

Regular Meeting**THE LEAWOOD CITY COUNCIL**

June 21, 2021

Minutes

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

Councilmembers Absent: None

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| Staff Present: Scott Lambers, City Administrator | Patty Bennett, City Attorney |
| Chief Troy Rettig, Police Dept. | Chief Colin Fitzgerald, Fire Dept. |
| Dawn Long, Finance Director | David Ley, Public Works Director |
| Mark Klein, Planning Services Director | Travis Torrez, Bldg/Code Enforcement Dir. |
| Nic Sanders, HR Director | Chris Claxton, Parks & Rec Director |
| Ross Kurz, Info. Services Director | Mark Tepesch, Info. Services Specialist |
| Kelly Varner, City Clerk | Stacie Stromberg, Assistant City Clerk |
| Holly York, Cultural Arts Coordinator | Ryan Eckroat, GM Ironhorse Golf Course |

Others Present: Dierk Van Keppel, Rock Cottage Glassworks; Zach Nichols, Dalmark Development Group; Mark Sprecker, Polsinelli PC; Doug Weltner, Colliers International; and Leawood residents Jane Van Tassel, Georgia Wallner, Lee Schuenemeyer, JoLynn Hobbs, Lisa Battani, Mary Horvatin, Earl Santee, Chris Parker, Todd George, Steve Hentzen, James Paszkiewicz, and Megan Relic

Others Present via Zoom: Leawood residents David Snider and Holly Stetler

1. ROLL CALL**2. PLEDGE OF ALLEGIANCE****3. APPROVAL OF AGENDA**

A motion to approve the agenda was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 8-0.

4. 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.

5. PROCLAMATIONS – None**6. PRESENTATIONS/RECOGNITIONS – None**

7. SPECIAL BUSINESS

- A. Public Hearing: Park Place Development Improvement District Assessments [Project #83196] (F)

Mayor Dunn declared the Public Hearing open and asked if anyone in person or on Zoom would like to speak. No one came forward for this item.

A motion to close the Public Hearing was made by Councilmember Azeltine, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 8-0.

- B. Ordinance levying assessments for tax year 2022 for improvements within the Park Place Development pursuant to K.S.A. § 12-6a01, et seq., and the City's Home Rule authority of Article 12, Section 5 of the Kansas Constitution [Project 83196] [ROLL CALL VOTE] (F)

Councilmember Sipple asked when Park Place pays taxes and when funds are distributed to the City. Dawn Long, Finance Director, replied that these assessments are from the end of 2021 so payment will be as property taxes for next year and the first payment will be in January.

Councilmember Filla asked when all payments will be completed and paid in full. Ms. Long replied that the last payment is due in 2026.

A motion to approve Item 7B was made by Councilmember Sipple, seconded by Councilmember Filla. Motion was approved with a unanimous roll-call vote of 8-0.

- C. Discussion - approving an expenditure for Iron Horse Clubhouse update

Chris Claxton, Parks and Recreation Director, and Ryan Eckroat, General Manager of Ironhorse Golf Club, addressed the Governing Body. Ms. Claxton stated that staff is requesting approval to spend funds differently than what was originally budgeted. She explained the money would be to update the grill area, entry, bathrooms and some appliances. She stated there would be no general contractor in order to save money and the work would likely start with the bathrooms this winter.

Mr. Eckroat stated that Vista 154 continues to attract large golf and non-golf events. He stated that they would like to do certain enhancements that would include furniture and flooring. He explained that some basic improvements and upgrades would add to a positive arrival experience and an overall impression that matches Vista 154 and the embodiment of the City of Leawood. Mr. Eckroat explained that the proposed upgrades would not need to be redone when the larger improvements are started. Mayor Dunn mentioned that this proposal has been unanimously approved by the Ironhorse Golf Advisory Board.

Councilmember Harrison asked about the number of golf tournament events scheduled for next year. Mr. Eckroat stated that they have increased to nearly at the same numbers as pre-Covid. He stated that non-golf events, such as weddings, have been slower to come back but are increasing. He pointed out that for the non-golf events, guests enter through the original part of the building that is now 25 years old. Councilmember Harrison asked what the capacity is. Mr. Eckroat stated it is 250 people.

Councilmember Osman asked if an architect will be used for a design and color palette. Ms. Claxton replied that they are using Lori Doolittle-Bowman of BBN Architects who has previously worked with the City. Councilmember Osman mentioned the Sykes/Lady Golf Course restaurant in Overland Park in

comparison and expressed concern on whether or not any upgraded restaurant equipment would be short-term. Ms. Claxton replied that approximately \$1.2M is set aside in the unfunded budget account for a bigger expansion of the kitchen. She stated that Ironhorse is not set up to be considered a full restaurant, but there will be upgrades to some of what they offer. Councilmember Osman suggested that Ironhorse could be more of a bar and grill instead of a full restaurant. Ms. Claxton stated that the new seating and configuration of the grill area will be more conducive to his suggestion. Ms. Claxton mentioned that the furniture is original and is approximately 27 years old.

Councilmember Larson stated that she is on the Ironhorse Golf Advisory Board and is very supportive of the upgrades and agreed that the rest of the building needs to be brought up to the standards of the rest of the Vista 154 banquet area. She stated the current bathrooms are not what one would expect from a facility of that type. Councilmember Larson stated that the Board's consensus was that the location of Ironhorse does not have enough traffic in that area for a full-scale restaurant to be successful.

Councilmember Sipple asked if any projects will still be in progress when the golf season opens next March. Ms. Claxton explained that the bathroom project will take place in the winter when golf is down, but stated if there were any delays it would not be significant by that time.

Councilmember Filla stated she is encouraged that the City wants to do renovations sooner than later.

Mayor Dunn congratulated Mr. Eckroat on a successful year at Ironhorse.

A motion to approve the expenditure was made by Councilmember Sipple, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 8-0.

8. 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. 2021-23 and 2021-24
- B. Accept minutes of the June 7, 2021 Governing Body Work Session
- C. Accept Minutes of the May 11, 2021 Parks and Recreation Advisory Board Meeting
- D. Accept Minutes of the April 6, 2021 Leawood Historic Commission Meeting
- E. Approve renewal of Cereal Malt Beverage (CMB) License for RA Sushi Leawood Corporation, located at 11638 Ash Street (CC)
- F. Approve final cost certifications for projects located at 143rd Street-Windsor to Kenneth; 2019 Residential Streets, 2018 Stormwater Improvements, and burying Overhead lines – Mission Road 119th-127th, and 92nd to North Ranchmart (F)
- G. Resolution accepting a Temporary Construction Easement from Grantor Deborah F. Bontrager, Trustee of the Deborah F. Bontrager Revocable Trust for property located at 12716 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
- H. Resolution approving an Eligible Facilities request for the addition of antennas and associated equipment at Parkway Plaza Cell Tower for AT&T, located north of 135th Street and west of Briar Street. (Case 63-21) (PC)
- I. Police Department Monthly Report
- J. Fire Department Monthly Report
- K. Municipal Court Monthly Report

Mayor Dunn pulled Item 8I.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.

Discussion of Item 8I:

Mayor Dunn recognized the six decades of combined service from Communications Supervisor Greg Damron and Animal Control Officer Paul Atzenweiler, who started within a week of each other in May 1991. She stated it is a remarkable accomplishment and worthy of honor and recognition by the Governing Body. Mayor Dunn asked Police Chief Troy Rettig to pass along congratulations and sincere appreciation for their dedication and commitment to the community for such an extended period of time.

A motion to approve Item 8I was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 8-0.

9. MAYOR’S REPORT

- A. Fire Chief Colin Fitzgerald hosted a heartwarming retirement celebration for Fire Captain Scott Rutherford, honoring his 33 years of service with the City of Leawood. Our sincere congratulations and appreciation for his exemplary service!
- B. The Leawood Chamber of Commerce hosted 3 ribbon cuttings over the past two weeks. Councilmembers Mary Larson and Jim Rawlings joined me at the Bamboo Penny Thai Restaurant located in Park Place. Since attending the soft opening as well, I can attest that the food is amazing. Councilmember Mary Larson also joined me at Story Boutique, which raises money for KC Hospice and Palliative Care, located in Ranch Mart Shopping Center. Councilmember Larson joined me at the ribbon cutting for the new Wellness Division of the AesthetiCare Medspa located in the Leawood Fountain Plaza. They have been Chamber members for 16 years, since they moved to Leawood.

10. COUNCILMEMBERS’ REPORT

Councilmember Osman – Discussion:
Consideration of referral to staff for policy review

Councilmember Osman stated the reason for the consideration of a referral is because of the recent discussions of a resident being cited for the shed in his backyard and other similar instances that have been brought to his attention. He requested that the City review the codes on outside structures and gave examples of some issues with pool sheds and a custom greenhouse request. Councilmember Osman passed out a catalog of custom-built greenhouses from which a resident ordered from the United Kingdom. He suggested a review of the code for best practices and possible code amendment.

Councilmember Azeltine expressed some frustration for residents who are cited for code violations instead of educating themselves first. He stated that he is interested in what staff can ascertain and what the history of the code may be.

Councilmember Osman clarified that he is not advocating change across the board, but asking staff to help determine whether or not greenhouses or the pool house code needs to be updated.

Councilmember Larson stated that she would support a referral to staff but stated she is cautious about the quality of greenhouse, and how they would be distinguished. Councilmember Osman agreed.

Councilmember Cain stated that she is open to a staff review. She affirmed that the City should be able come up with a good decision that serves the residents well.

Councilmember Harrison stated that she understands the financial challenge for the homeowners to meet the code and is in favor of a review, but agreed that she is not in favor of changing a code because a homeowner did not follow the rules.

Councilmember Filla stated that the City needs to stay current on homeowners' needs.

Mayor Dunn asked to clarify which issues Councilmember Osman asked to be reviewed. Councilmember Osman stated he believes the code should be reviewed holistically to determine what best practice is.

Mark Klein, Planning Services Director, addressed the Governing Body. He asked about direction on materials and setbacks. Mayor Dunn stated that those are the items they are looking for staff to recommend. She pointed out that the code currently states that a bathroom is required for a pool house structure, and asked Mr. Klein if that requirement could be eliminated to help alleviate expenses to homeowners. Mayor Dunn stated that a timeline to report back to the Council will be up to staff.

A motion to approve referral to staff was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 8-0.

11. CITY ADMINISTRATOR REPORT – None

12. STAFF REPORT – None

13. COMMITTEE RECOMMENDATIONS

[From the May 24, 2021 Arts Council Meeting]

- A. Resolution approving and authorizing the Mayor to execute an Artwork Commission and Ownership Agreement between the City and Rock Cottage Glassworks, Inc. in the amount of \$37,300.00, pertaining to a public art installation at the Leawood Aquatic Center (PR)

Holly York, Cultural Arts Coordinator, and Ann Blessing, Arts Council Chairman were present with artist Dierk Van Keppel, owner of Rock Cottage Glassworks. Mr. Van Keppel, 6801 Farley, Merriam, Kansas, addressed the Governing Body. He explained that he is a glassblower, starting in 1982 at the University of Kansas, and whose first experience was with artist Dave Chihuly. He gave a description of the planned artwork pieces and explained how they will be displayed at the Leawood Aquatic Center. He pointed out that the artwork will be mounted on a foundation base.

Councilmember Sipple asked if the blown glass will be exposed to the elements. Mr. Van Keppel stated there will be protection on all sides with plate glass.

Councilmember Larson stated that she is on the committee that selected Mr. Van Keppel's work. She pointed out that she was impressed with the entire process and mentioned that the colors in his artwork

will coordinate with the tiles on the pool building. Mr. Van Keppel stated that his team is excited to get started and will start making prototypes this week.

Councilmember Harrison stated she is happy a local artist was chosen. She expressed some concern over pollen, water, or other elements dulling the artwork. Mr. Van Keppel stated that A. Zahner Company will do the metalwork. Councilmember Cain stated that she is excited and happy that Mr. Van Keppel was selected. She asked if he has done this type of encasement before in an outdoor installation. Mr. Van Keppel stated that he has done them before and it will be accessible for any future maintenance to the artwork.

Councilmember Rawlings stated that he is a fan of artist Dave Chihuly and expressed pleasure in his influence on Mr. Van Keppel's artwork.

Ann Blessing addressed the Governing Body. She stated that the Arts Council is very excited about the project and pointed out that it is the first time the committee has been asked to incorporate art into architecture. She explained the committee had asked for something whimsical, colorful, engaging and appealing to all generations. Ms. Blessing noted that Mr. Van Keppel's presentation was very professional. She thanked the selection committee for their help.

A motion to approve Item 13A was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 8-0.

[From the May 25, 2021 Planning Commission Meeting]

- B. Resolution approving a Revised Final Plan for Leawood Plaza – Dalmark Development Group, located north of 123rd Street and west of State Line Road (PC 56-21)

Zach Nichols, Project Manager with Dalmark Development Group, addressed the Governing Body via Zoom. He stated that he does not have a formal presentation but is available for questions. Mr. Klein stated that the application is for a modification to a drive-thru section at a former bank building in Leawood Plaza. He stated that the applicant would like to keep it as a patio, but that the public tries to utilize it as a drive-thru. Mr. Klein stated that the applicant would like to add tables and chairs in addition to a custom-made fence to enclose most of that area.

Mr. Klein noted that staff had a concern with the roof and window colors blending with the fence color, but the Planning Commission removed the stipulation. Mr. Nichols replied that when they moved into the building two years ago, they did a small renovation to the windows to match the roof. Councilmember Harrison asked how many employees are located in the building. Mr. Nichols replied there are approximately 60. Councilmember Cain opined that it is the prettiest building in Leawood Plaza and thanked them for all their work on the updates.

A motion to approve Item 13B was made by Councilmember Cain, seconded by Councilmember Filla. Motion was approved with a unanimous vote of 8-0.

- C. Ordinance approving a Special Use Permit for Molle Toyota Off-Site Parking, located south of 104th Street and west of State Line Road (PC 36-21) [ROLL CALL VOTE]

Mark Sprecker with Polsinelli PC, on behalf of Molle Toyota, addressed the Governing Body via Zoom. He stated that this item has been coming before the City Council for the last 22 years. He requested an

approval and that the Special Use Permit (SUP) be approved for 5 years instead of the standard 3 years. He explained that the parking lot has been used in the same manner for 22 years. Mr. Sprecker noted that it could save the applicant and City time and money to lengthen the term of the permit. He stated that if the 5-year term is not approved, he requests an SUP for the standard 3 years, as recommended by the Planning Commission.

Mayor Dunn stated that the Planning Commission approved an extension of a 3-year term from 2 years, but did not take it beyond that time for reasons argued by staff. Councilmember Osman stated that given that the Army Corps of Engineers is evaluating Indian Creek, he feels it is best to keep the SUP at 3 years. Mayor Dunn agreed and stated that the reason for a shorter term is due to the contemplation of the development of that tract.

A motion to approve Item 13C for a 3-year Special Use Permit was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

- D. Resolution approving a Revised Final Plan for One35 - Mixed Use, located south of 135th Street and west of Kenneth Road (PC 58-21)

Henry Klover, Klover Architects, 8300 Penrose Lane, Lenexa, Kansas, addressed the Governing Body via Zoom. He presented modified renderings due to the recent ratio changes in mixed-use zoning. He stated that they are requesting approval of the adjustments to the number of units allowed. Mr. Klover mentioned that the density is below what is allowed in the City's ordinance and that the elevations are similar except in one area where they believe the proportions have improved. He stated that the materials did not change. Mr. Klover stated that all the changes are in compliance with the Leawood Development Ordinance (LDO.)

Mr. Klover requested to correct one item listed in the Council Packet, stating that a letter from staff had been modified for approval on May 24th, but the original letter from May 20th was included instead for Exhibit A.

David Ley, Public Works Director, confirmed that the staff letter had been updated for approval and was to remove the language on the Stipulation 1(e)(2) "and at Kenneth Road."

Councilmember Sipple asked when construction is anticipated to begin on the twin villas and multi-family on 135th St. Mr. Klover responded that he cannot speak on the residential dwellings, but that the infrastructure will start soon. He stated that they hope to get the final plans approved soon and obtain permits early next year or end of this year.

Councilmember Cain asked if there have been any changes to who will build Buildings A, B and C. Mr. Klover replied it is the same ownership. She asked if all the units in those buildings are leases. Mr. Klover stated that they are high-end apartments. She asked if the twin villas and townhomes are for purchase. Mr. Klover stated that he believes that is the intention.

Mayor Dunn pointed out that a vote to approve will be an override of the Planning Commission and a supermajority is needed for approval.

A motion to approve an override of the Planning Commission for Item 13D was made by Councilmember Osman, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.

- E. Ordinance amending Section 16-9-55 of the Leawood Development Ordinance entitled “Car Wash, Full Service”, and repealing existing Section 16-9-55 and other sections in conflict herewith (PC 07-21) [ROLL CALL VOTE]

Mr. Klein stated that this request was recently before the Council last February. At that time, it was remanded back to the Planning Commission because of concern that it was too restrictive. He stated that staff reviewed it again and brought it back to the Planning Commission. He stated that the current amendment includes full service under the Table of Uses but they did change the requirement of all activities, including vacuuming and drying, be done under a canopy and that the canopy would need to be architecturally compatible with the main structure. Mr. Klein pointed out that the amendment would also require that the canopies adhere to setbacks and screening.

Councilmember Cain inquired if the canopies must be a hard surface or canvas material. Mr. Klein stated the staff’s intention is a hard surface but he agreed that it should be included in the ordinance.

Councilmember Larson stated her concern with an overhead canopy because it is more difficult to see if the vehicle has been dried off completely. She stated that she is more concerned with the 60/40 setback rule, camouflaging, and appearance than she is of the canopy material. Mayor Dunn reminded the Council that Water Way Car Wash is grandfathered in.

Councilmember Filla stated that she is not opposed to non-structured canopies and thought it was intended for the safety of the car wash employees on hot, sunny days. She stated that she is agreeable to a temporary covering for the summer.

Councilmember Harrison stated that her expectation was that the vacuuming and drying area was for self-service and employees. She asked if any car wash applications have been denied recently. Mr. Klein stated that a couple of potential applicants have inquired about the self-service option. He mentioned that the Planning Commission discussed having two different types of services under the car wash ordinance.

Councilmember Sipple asked if this will be cost prohibited to future car wash businesses applying in the City. Mr. Klein stated that most of the businesses who have talked to staff have proposed canopies. Councilmember Sipple agreed that the canopy could be either a hard or soft surface. Mayor Dunn replied that given the winters here, soft canopies would need to be replaced.

Mayor Dunn asked that if the amendment was approved would a semi, full-service option come back to the Council for approval. Mr. Klein verified that it would be added to the Table of Uses and would need approval.

Councilmember Azeltine asked if it would be more beneficial to continue this item. Patty Bennett, City Attorney, stated that if the Council decided to continue the item, a new ordinance would need to be created because of the change to a different section of the ordinance. She stated it would start with the Planning Commission and could take 60-90 days.

Councilmember Larson asked to see photos for examples. Mr. Klein presented several photos displaying examples of different structures, semi self-service, full canopies, buffers and landscape screening.

A motion to approve Item 13E with the addition of “hard canopy” language was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.

- F. Ordinance amending Section 16-2-10.3, of the Leawood Development Ordinance entitled “Materials and Colors” pertaining to roofing materials for single family residential structures, and repealing existing Section 16-2-10.3 and other sections in conflict herewith (PC 70-21) [ROLL CALL VOTE]

Mr. Klein stated the current code indicates that the color of asphalt shingles are supposed to look like weathered wood. He showed several different examples of roof shingles. He stated that the black colored shingles are becoming more popular. Mr. Klein stated that staff is proposing to expand the list to allow darker colors and greys but to keep the requirement of 5 color granules on the shingle. He stated that the reason for the 5 color granules is for the appearance of dimension.

Mr. Klein stated that the current standards require that the weight minimum is 300 lbs. per square for a non-impact rated shingle, and 265 lbs. for impact rated shingles. He stated that technology has changed over the years, so most of the shingles are well below the minimum weight. Mr. Klein also mentioned that manufacturers are keeping the style names the same, but have lowered their weight standards. He stated that there is some difficulty finding those weight minimums. He stated that he would like to bring this issue to the Planning Commission and that it would be a separate ordinance for the Council at a later time.

Mr. Klein stated that the City currently has an application for a Tesla roof. He explained that this would add another category within the roofing code. He passed around a sample of a Tesla roof to the Governing Body and stated that he traveled to Topeka to see it installed on a home. He explained that it is a solar panel made of Class-3 impact rated glass and very expensive. Mr. Klein stated that the cost is estimated between \$75,000 and \$100,000 not figuring in the cost of an electrician. He noted that a building owner can choose to have all or some of the panels solar.

Mayor Dunn asked if the Tesla roof is shiny. Mr. Klein stated that at certain angles it has a sheen, is very linear, and has a low, flat profile but that it does have a little texture. He showed a few photos of Tesla roofs as examples. Mayor Dunn asked if there have been any applications in Leawood requesting a Tesla roof. Mr. Klein replied that the City has received an application.

Councilmember Filla mentioned that she is in support of this type of solar panel because it is much more attractive than traditional solar panels. Councilmember Cain mentioned there is a federal tax credit and it can be financed.

Councilmember Sipple asked what the status is of the recent applicant requesting a Tesla roof. Mr. Klein stated that the homeowner is working with a certified contractor. Councilmember Rawlings asked about gutters with this type of roof. Travis Torrez, Building Code and Enforcement Director, replied that he is not aware that larger gutters would be necessary. He felt it would be similar to a slate or tile roof installation.

Councilmember Filla asked if darker colors on the roof shingles would attract more heat. Mr. Klein agreed that it would. Councilmember Azeltine mentioned that the federal tax credit for solar roofs will expire at the end of the year, so there may soon be more requests coming to the City.

A motion to approve Item 13F was made by Councilmember Cain, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

- G. Ordinance approving a Rezoning from SD-O (Planned Office District) and R-1 (Planned Single Family Low Density Residential) to MXD (Mixed Use Development District), Preliminary Plan, and Preliminary Plat for State Line MXD, located south of 86th Terrace and west of State Line Road (PC 89-20) [ROLL CALL VOTE]

Mayor Dunn stated that the staff and Council have received multiple emails on this subject that have been included in the meeting packet.

Developer Doug Weltner, 4520 Main, Kansas City, Missouri, addressed the Governing Body via Zoom. Mr. Weltner mentioned that he has not been in front of the Council since the development of Mission Farms in 2014. He stated that the current project is a 12-acre site on State Line Rd. and 86th St. and it includes a single-family lot at the corner of 86th Terr. and State Line. He stated that it is across the street from a retail and restaurant shopping center that was developed in the late 1960s. Mr. Weltner stated that the site was attractive to their team because of the Ward Parkway Shopping Center amenities and walkability. He stated that to the south is approximately 200,000 sq. ft. of office space that was built in the 1980s and there is a large office corridor in the immediate area. He stated that the site is currently zoned SD-O for a 6-story, 130,000 sq. ft. building. Mr. Weltner stated that a major piece of the project is luxury apartment homes. He noted that no new apartments have been built north of 103rd St. to Shawnee Mission Pkwy. in over 40 years.

Mr. Weltner showed images and gave a description of the site and its surroundings that include a tunnel linking the Ward Pkwy Center parking to an overflow lot. He stated that he has lived in Leawood for many years and opined that the current site is an eyesore but that one of the benefits is a large green space of trees, underbrush, and bushes on the north and west sides. He stated that there are some open spaces that had been mowed by Ward Parkway Center when they owned the property and Mr. Weltner stated that they have continued to maintain it since acquiring the land.

Mr. Weltner gave a history of their original site plan then presented the changes made after discussions with neighbors and the recent amendment to the City's mixed-use ordinance. He explained that the changes were moving the office building to the south and the addition of townhomes on the north and west sides. He stated they are excited about the townhome project because they will be for sale and keeping with a price point that is appropriate for north Leawood. Mr. Weltner stated that they were successful in getting a shared parking agreement with the owner of the 8700 building, Paul Denzer.

Mr. Weltner pointed out that their focus from the beginning was to work with the neighbors and the Leawood Homes Association president. He stated that he felt they were making good progress and had good communication. He indicated that he felt strongly about making it a collaborative effort and stated he was blind-sided and disappointed by a petition that was distributed to him last week. He outlined the numerous meetings he had with the neighbors since September 2020. Mr. Weltner pointed out the issues raised by neighbors who signed the petition:

- Traffic – He stated there was a traffic study done that indicated there was ample capacity on State Line Rd. to take care of the fully-developed project. He stated that the study rated the intersections in the area at Level of Service A or B.
- Drive-Thru Restaurant – Mr. Weltner stated that the retail/restaurant sites are critical but they are placeholders. He explained that the drive-thru option can be for a bank, pharmacy, dry cleaner, bakery, etc. He stated that it does not mean it is for a Taco Bell every time there is a drive-thru

and he indicated that with the townhomes, that is not the kind of customer they are targeting. He expressed frustration at this issue and reiterated his track record in Kansas City and stated they are looking for a high-end retailer or restaurant for their brand.

- 5 Stories – He stated that the buildings do not exceed 5 stories in height. He explained that because of the 24’ fall in elevation of the site, one building is dropped to keep the roofline at 4 stories. Mr. Weltner explained that at the far west end of the building basement had 10-12’ high ceilings so they added 4-5 walkout units to that level. He stated that it is a very small part of the elevation. He mentioned that the rooftop amenity listed under this issue is a final plan decision. He stated this is a small space and is an amenity in most projects. Mr. Weltner explained that the pool will be inside and there will be strict rules for the rooftop amenity because of the neighbors’ privacy and noise ordinances.
- Sidewalks – Mr. Weltner explained that they would support the neighbors on the sidewalk, but that it is not their decision and up to the City to address.
- Green space – He stated that for 9 months he has discussed with the neighbors how important the green space is to everyone, and is one of the reasons they purchased the site. He reiterated that they are sincerely committed to saving as many trees and underbrush as possible.

Mr. Weltner stated that they are looking for a high-end demographic and pointed out that the architecture and appropriate site planning is more important than the density for the success of the community.

Mr. Weltner pointed out that Planning Commission Stipulation No. 17 was to be removed by staff. He stated except for that request, he agrees to Stipulations Nos. 1-25. Mayor Dunn confirmed that the Council has a note that Stipulation No. 17 has been removed by staff.

Councilmember Osman asked if any new issues have been brought up by residents that Mr. Weltner has not addressed tonight in his presentation. Councilmember Harrison pointed out that parking can be a concern in a mixed-use development for patrons of restaurants and bars in the evenings. Mr. Weltner replied that they did address that concern and stated there should be ample parking on site, but that he has worked out an agreement with Mr. Denzer for any overflow parking needs.

Mayor Dunn explained that before any residents address the Governing Body the median break and sidewalk issues brought up in their petition will be referred to the City’s Public Works Committee. She reminded the public that the drive-thru element on a preliminary plan and plat will be more defined in a final plan. She noted that for any drive-thru application a Special Use Permit (SUP) is required. Councilmember Osman asked Mr. Klein to briefly explain the definitions of a SUP, Preliminary Plan, Final Plan, and the timeline of an approval.

Mr. Klein explained that currently this project is a rezoning request for a preliminary plan where the City staff reviews the use and general layout of the site and the traffic flow. He stated that the final plan review is for landscaping, lighting, and architectural details. He stated that the SUP for a drive-thru is issued to the applicant of the pad site and the review process is different for a fast-food restaurant as opposed to a dry-cleaning business. Mr. Klein stated that for an SUP the traffic and queuing is reviewed as part of the process. City staff has the opportunity to add conditions to the project at that time based on the usage.

Mayor Dunn asked that citizen comments be kept to 5 minutes. She called the public to speak in the order in which they signed in.

Jane Van Tassel, 8612 Sagamore Rd, addressed the Governing Body. She stated that she and her partner have lived at this location for over 12 years because it is a beautiful space. She stated her concern is with removing some of the trees, and that she would like to keep all the trees and have more planted to reduce noise and light pollution. Ms. Van Tassel stated that she has a concern for the traffic study data since it was conducted during COVID and she would like another study done. She stated that she would like the cut-through traffic on 86th Terr. to be reduced with a cul-de-sac or no left turn signs. Ms. Van Tassel stated that she is concerned with the density of the space with too much going and not enough green space. She stated that she is concerned with the height of the buildings and the 5-story height was not part of the original plan and wants to see it lowered. She stated that she would like to eliminate the rooftop amenity because she believes it will be loud and obnoxious. Ms. Van Tassel stated that she wants to eliminate the fast-food option. She stated that the plan has been compared to Mission Farms, but she believes it is nothing like that. She stated that she is concerned about her property value and whether it will go up or down, and that as a taxpayer she would like a revision of the plan to preserve the beauty of the area and respect to the neighbors.

Georgia Wallner, 2003 W. 86th St., addressed the Governing Body. She stated that she is concerned with density and the green space for the new residents and their dogs. She estimated that with 500 additional residents, there could be 200 dogs in that area. She stated that she is concerned with traffic coming and going from fast-food restaurants. She explained the parking issues she experienced on the weekends when living at Prairie Fire and the challenges of the public taking parking spaces reserved for residents.

Lee Schuenemeyer, 8620 Sagamore Rd., addressed the Governing Body. Mr. Schuenemeyer presented a PowerPoint presentation. He stated that he spoke to Mr. Weltner in December 2020 after he purchased his home and was shown the original plan. He stated the petition was started because of concerns he and the neighbors have expressed to Mr. Weltner many times. He stated that there have been many meetings when they would voice their concerns to Mr. Weltner but nothing was done about them. Mr. Schuenemeyer stated that everything they asked was not going to be written down until the plan was approved, according to Mr. Weltner. He stated that his PowerPoint presentation was given to the Planning Commission and the points of concern are green space, traffic, density, community involvement and long-term viability. He stated after the Planning Commission meeting and their discussion of drive-thru restaurants, he and the neighbors decided to talk to other neighbors to find out who knew about the plan. He gathered 115 signatures and stated his concern with the traffic plan. He stated that the traffic study was done in a four hour time span on a Tuesday during the pandemic and outdated statistics were used.

Mr. Schuenemeyer stated that he showed neighbors the language from Mr. Weltner's documents that gives the definition of a drive-thru restaurant and they want him to remove a drive-thru restaurant option and add non-fast food language. He stated that if this option goes through an SUP process later why go through it if it is not a good idea now. He stated he is concerned with the traffic density and that there is only one ingress and egress for the development.

David Snider, 2016 W. 86th Terr, addressed the Governing Body via Zoom. He stated that he is a retiree and has seen the traffic pre-, pandemic, and post-pandemic and noted the number of delivery trucks that cut through their neighborhood from State Line to Lee Blvd. trying to avoid the traffic lights.

JoLynn Hobbs, 8309 Lee Blvd, addressed the Governing Body. She stated that she is the President of the Leawood Homes Associations (HOA), serving 1500 families. She stated that the Weltners diligently met with her and the neighbors and that she appreciated those meetings. Ms. Hobbs stated that there are still significant and valid issues that need to be addressed. She stated that there is no disagreement on

whether the property should be developed, but she asked the Council to consider limiting the impact to the neighbors and negotiate on their behalf. Ms. Hobbs stated that the top concerns outlined to her were tree removal, building height and drive-thru businesses. She stated that the development has been compared to Mission Farms and they would like similar high-end, sit-down restaurants. She said traffic is a concern and asked Public Works to limit additional traffic congestion on State Line Rd. and close the left-hand turning lane to limit traffic on their side streets, as stated by the residents. Ms. Hobbs stated that she understands the sidewalk is part of the City's plan of walkability but pointed out that this area is not appropriate for sidewalks and the residents' request that no sidewalks be built north of the development. Ms. Hobbs stated that she fully supports the neighbors and the HOA Board and stated that this is an opportunity to hear, provide, and protect the Leawood citizens, their homes and quality of life.

Lisa Battani, 2019 W. 86th Terr., addressed the Governing Body. She stated that she will be directly impacted by the changes in the area and that she has attended every meeting. She stated that green space and trees are her number one concern and she does not want to see them removed. She stated that she does not want a rooftop terrace overlooking her property. Ms. Battani stated that she is concerned with a traffic light causing an issue for the residents to leave their street onto State Line and recommended that the entrance to the development be at an already established lighted intersection and not on a hill.

Mary Horvatin, 2025 W. 84th Terr., addressed the Governing Body. She stated that she is concerned with the traffic on 84th Terr. because of the cul-de-sacs and potential for more traffic lights. She stated that she hears accidents and sirens at least once a week. She requested that the plan be revised due to the number of concerns from neighbors. She stated that her neighbors love their neighborhood, and do not want to leave, and ask the Council to consider a plan that is more palatable.

Earl Santee, 2141 W. 89th Terr., addressed the Governing Body. He stated that he is an architect and represents the homeowners of the Village of Leawood. He stated that they are opposed to the rezoning of the property for multi-family because it creates noise and light pollution to the community. He stated that they protest the scale of the buildings because when the trees lose their leaves, there is a loss of privacy. He stated that the development does not enhance the historic and prestigious homes in the area. He stated that they object to the trail easement to the south connecting the park to the Village of Leawood because it would substantially increase the number of people accessing a dead-end park. Mr. Santee voiced concern over a dog park for safety of the park users. He stated that they protest the rooftop terrace due to noise and light pollution. He stated that they want the City to require the developer to reduce the scale of the development, provide dedicated green space, and provide community development to enhance their way of life.

Chris Parker, 2105 W. 89th St., addressed the Governing Body. She stated that it is too dense of a project and not enough green space. She stated there will be too many people and too many cars for the area to absorb. Ms. Parker stated that old Leawood is about single-family, residential living.

Todd George, 2027 W. 86th Terr., addressed the Governing Body. He stated that he has worked as an outside plan engineer in the past and had asked Mr. Weltner to bury the power lines running through his property in conjunction with the project. He stated that he is a tree farm owner and understands some of the trees have to be removed, but he requests that 20' pine trees be added. Mr. George stated that if Mr. Weltner can address most of the issues then he would not be totally opposed to the project.

Steven Hentzen, 2007 W. 86th St., addressed the Governing Body. He stated that he lives and works very close to the site. He stated that the neighbors agree that the redevelopment is good, but are at odds over the speed tables. He pointed out that if a no left turn sign is added, then traffic is pushed to his street. Mr.

Hentzen stated that he has attended meetings and the petition should be no surprise to Mr. Weltner. Mr. Hentzen asked for the Council to represent them and not the out-of-town investors.

James Paszkiewicz, 2001 W. 86th St., addressed the Governing Body. He stated that he moved to the neighborhood in February and took offense to some of the developer's comments.

Megan Relic, 2004 W. 86th Terr., addressed the Governing Body. She stated that she was originally skeptical of the plan but liked the idea of the project being similar to Mission Farms. She stated that because of changes to the plan she no longer supports the rezoning request. She stated she is concerned with the two fast-food restaurant plats and the traffic changes. She stated that the development is too tall, too dense and the amenities will be a detriment to the surroundings.

Mayor Dunn called Nick Relic to speak but he did not respond either in person or on Zoom.

Holly Stetler, 2023 W. 86th Terr., addressed the Governing Body via Zoom. She stated her family moved to the neighborhood last year mainly because of the backyard and peacefulness of the area. She agreed that there have been many meetings and discussions with the developer, but she stated not much of their requests have been put in writing, causing them concern. She stated that the neighbors fear the development will be approved without any amendments to the plans. Ms. Stetler stated it was helpful to hear about the City's process and that they are not against development, but that they need to be reassured their issues have been addressed in writing.

Mayor Dunn asked about the tree situation and what will be removed. Mr. Klein replied that if the trees were to remain, the project would have to move more to the south. He stated that the current plan had been changed to move the project south in order to save more trees, but he confirmed that some trees will need to be taken out. Mr. Klein stated that staff went to the site before the trees leafed out this spring and indicated that the houses can be seen in the wintertime. Mayor Dunn asked if the green space between the trees could include plantings of evergreens. Mr. Klein replied that he thought there would be room and noted that the Leawood Development Ordinance (LDO) requires additional landscape buffers be added between commercial and residential areas.

Councilmember Sipple asked how wide the tree buffer is on the north side. Mr. Klein estimated it to be 120-150'. He referred to the tree plan that was included in the meeting packet for more detail. Councilmember Sipple asked what the typical tree buffer is compared to the developer's plan. Mr. Klein stated that the residential setback for an MXD is a minimum of 75'. He stated that the developer's plan is 75' back from the office building, 95' back for the townhomes, and 200' for the condo from the property line.

Councilmember Azeltine pointed out that the Planning Commission met on May 25th and asked when the residents' petition came to the City. Mr. Klein replied that it was late last week after the meeting and explained that in order for it to be a valid protest petition, it has to be submitted at least 14 days prior to the recommendation of the Planning Commission. He explained that it does not qualify as a protest petition that requires a supermajority of the Council. Councilmember Azeltine asked for clarification on the height of the buildings. Mr. Klein stated that none of the buildings exceed 5 stories but that there are 5 levels for one building due to the slope of the lot. Councilmember Azeltine asked if the drive-thru pads necessarily have to be for fast-food restaurants. Mr. Klein stated that on these plans they are shown as drive-thrus which is a great concern to the neighbors, but he stated that Mr. Weltner indicated it could be other types of businesses. Mr. Klein stated that if it were to be a bank then a SUP would not be required, but a fast-food restaurant or dry cleaner would need an SUP.

Councilmember Azeltine stated that his biggest concern is the traffic study that was done last September and remarked that it may need to be redone. David Ley, Public Works Director, addressed the Governing Body. He stated that when the traffic study was submitted staff had it reviewed by a consultant who agreed with the data. Mr. Ley stated that staff reviewed the traffic counts with data from 2017 and with the expected growth rate over the next 20 years, found that the City's findings were within 3% of the developer's traffic study.

Councilmember Azeltine asked if this project will be the densest multi-family development in Leawood. Mr. Klein confirmed it will because of the recent amendment to the code regarding MXD ratios for infill development. Councilmember Azeltine asked about the Level of Service ratings on the traffic study report. Mr. Ley replied that most of the ratings would be an average of Level B or C. He stated that in order to close the median for no left turns, the residents would have to submit a traffic petition and the City would do a detailed analysis to determine the impact. He mentioned that the sidewalk issue brought forth by the residents cannot be addressed by the Public Works Committee but is for the Council to review separately from this preliminary plan.

Councilmember Azeltine asked if the application is in compliance with the LDO. Mr. Klein stated that it is requesting two deviations: a setback from State Line Rd. to be 30' instead of 40' and the parking setback from 25' to 18.75' from State Line Rd.

Councilmember Osman thanked staff and residents for all their work. He responded to a comment made in regards to the Council representing the residents. He attested that Governing Body members listen to all comments and read all emails and correspondence between developers, staff and citizens. Councilmember Osman stated that the Council represents all 40,000 people of Leawood and that they have to look at the short and long-term development vision for the City. He stated that the current preliminary plan for green space is dramatically different than what was submitted last fall and he is concerned about which trees are staying or not. He suggested that trees be planted now in order to get a 2 year head start before the development is fully completed. Councilmember Osman remarked that he does not like retention basins and asked if a park or some type of amenity could be placed where the basin is currently located on the plan to open up more green space. He agreed that the fast-food restaurants traffic issues are a concern but that the Council has the right to approve or deny a SUP. He pointed out that at this time, the drive-thru pad sites are placeholders. He stated that the rooftop amenity details will be reviewed further in the final plan approval process.

Councilmember Rawlings asked if the developer has indicated which trees will be removed on the preliminary plan. Mr. Klein presented a map of all the trees and which ones are marked for removal. He stated that for any trees that are over 12" caliper, the City requires them to be replaced.

Councilmember Sipple agreed with Councilmember Osman on getting a head start planting trees before the development is completed. He asked why the developer requested the deviations from State Line Rd. Mr. Klein indicated he thought it was because of the grading of the land. Councilmember Sipple asked if there will be a pedestrian trail on the west side of the development and stated his concern for the steepness of that area. Mr. Klein explained that there is an easement to the pedestrian bridge and acknowledged it is steep. He stated that staff would like to have a trail extend from the bridge to State Line Rd. and stated that the applicant has indicated that he will provide an easement to the southern part of their property.

A motion to extend the meeting by 30 minutes was made by Councilmember Sipple, seconded by Councilmember Azeltine. Motion was approved with a unanimous vote of 8-0.

Councilmember Sipple asked if sidewalks are present from 85th St. to Rockhurst High School (93rd St.) on the west side of State Line Rd. Mr. Ley replied that there are sidewalks on the west side from 89th St. north to the south side of the site.

Councilmember Filla thanked all the residents for their comments. She pointed out that it would be difficult to have a sidewalk on State Line due to the power lines and narrow strip of grass next to the curb, but that there could be pedestrian access on the north side of the property. She asked what the setback is for residential to residential. Mr. Klein replied that it is determined by zones and within the MXD the residential setback is 75'. Councilmember Filla agreed with Mr. Ley that more research should be done about the median or no left turns because any changes will affect everyone. She commented that burying power lines is not the responsibility of the developer for these residential properties and noted that the Council represents all the neighbors and all of the City of Leawood. She stated that they have a quasi-judicial role to represent the rights of the owner for the use of his land. Councilmember Filla would like the Council to consider the green space for the best connectivity for the community, but questioned the estimated number of dogs that would be living within the development.

Councilmember Cain stated that she is familiar with this area of Leawood having worked and lived close by for years, and noted that this developer has a good reputation in the Metro area and the City of Leawood. She stated that the Council takes careful time and consideration of the needs of the residents and the harmony of the community. She remarked that their decisions can be very complex and multi-layered. She stated that the Planning Commission did not know about the protest petition or hear any of the residents' comments, so she expressed a desire to have residents and the developer continue to communicate with one another. She commended the developer for including high-end townhomes for ownership that creates a buffer between the single-family homes and the commercial/retail areas. She inquired if the townhomes have zero lot lines or patios. Mr. Klein stated that currently there are no patios indicated on the plans. Councilmember Cain suggested that the neighbors get clarification from the developer on the lot lines, patios, or walls. She stated that on the final plan she would like to know that the townhomes are for purchase and not leased.

Mayor Dunn clarified that 5-6 residents did speak at the Planning Commission about the trees, no drive-thru, sidewalk and other concerns. Councilmember Cain replied that they did not see the petition since it was submitted to staff after the Planning Commission meeting.

Councilmember Osman asked if it is required to include a detention basin at the location shown on the plans. Mr. Ley stated that the basin is part of their BMP (Best Management Practices) but there are other options that would be up to their engineer to design. Councilmember Osman asked if a stipulation for trees to be planted prior to anything being built can be added. Mr. Klein stated that it typically cannot be required with a preliminary plan, but before a final plan is approved, it can be included with the first phase. Councilmember Osman asked if staff is reviewing the queuing for QSRs (quick service restaurants.) Mr. Klein replied that they have contacted the cities of Overland Park, Lenexa, and Shawnee about the stacking minimum. Councilmember Osman commented on the density allowed in Leawood compared to surrounding cities. Mr. Klein explained that the way the MXD ratio is calculated in Leawood makes it similar to other cities.

Councilmember Harrison stated that she likes the townhomes but her biggest concern is the traffic along State Line Rd and 86th St. She questioned if staff believes there are enough traffic signals, median breaks and lanes for this project.

A motion to extend the meeting by 30 minutes was made by Councilmember Azeltine, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 8-0.

Mr. Ley replied that the traffic study was reviewed by staff and reported that those intersections are currently operating at a Level of Service B. He stated that Leawood controls both sides of State Line in this particular section. Mr. Ley explained the challenges moving the existing median break to the south but noted that the developer is proposing to add a traffic signal between 85th Terr. and 88th St.

Councilmember Larson applauded the developer for continuing to work with the residents but that there is more work to do. She suggested codifying some of the issues to satisfy the neighbors and put it in writing, no QSR drive-thrus, set limitations of the rooftop amenity, and outline the tree removal and replacements. She stated there is some miscommunication regarding a 4-story or exceeding 5-story development. Councilmember Larson stated that she would like the parties to try and bridge the gaps in communication.

Mayor Dunn pointed out that if this item was remanded back to the Planning Commission, it would take fewer votes to approve the project because once something is remanded, it needs only 5 votes to approve the preliminary plan when it comes back to Council. Mayor Dunn stated that the neighbor's issues could be stipulated by the Governing Body.

Councilmember Filla remarked that she feels a lot of inaccuracies have been addressed tonight. She stated that she is in favor of adding stipulations at the final plan. Mayor Dunn requested that evergreen trees be planted for their year-round foliage, as part of the stipulation.

Mr. Weltner acknowledged that there are issues that need to be addressed for the final plan and he believes some of them will satisfy the petition items. He stated that he is in favor of the suggestion to plant evergreens and can start this fall and agreed to continue to meet with neighbors.

Mr. Klein stated that the direction the Council has defined to staff is clear and some of it will need to be outlined at the final plan. Mayor Dunn asked if the request to the Public Works Committee for a median break would happen between preliminary and final plans. Mr. Ley replied that the earliest the Committee could discuss it is early September, then their recommendation would go to the Council on the third Monday in September but that it could be presented at the same as the final plan.

Councilmember Cain commented that although the developer has been working on the project for several months, the Council has just heard the presentation. She stated that she would vote no on the project because it is short-sighted and takes away the power of the residents.

Councilmember Azeltine stated that Mr. Weltner has done quality development in Leawood and he believes that the property values of the homeowners near the project will go up. He agreed that the townhome buffer is a good design. Councilmember Azeltine noted that Mr. Weltner has made some movement with neighbors, but that there is room for improvement. He stated that he would like this to move forward but if there are no changes at the final plan, he will not vote to approve the project.

A motion to approve Item 13G was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a roll-call vote of 7-1. Councilmember Cain voted nay.

Mayor Dunn asked if a referral to the Public Works Committee should be made at this time. Mr. Ley stated that with a referral the Council may waive the 75% household petition requirement for the traffic calming policy. He stated the Committee will invite the residents on 85th Terr., 86th St., 86th Terr., and Sagamore to the meeting.

A motion to approve a referral to the Public Works Committee meeting on September 1, 2021, was made by Councilmember Osman, seconded by Councilmember Filla. Motion was approved with a unanimous vote of 8-0.

14. OLD BUSINESS – None

15. NEW BUSINESS

A. Schedule Governing Body meeting Tuesday, July 6, 2021 at 7:00 P.M.

A motion to approve Item 15A was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 8-0.

ADJOURN

Meeting adjourned at 11:51 p.m.