayor Dunn stated as an example that no public art at all would mean the funding would be reduced by the amount allowed for public art in the CID.

Councilmember Filla asked if that was true for the first plan.

Mayor Dunn said it was but that the agreement was on the first one.

Councilmember Azeltine said that changes made on the new plan could cause staff to not choose to fund the changes.

Councilmember Osman said there was a potential for confusion with the finances.

Mayor Dunn stated that the numbers don't change and that only what the applicant spends and is certified is what gets reimbursed.

Councilmember Cain asked if the discussion was about the line items on the form.

Ms. Bennett agreed that it was any line items no longer involved in the new plan.

Mr. Petersen agreed and stated if the new plan changed the types of lighting in the parking lot and the applicant wanted reimbursement for site lighting, it would be allowed up to the maximum allowed.

A motion to override the Planning Commission recommendation and approve the Revised Final Plan for Ranch Mart Shopping center with the modifications to all items as discussed was made by Councilmember Filla, seconded by Councilmember Osman. Motion carried with a unanimous vote of 7-0.

A motion for the City to accept the applicant's offer that the CID will not reimburse for any of the line items shown on the schedule which are no longer in the Revised Final Plan was made by Councilmember Azeltine, seconded by Councilmember Sipple.

Councilmember Filla asked to clarify that the only category it would apply to is the kiosk. She asked Mr. Lambers if any other categories would apply.

Mr. Lambers did not know but said he would work with the applicant and bring any disputes back before the Governing Body if necessary.

Motion approved with a unanimous vote of 7-0.

13. OLD BUSINESS – None

14. OTHER BUSINESS

Governing Body meeting on January 21, 2020 at 7:00 P.M.

A motion to approve Agenda Item 14. was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 7-0.

15. NEW BUSINESS – None

Councilmember Rawlings moved that the Governing Body recess into executive session for 30 minutes for consultation with the City Attorney, which would be deemed privileged in the attorney-client relationship, pursuant to the attorney-client exception, K.S.A. 75-4319(b)(2). The open meeting will resume in the main conference room at 11:50 p.m. Motion seconded by Councilmember Sipple and the motion was passed unanimously.

The Governing Body recessed into Executive Session.

The Governing Body reconvened the regular session and there being no further business. Councilmember Filla moved that the regular session be adjourned it was seconded by Councilmember Cain, the motion passed unanimously. The meeting was adjourned at 11:50 p.m.

ADJOURN

Kelly Varner, CMC, City Clerk