

**City of Leawood
Planning Commission Meeting
October 23, 2018
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160**

CALL TO ORDER/ROLL CALL: Hunter, Belzer, Pateidl, Elkins, Strauss, Coleman, Block, and Stevens. Absent: Hoyt

APPROVAL OF THE AGENDA

Chairman Elkins: If staff has no revisions or additions, I would entertain a motion.

A motion to approve the agenda was made by Strauss; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

APPROVAL OF MINUTES: Approval of the minutes from the September 25, 2018 Planning Commission meeting.

Comm. Coleman: On Page 1, it refers to Chairman Elkins instead of Pateidl on two different lines.

A motion to approve the revised minutes from the September 25, 2018 Planning Commission meeting was made by Coleman; seconded by Stevens. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

CONSENT AGENDA:

Chairman Elkins: Is there anyone who wishes to hear an in-depth presentation of Case 118-18? If not, I would entertain a motion.

CASE 118-18 – NALL VALLEY SHOPS – BURG & BARREL PATIO – Request for approval of a Final Plan, located north of 151st Street and east of Nall Avenue.

A motion to approve the Consent Agenda was made by Stevens; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

NEW BUSINESS:

CASE 114-18 – TOWN CENTER PLAZA – LOT 4 REDEVELOPMENT – Request for approval of a Preliminary Plan, Final Plan, and Final Plat, located north of 119th Street and east of Nall Avenue. **PUBLIC HEARING.**

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 114-18 – Town Center Plaza – Lot 4 Redevelopment – Request for approval of a Preliminary Plan, Final Plan, and Final Plat. There are slight changes to be made in the stipulations before you tonight. The first is No. 19. The date of the Public Works memo should read October 18th, not October 19th. In No. 26, it should read “site triangles,” not “sign triangles.”

The property is located north of 119th Street and east of Nall Avenue within Town Center Plaza. The applicant is requesting approval of a Preliminary Plan, Final Plan, and Final Plat to construct two new buildings, totaling 9,363 square feet and to split the existing lot into two separate lots in the location of the existing On the Border restaurant. The most westward multi-tenant building will be 5,725 square feet and will house a multiple-tenant space. The most eastward restaurant building will be 3,638 square feet and will house a single-tenant restaurant. The multi-tenant building will be 23’6” tall at its tallest point and will be constructed of brick and stone along the back, along with black standing-seam awnings and black metal canopies above the doors. An architectural wire feature is proposed along the south and east sides of the proposed building to provide a material change of the façade to create four sides of architecture. The restaurant building will be 25’ tall at its highest point and will be constructed of Metro Brick in two different shades of grey. Along the north, south, and east elevations, a diagonal pattern is created, using a color and material change, separated by a metal inset to help create architectural interest along all sides of the proposed building. Parking spaces are proposed along the east side of the restaurant building along with a 65’ long, 15’ wide outdoor patio along the north side of the building. Although no signage is proposed with this application because it is done at a separate time, the applicant has shown the locations of proposed monument signs. Per the Leawood Development Ordinance (LDO), a monument sign may be used in lieu of a wall or canopy sign and may only be allowed by Governing Body after recommendation by the Planning Commission. Staff included in stipulation No. 12 for the applicant to provide demarcated crosswalks along both northern entrances into the project area and to match the demarcation of the surrounding area. The project meets our regulations per the LDO, and staff recommends approval of Case 114-18 with the stipulations listed in the report.

Chairman Elkins: Thank you. Are there questions for staff?

Comm. Strauss: Can you talk about the proposed grease trap? I just haven’t come across that in other plans for restaurants that we’ve had.

Mr. Sanchez: I’m not really sure how they work; although, we did put them along the south side of the building on the northeastern part so that it would be easier for them to be taken care of by maintenance so as not to disturb any landscaping surrounding it.

Comm. Strauss: There would be landscaping? It wouldn't be visible from any of the streets? Maybe the applicant could address it. Are they covered?

Mr. Klein: It should be at grade. Almost all restaurants have a grease trap associated with them. Originally, they had it a little farther to the west. When they pump it out, it won't make a mess of the sidewalk.

Comm. Strauss: Did this proposal have bike racks?

Mr. Sanchez: Three bicycle racks are proposed on the east side of the restaurant building. You should have a cut sheet of what the bike racks look like.

Comm. Strauss: I assume the lighting in the outdoor patio area meets the LDO requirements.

Mr. Sanchez: Yes; we worked with the applicant. The LDO states that as long as the source of illumination is not seen, it is allowed. They are proposing a frosted glass to help filter the source of the illumination.

Chairman Elkins: Thank you. Are there any other questions for staff? Seeing none, I would invite the applicant to step forward.

Applicant Presentation:

David Olsson, 3501 W. 147th Street, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Olsson: I'm representing both the ownership entity, OTB Town Center, LLC, and Shake Shack in the presentation tonight. You probably noticed that OTB has closed. We're excited to bring this well-timed redevelopment proposal before you. We have read the stipulations and agree with them. We are ready to move forward. We had our Interact Meeting and had nothing but positive comments. I'd like to start with just a brief overview of the overall development. It's a complete demolition of the existing building and site amenities. All the paving, landscaping, and most of the utilities are being demolished. We are placing buildings closer to 119th Street with a very generous landscape setback. Our overall Site Plan also includes removing one of the existing entrances to Town Center. We are removing some of the older tired trees and replacing the entire landscape theme with new landscaping and new irrigation. I would also point out that Ricky mentioned the crosswalks provided along Town Center Drive, connecting to the Arhaus sidewalks provided along Town Center Drive and also providing pedestrian connection from the 119th sidewalk into our site so that you've got completely integrated pedestrian access.

We have identified a nice palette that we believe is extremely complementary to the existing facilities, specifically Arhaus and The Container Store. We picked our stone materials and some of our highlight colors from those buildings and also tried to complement very respectfully the Town Center development interior. The Shake Shack

building rendering is very representative of their character that they're portraying. They're a national retailer. You've probably seen them down at the Plaza, their first location in Kansas. You should be very proud that they've identified this location to place their first Kansas store. With those highlights, we have members of the ownership entity here as well as folks from Olsson and Associates to answer any questions you may have.

Chairman Elkins: Thank you. Questions for Mr. Olsson?

Comm. Coleman: Obviously, Shake Shack is going into Building 2. Do you have any tenants for Building 1 yet?

Mr. Olsson: We are not prepared tonight to disclose those, but they are national retailers and another good addition to the development.

Comm. Coleman: In terms of the scope of the project and the timeline, how long will it take to demolish On the Border and get Shake Shack up and running?

Mr. Olsson: I'm always asked when it will be finished, and I will always ask when I can start. We're trying to get through the approvals as quickly as possible. We are ready to literally start demolition today. We understand that's not feasible, but we do plan to start demolition right around January 1st. We'll deliver building pads hopefully before April, and business will open roughly six months thereafter.

Chairman Elkins: Other questions for Mr. Olsson? Thank you. Because of the nature of this application, we'll have a Public Hearing. You will have an opportunity to respond if necessary.

Public Hearing

Lou Ambrose, Houlihan's Restaurant Company, appeared before the Planning Commission and made the following comments:

Mr. Ambrose: I oversee The Bristol here in Leawood and a couple other brands. My question is about the number of parking spaces that will be required for the multiple tenants. Is there enough parking for Shake Shack based on the volume of business? If there isn't, where would the additional parking for employees and guests be?

Chairman Elkins: Thank you. Mr. Olsson, do you or anyone on your team care to respond to the question on parking?

Mr. Olsson: Just going from memory, the parking provides about ten parking spaced per 1,000. Building No. 2 will provide five per 1,000 for the retail building, and it will leave almost 20 per 1,000 for the restaurant use. I think that's a pretty healthy parking ratio.

Chairman Elkins: Does that meet with the guidelines in our LDO?

Mr. Olsson: Oh, absolutely.

Mr. Sanchez: Per the LDO, in SD-CR, it is 3.5-4.5 parking spaces per 1,000 square feet on the retail side of it. On the restaurant side, it is one space per two seats. They meet this requirement.

Chairman Elkins: Are there other comments from the public?

Mr. Ambrose: How many guests are going to be seated in the restaurant? How many guests order to go, which will take up a parking spot?

Chairman Elkins: I'm sure that will be an estimate, but we'll ask Mr. Olsson if he can respond.

Mr. Olsson: Honestly, I don't have the percentage of takeout versus seating. I'm estimating 20 stalls per 1,000 square feet. Most retailers in our industry never ask for more than 15. I'm very comfortable that we've got adequate parking.

Chairman Elkins: Additional comments from the public? If not, I would entertain a motion to close the Public Hearing.

A motion to close the Public Hearing was made by Pateidl; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: Mr. Olsson, do you have anything to add in light of the questions asked during the Public Hearing?

Mr. Olsson: I don't have any with respect to the Public Hearing, but I would like to speak to the grease trap question. Johnson County Wastewater has an extremely rigorous review approval process. A grease trap is all below grade. It is a 1,500-gallon concrete box with two manhole lids. The lids are virtually all that is visible.

Chairman Elkins: That takes us to a discussion. Any comments from commissioners?

Comm. Strauss: I'm thrilled that the building didn't sit vacant very long. We have what looks like a great proposal in front of us. We heard one concern at the Public Hearing on parking. I would think employees would park north of the building and not east. I can understand the concerns of Houlihan's, but in addition to the site, there is excess parking to the north. I'm comfortable with that.

Mr. Sanchez: Staff would like to add a stipulation to require the northern sidewalk to connect all the way to Rosewood Street.

Chairman Elkins: That would be an additional stipulation?

Mr. Coleman: It can just be added to No. 12.

Chairman Elkins: Mr. Olsson, does that raise any concern to you or your clients?

Mr. Olsson: That is totally acceptable.

Chairman Elkins: Is there a motion?

A motion to recommend approval of CASE 114-18 – TOWN CENTER PLAZA – LOT 4 REDEVELOPMENT – Request for approval of a Preliminary Plan, Final Plan, and Final Plat, located north of 119th Street and east of Nall Avenue – with enclosed stipulations, including the modification of No. 12 to include the requirement to extend the northern sidewalk to Rosewood Street – was made by Belzer; seconded by Pateidl. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

CASE 115-18 – RANCH MART NORTH SHOPPING CENTER – REDEVELOPMENT – Request for approval of a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit, located north of 95th Street and east of Mission Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 115-18 – Ranch Mart North Shopping Center – Redevelopment – Request for approval of a Rezoning, Preliminary Plan, Preliminary Plan, and Special Use Permit for a pharmacy drive-through. Ranch Mart North is generally located east of Mission Road and north of 95th. Before I proceed, I do have a correction to make to stipulations as well. No. 17 should be removed, as it is a duplicate of No. 21. No. 34 should be changed to read, “. . . 1-33.” On No. 24, the date of the memo should read October 18th rather than October 19th.

The applicant proposes to rezone the entire Ranch Mart North development into two zoning districts. The main retail center, the bank, and McDonald’s will be zoned SD-CR (Planned General Retail). The Care Now, the cemetery, and associated parking will be zoned SD-NCR2 (Planned Neighborhood Retail 2). The applicant proposes to redevelop the entire parking lot of the center, consisting of a mill and overlay and updating the parking lot islands, landscaping, and lighting. Additional islands are proposed just north of the McDonald’s parking lot for improved circulation through that area. The applicant proposes to eliminate one of the existing driveways on 95th Street between the McDonald’s entrance and the stoplight to the east. The applicant is proposing 5’ sidewalks along 95th Street and Mission Road as well as connections from the main center to the perimeter sidewalks. The applicant proposes street trees, shrubs, and 3’ parking lot screening walls along 95th Street. Along Mission Road, the applicant is proposing a 3’ screen wall and shrubs but does not propose street trees due to a number of utilities within the right-of-way. However, staff is recommending that the applicant would plant street trees along Mission as well, working with staff to avoid conflicts with utilities at the time of Final Plan. There is also a portion of the McDonald’s parking lot frontage that is not screened by the 3’ wall as required by the LDO. Staff recommends

that this be added where necessary by making adjustments to parking lot curbs where needed to make it fit. The applicant proposes updating the facades and the roofs of the main retail center. The materials generally consist of grey-tone brick and tile accented with natural wood tones on the awnings and some metal screens as accents as well. The applicant is proposing a pharmacy drive-through in approximately the same location as the existing grocery store pickup location. The applicant is proposing to demolish a portion of the main retail center for use as a pedestrian plaza area on the eastern side of the building. The plaza space would include landscaping, seating, and lighting. An architectural gateway features proposed on the southern façade entrance to the plaza area to serve as an entry gateway. In the northeast corner of the center where the previous bowling alley was located, the applicant is proposing to demolish that portion of the building and construct a two-story, 27,597 sq. ft. office and retail building. The proposed building will have a second-story balcony that overlooks the plaza space. The overall square footage of the Ranch Mart development is actually decreasing from 221,552 square feet to 217,366 square feet. The existing structures of McDonald's, the bank, and the Care Now buildings will remain; although, their parking areas and sidewalks will be updated.

Ranch Mart was originally developed prior to the adoption of our current ordinance, so a number of the setbacks on the site do not comply with today's LDO, but they are considered legal, nonconforming. The applicant, however, is not increasing the nonconformity anywhere on the site, so it is still in compliance with the ordinance. The approval of this plan will include two deviations: one to the interior parking setback and one to the interior building setback, which will go down to 0'. Staff recommends approval of Case 115-18 with the stipulations outlined in the Staff Report.

Chairman Elkins: Thank you. Questions for staff?

Comm. Pateidl: I'm curious about the legal, nonconforming position we've taken on a number of the existing improvements. Yet, there is a section on Page 5 entitled Requested Deviations, which deal with the interior structure setback and the interior parking setback. The existing is 0, and deviations cannot be requested. What is the difference on these two items that they are not considered grandfathered or legal, nonconforming to begin with?

Mr. Klein: The deviations have to be specifically listed in the LDO. The particular deviation with regard to zero-line setback for the parking and buildings is specifically listed in the Deviations section in Article 3 of the LDO. The other elements that are legal, nonconforming are existing, and there is not a deviation offered by the LDO. It is a recognition that the building is there, and the only other way to do it would be to tear down part of the building. The LDO allows legal, nonconforming as long as they were constructed legally at the time they were put in place and that they don't increase the nonconformity. In this case, the majority actually decrease the nonconformity. They can't do anything about the buildings because they would have to be moved, but for some of the parking setbacks, they are reducing in nonconformity and increasing the parking setback or open space.

Comm. Pateidl: Does that mean that the deviations, as requested, are basically a given as far as the project is concerned?

Mr. Klein: It is always up to the Planning Commission and City Council. The two deviations that they are requesting are very common within commercial developments. If there is a property line running between, rather than requiring the parking lot to be broken up with a 10' buffer between them to create a 10' parking setback, it makes more sense to allow the zero-line setback. Property lines also go through buildings. Park Place has a lot of them with a common wall, which is a zero-line setback as well.

Comm. Block: I see that McDonald's is currently zoned Agriculture. How does that get missed? What does that mean?

Ms. Schuller: It means that there wasn't a formal zoning ordinance on that as we have embarked on the project to make sure we have an ordinance on everything. At the time it came in, it was never formally included, so it is being included now to correct that.

Comm. Block: The labeling doesn't have any implications as to how they are assessed real estate taxes to this point?

Ms. Schuller: I am not aware of that.

Mr. Klein: That is the county.

Comm. Coleman: Can you just specifically show us on the map what is being demolished? I know it is the east side. I know Seasonal Concepts was over there. I just want to get the dividing line.

Ms. Schuller: (*Referring to plan*) Everything on the north side of the alley is being taken out with this going in. Additionally, the tenant space just east of Duck Donuts is being taken out to provide the pedestrian space. The corner space is the proposed restaurant use.

Comm. Coleman: The building you pointed to will remain?

Ms. Schuller: Correct.

Comm. Strauss: With respect to McDonald's and the egress out of the northwest access point, this site seems very similar to the McDonald's at 119th and Roe. At that location, they have modified it to be an ingress only with an egress farther to the east. The concern is that people exiting there could get stuck behind a queue or pull out when someone is pulling in to Ranch Mart. It just seems like a high accident location that we rectified at 119th and Roe. Was that considered here?

Mr. Ley: We worked quite a bit with the developer on this, trying to figure out the access to the Mc Donald's. Currently, it is pretty wide open. We tried to limit it. This was the best way to keep the vehicles from driving through parking lots. If vehicles head

northbound to exit, they would end up having to drive through more parking lot with more pedestrians. We felt that, if they had to wait to make a left, they would just queue up on McDonald's property. We didn't think that was as big of an issue.

Comm. Strauss: It seems like it could be just like 119th and Roe, where it is an entrance, and the eastern access point was the exit. Vehicles would turn left and pass 4-5 parking spaces to the north. It just seems like a safety hazard that has been rectified in one place but is still present here. I agree that the whole Site Plan has really improved traffic circulation and pedestrian circulation except for that one location.

Mr. Ley: We can continue to look at that when they come back for the Final Plan.

Comm. Strauss: My other question is related to pedestrian movement. Again, there are some great enhancements. The one concern seems like there is no pedestrian sidewalk or demarcated space along the north side of the property. To walk from the Irish Pub to the new office building, a pedestrian would walk through the parking lot. Is that correct?

Mr. Klein: There is a gap there. There is a service driveway with the loading dock as well. It was tough to be able to transition through that.

Comm. Strauss: There is some retail close to the loading dock, I realize. I just wonder if you could get a path to allow people to not walk within the traffic stream.

Mr. Klein: We can certainly work with the applicant when they come back with a Final Plan.

Comm. Pateidl: It was alluded to earlier with regard to the curb trees along Mission Road and the utility easement. To my recollection within the last 2-3 years, there has been some major utility work done along that particular strip. Can you tell us what utilities are there and the likelihood of trees not creating a problem inside that easement?

Mr. Ley: I believe most of the utilities are overhead in that location, including KCP&L, AT&T, and Time Warner. We have not received a utility plan for burying those power lines.

Comm. Pateidl: Sewer and water along in there was where they had a huge project that lasted forever. I don't see where there will be room for trees along Mission Road. I also have a question about moving the wall to the west side of the sidewalk. Could you expand on your reasoning behind that?

Mr. Ley: Staff proposed to have the retaining wall on the west side of the sidewalk, and then they could raise the grade. There would be filling on top of the existing ground, and that would give them room to plant trees in that area. Plus, it would provide more of a physical barrier between Mission Road and the sidewalk.

Comm. Pateidl: To plant trees, it would have to be lifted by 5'.

Mr. Ley: The east end would be raised up 2'-3'.

Comm. Pateidl: I guess that is grading we would have to see on some elevations. I'm just looking at the practicality, but I would also like to know what the reasoning is for moving it from the east to the west side.

Mr. Ley: If the retaining wall goes on the east side, it would need a handrail because there would be a 2' drop adjacent to the sidewalk because of the grade difference between Mission Road and the parking lot.

Comm. Pateidl: It is for grading purposes.

Mr. Ley: The retaining wall is, yes.

Comm. Pateidl: Does that create more difficulty as far as the placement of street trees? I see the wall is now adjacent to Mission Road.

Mr. Ley: There would be approximately 8.5'-10' between back of curb on Mission Road to the retaining wall.

Comm. Pateidl: There certainly isn't now.

Mr. Ley: With the new plan, there would be.

Comm. Pateidl: The new plan will give up that much of the parking area?

Mr. Ley: They are reconfiguring the parking lot. Currently, there is one parking bay against the building, two parking bays, and then a parking bay against Mission Road. They are only going to have three of those parking bays. They're bringing the curb in to the east. On Mission Road, we moved the curb and gutter over 2.5' to the west this past summer. We measured from back of curb to the building. That is how we came out with 8.5'. We are pretty confident they will be able to get that 8.5'-10'.

Comm. Pateidl: We've belonged to Nativity Parish for 14 years, and my kids went to school there. In all that time, I would never walk on the sidewalk along Mission Road because of the traffic that was on it. From what's being said or what I could understand from the plans, I didn't realize that you were bringing in the parking lot that far. Are they deeding some of that land to the city for right-of-way?

Mr. Coleman: Just the sidewalk easement. By making these changes, it will create green space and a place to plant the trees. It will greatly improve the whole visual aspect of that area.

Comm. Pateidl: The other part I read is that these barrier walls for sight barrier have to be incorporated with greenery, and there are talks about putting a hedge of shrubs

adjacent to that wall. If we move that wall to the west side, what does that do to that whole concept of the greenery? Does it even allow for it to be practically be part of this deal?

Mr. Coleman: You would have 8'-10' of green space for the trees and for foundation plantings along the wall on the west side. The view from Mission would be a green strip with trees, not the sidewalk.

Comm. Pateidl: So, you see the room for the shrubbery and the trees to the west of the wall even though the wall is moving to the west of the sidewalk?

Mr. Coleman: Correct.

Chairman Elkins: Other questions for staff? I would invite the applicant to step forward.

Applicant Presentation:

Curtis Petersen, Polsinelli Law Firm, 6201 College Blvd., appeared before the Planning Commission and made the following comments:

Mr. Petersen: I'm representing Ranch Mart North, LLC and several related entities that own pieces of the center. Our architect is Chris Hafner with Davidson a&e. Lynn Corsi and Tripp Ross are here as well. Usually, we have to draw straws for who on the development team is coming. Not every project is created the same. This is something that has great nostalgia for many of us who grew up here. We get excited when we talk about Ranch Mart. We think we finally landed on something compelling and real. With that, I would say that this shopping center has been here for almost 60 years. The thought is to create something that is not only going to have nostalgia for the next 50 years but also something that we will all be very proud of. Chris will walk through the plan. I will come back at the end with a few tweaks and suggested revisions to a few stipulations. Both of us will be available to answer questions.

Chris Hafner, Davidson Architecture and Engineering, 4301 Indian Creek Parkway, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Hafner: *(Refers to presentation throughout)* Thank you for the time. We're excited to be here. I'm going to walk through our plan and put a little flavor and color on what we've provided. The Site Plan calls out the two zoning areas, building use, parking lot, and analysis. The section added to Sheet A1.0, Detail 3 really shows Mission Road to the west side of our shopping center. It describes some of those utilities. I share the same concern about street trees being planted along there. The aerial shows the existing shopping center and a line that shows the work happening over and above. The building that attaches to Price Chopper will be removed. The building will be set back at least 125' from the residential neighbors. The building will have some potential restaurant use and office use, looking down into that plaza we're all excited about. We were tasked with pedestrian safety, vehicular safety, and movement through the site. In the parking lot,

there are not many islands or dedicated drive lanes through the site. We wanted to increase throat depth where we could, make the intersections a little more accident-free coming off Mission and 95th Street, and get pedestrians into the site and move them safely from any of the streets to the shopping center. I appreciate staff's time and continued support and communication to help us work through some of those items. At one time, the parking was one-way, angled parking. We've changed it to 90-degree parking. We've done analysis with our client to understand how to increase the amount of parking we can provide on that west side. We are obviously tight between Mission Road and the existing building. We found that this change increases the ability to park there. The same can be said about the south face of Price Chopper. We have gotten rid of that secondary access road, for lack of a better term, that ran north of 95th from McDonald's down to the Care Now building in front of the cemetery. We have created islands and increased throat depth to bring those cars to a safer point to exit and move through the site. We also got rid of the drive in front of the old cemetery, which adds to green space in that area. In the area where Seasonal Concepts used to be and where our current tenant is now is some sort of visual break that is really important to us and the existing building. We are demolishing a portion of the retail center to get views back into what we consider to be a really exciting part of the site. It all is, but this pedestrian plaza is really exciting for us. A lot of programming ideas are floating around the management company about what we could do in that space with events. Moving east, right now, the parking lot is a big sea of asphalt. We are trying to define lanes, define parking spaces, and work around the existing bank building and Care Now building. We are trying to provide as much 90-degree normalized drive lane opportunities on this site as possible. We worked with staff on pedestrian connectivity and provided connectivity both east and west and north and south on this site. I will point out that we have the drive-through. Currently, there is an antiquated grocery pickup area with a huge canopy. It sticks out into the drive and makes the drive loop south around it. We worked with Price Chopper, who is looking at renovation because of the shopping center getting redone. This will become a pharmacy. We had shorter stacking and were able to get the five in there. That is tied to the Special Use Permit for this being repurposed into something that will be used. We have grocery pickup, but it is more of a mobile setup happening just to the east of the front entry where we have ADA spaces as well. We have been working with the Price Chopper team pretty closely about how all of that works. Important to note, along our north property line, the existing parking is actually farther north than it is shown in this plan. We were able to pull down and consolidate some of that to create a little more buffer along that north line. We push out on the east side and the northeast corner, but we still stay within the LDO setback requirements. We have new lighting with 18' high LED lighting. It will make it safe, and our photometric studies indicate we won't have light spillage into the residential neighborhood. We had an Interact Meeting on October 11th. It was well attended, and we got positive feedback. I did not hear one negative comment about the project or the redevelopment.

We have what we like to call a paradigm shift from what Ranch Mart North looks like currently. You recognize the long eaves, overhangs, and shake roofs. The design concept was to really leave the outer limits of the tenant space where they are currently, except the new building, and just work from the façade of that building out with new and exciting architecture. It has a lot of clean lines and interesting materials that all meet the

LDO requirements. We worked closely with Price Chopper. They have bought in on the elevation we have for their section of the building. They're excited about the renovation. We have a lot of other tenants that are doing the same thing with your blessing tonight. We are keeping building heights normalized. The view on the east side shows the Seasonal Concepts and the two-story restaurant/office building, which is what is visible from the east parking lot. The north elevation goes around the Price Chopper loading area. I recall a comment about pedestrian connectivity on the north side. The challenge is we need a large field of asphalt for maneuverability for loading and unloading for the anchor tenant of the shopping center. We reviewed that, and our preference would be to keep pedestrian traffic away from that section because of all the deliveries they get.

We have a general material list and color palette. We're keeping it fairly tonal. We don't want to date the center with a lot of bright colors that might be popular now. We're in this for the long haul. We're doing a significant upgrade to materials to try to make it stand the test of time.

Off 95th, we are trying to create a visual pathway back to our new building as well as the pedestrian pathways. We continue to refine our elevations with our client every week. I'd love to hear feedback on the architecture and Site Plan. I have a couple other exhibits as well. We did a site rendering for our Interact Meeting to give a better understanding of the green space, which we are increasing. We would like to talk about Mission Road. I'm not opposed to trees. I love trees and love to put them in projects. My challenge is not a horizontal issue with the space from Mission Road to our new curb line; it is the number of things that happen underground. We have been working with KCP&L on burying the overhead power lines as part of the project. We are working with them on locations of switch gears, sectionalizers, and transformers along 95th and Mission as well as on our site. At the end of the day, whatever is above, we are trying to get below. I want to make sure we have a conversation about it so we're all on the same page. Again, my main issue is the number of utilities underground. It is really tight and cluttered for any type of tree, let alone shade trees with the root diameter required for sustainable growth along that frontage. My hope was that we could put in decorative walls and landscaping at the pedestrian level and let our trees that we're putting within the parking lot and great architecture be visually impactful from Mission without trying to put trees in a spot that could have long-term impacts on utilities. We are doing it along 95th, so it is not a total refusal; it is just a tight space with a lot of things happening underground.

Staff asked for one of the parking stalls to be removed from the north and south sides of our west parking. That side of the site is heavily used, which is great. Currently, I have a parking stall running straight in from the drive lane. I haven't had a chance to share this with staff yet, and I apologize for that. I looked at moving those over and giving ourselves a little buffer so if a car did park in that location, it would have the ability to back out and not be up against the curb. Our request would be to shift everything over instead of losing the two stalls. We have enough island room east of there but give more room to allow that movement to happen.

Currently, the break in the Seasonal Concept happens with an existing tenant. We continue to explore the right location based on tenant leases. The break still provides great visual impact to visitors of the shopping center to the building we have back in the plaza as well as the plaza itself.

One other comment that came up was the trash enclosure. We originally had them located in the northeast corner of our site as a consolidated trash location. Staff was quick to point out that it needed to be architecturally integrated into buildings. We were able to take the grouping of trash enclosures and get them put on the north side of the Price Chopper building and some of our other buildings over there. I couldn't get them all to fit, though. I integrated one into the columns of the teller canopy. Our approach was to be able to extend off the masonry that matches the bank building and provide a trash enclosure in that location. We looked at a lot of other locations around the bank building to try to do this. The north side is covered completely with required exits, windows, and condensing units on either side that are screened in masonry. We didn't have an opportunity to put those there. Based on our restaurant user and trying to tie it in architecturally to this building was our solution.

I wanted to point out those three alternatives and show you some color of the project. With that, I might let Mr. Petersen come back up and talk to the stipulations, and then we can answer questions.

Chairman Elkins: Thank you. We'll do it a little differently. Before Mr. Petersen steps up, I'll give the commission the opportunity to ask you questions about your presentation.

Comm. Belzer: Are there current tenants in the part that is going to be demolished – the indoor baseball facility? Is that still there?

Mr. Hafner: It is still there. I would love to have our management team be able to talk to that more. Their plan would not be an indoor baseball facility in the new Mixed-Use building. I could have someone else speak to the tenants and lease.

Comm. Belzer: Driving through that center can be very challenging, and I like what you're proposing with the throughways and taking out all the angled parking. I like the way you've streamlined and made it easier to navigate the center. Is Ranch Mart North a part of the Ranch Mart on the other side of 95th Street?

Mr. Hafner: I will also let them answer that.

Chairman Elkins: We'll give Mr. Petersen a chance to answer those. Additional questions?

Comm. Belzer: I don't know if this is the right time, but do you have tenants secured for the new spaces that you are proposing?

Mr. Hafner: We are working closely with tenant relocation, new tenants, especially at the east end of the old Seasonal Concepts building with the restaurant. I've done a permanent-level plan for the space next to it for a new tenant as well. We are actively marketing the building on the northeast. Tentatively, we laid the parking count out for two restaurants. One would be in the southeast corner; one would be in the southwest corner. They would spill out into the plaza with maybe a small retail use to the north of

that and then an office tenant ideally taking the floor plate of that second floor. We're not marketing that right now, though.

Comm. Hunter: I live in northern Leawood, so I am excited about a proposed redevelopment of this part of Ranch Mart. In talking about the parking by O'Neill's, it looks like there is a significant number of spots that have been removed. Is there enough for those tenants?

Mr. Hafner: There are. Actually, 90-degree parking is more efficient than angled parking. We did that analysis, and this number increases the spots, even with eliminating a row.

Comm. Hunter: The exit from the parking lot by O'Neill's is a busy sidewalk area with kids from school. We just talked about putting up a wall. Are there issues with visibility?

Mr. Coleman: The wall would not obstruct the traffic triangles. It will actually be safer for the kids because it will protect them from the traffic.

Mr. Hafner: We have a line drawn. I would assume that is a low fence with some landscaping to break it up. I don't think we want to put one long, 3' wall along that frontage. We want to break it up visually. I want to be careful that I make a claim that the wall will stop an accident or stop something from happening. That is not the goal of this wall; it is more of a visual break from the parking field to the public way. We looked at the site distance triangles and kept them pulled back from that. There is a good, clear line of sight. I share your same concerns.

Comm. Hunter: On the east side of the parking lot, does this affect the neighbors?

Ms. Schuller: The setbacks along that side are the same as well as the vegetation screening the homes.

Mr. Hafner: We would just be consolidating the site lighting and things like that and bringing it to a more normal pole height.

Comm. Stevens: Mr. Hafner, to clarify because it is a stipulation of the removed parking on the corner and you showed a diagram how you are improving that, are you doing the same to the south corner?

Mr. Hafner: Yes, it was done for both.

Comm. Stevens: So, both would cover that stipulation.

Mr. Hafner: If acceptable, yes.

Chairman Elkins: Other questions? If not, Mr. Petersen, you have the floor.

Mr. Petersen: Commissioner Belzer asked about ownership. Ranch Mart North and South are different legal entities but the same family.

Comm. Belzer: I was just wondering if the architectural treatment would be similar to what is across the street on 95th.

Mr. Petersen: I am not an architect, but I would call it complementary but not matching. I hope to talk about some conforming clarifications we would put before you for your consideration. On behalf of the applicant, we would say stipulation Nos 1-33 are acceptable to the applicant with the following adjustment: No. 4 is the stipulation that addresses utilities along Mission Road. The stipulation says that they must be buried prior to final occupancy. We would like to change that to, “. . . final occupancy of any portion of the new construction.” Since we have current tenants, we don’t want any confusion of the record that somehow, existing tenants can’t be there.

Chairman Elkins: Would staff care to respond to the proposed change?

Mr. Klein: The final occupancy is with regard to the improvements they’re doing on the center. It wouldn’t keep existing tenants from being there; however, before they get final occupancy for any of the portions they are changing, the stipulation would go into effect. The only concern with limiting it to just the two-story building is if that building got put off, the burial of the power lines could be put off along with that. We are looking for the power lines to get dropped as the development gets improved.

Mr. Petersen: We would respectfully say we would like to leave it how we put it because the city will still have all the leverage to be sure that the utilities are buried partly because of the public-private partnership that will take place. Also, just knowing that, during the time of this construction project, as we are working on the façade, we can’t be in a position where we can’t rent tenant spaces. We could have a tenant that leaves and could have a national tenant that wants to go in. If we have to bury the utilities before we could put that tenant in, we could lose a great tenant. We would ask for your consideration of the language we put on the table.

Mr. Coleman: I agree with Mark’s interpretation of this. We would be concerned that they are buried during the construction of the project and that the lines would generally be one of the first things of the project. It might be something that is taken up later. I would recommend leaving it as it is now, and if there is a Memorandum of Understanding with Governing Body on this issue, they could address that.

Chairman Elkins: We’ll come back to commission questions after you go through these. Let’s move on to your next point.

Mr. Petersen: Sure thing. Stipulation No. 9 talks about trash enclosures. Chris showed how we tried to comply with the code. It was built into the overhang structure of the bank. For the functional reasons, he discussed about how we felt it was best for the restaurant and best for the bank. As a team, we discussed that we knew it would look nice

because we're bringing in a great restaurant tenant with a patio that overlooks this direction. We know it will have to look excellent. For these functional, pragmatic reasons, we would ask that the last line of No. 9, which reads, "At the time of Final Plan, the applicant shall relocate the proposed trash enclosure at the bank," be struck. We hope that you could find a way to support our design.

Mr. Klein: Staff would be more comfortable leaving it as it is because it gives us a bit more flexibility at the time of Final Plan. We have always required the trash enclosures to be attached directly to the buildings so they can be maintained a little better. It also allows them to be more visually integrated into the design as opposed to just being stuck on the end of the building. Staff would prefer that it remain as is.

Chairman Elkins: I guess I'm not sure how this gives any more flexibility than if it were not in there. You still have the flexibility to change it at the time of Final Plan.

Mr. Klein: We are just concerned that, if it is taken out, the applicant will come and say that they already have it approved at that location.

Chairman Elkins: Don't they have the same risk that you will come back at the time of Final Plan application?

Mr. Klein: This is a requirement of the LDO, so there is not a deviation to it. We would be looking to ensure that the criterion is met.

Chairman Elkins: Is their proposal not attached to the bank building?

Mr. Klein: I believe it is on the end. It might be attached to the pillars themselves, but it is not integrated in with the building architecturally.

Mr. Coleman: They said themselves that there is no trash enclosure at the bank currently. These enclosures that are freestanding are for the restaurant. There are no trash enclosures provided for the new building that is going to have those restaurants. That is where these should be located. We would be glad to work with them between now and Final Plan to locate those.

Mr. Petersen: With all due respect, we'd like to deal with this now because when we kick things further down the road, there is less flexibility. We feel it is not that complicated. As a point of clarification on what this trash enclosure is used for, this would be used for the restaurant. It became a functional problem. We're not going to put it in our beautiful pedestrian area. The bank does not currently have a trash enclosure. They traipse across to a dumpster on the north side. We have walked around this entire site, and we believe that, aesthetically and functionally, this is the best way to do it. Speaking to the code, it says that it shall be architecturally attached to the individual buildings. I know from experience both in this city and other cities, when we talk about the structure with masonry columns and footings in the ground, it is treated as part of the building, and we are attaching to that.

Chairman Elkins: In your view, you would be attached to the building.

Mr. Petersen: Absolutely.

Chairman Elkins: Let's go to your third stipulation.

Mr. Petersen: Because of the utility infrastructure you saw on the ground, we would suggest that, instead of having the sentence in Stipulation No. 18 that refers to following the LDO's requirements on street trees along both 95th and Mission, the new language says that we will follow the code provisions with respect to 95th Street; however, when it comes to Mission Road, because we truly believe it would be a mistake to try to jam trees into that beehive of utility infrastructure, we would like to ask you to restate the stipulation to require us to allocate all those required trees along Mission Road to other parts of the project. That is what we have done in the plan. We think we're going to have a great site on Mission.

Mr. Coleman: Some of those utilities they are showing in that location have not been placed yet. Those utilities can be moved over underneath the sidewalk or closer to the curb. I worked on planting trees all over, and we have planted trees on 12th Street downtown, where there are more utilities than there are here and underground vaults. We have been able to get trees in successfully. I think we could work with the utility companies and the applicant to get them adjusted so the trees could be planted there. The roots of the trees are not going down 10'. Most tree roots are in the first 3' of the ground.

Mr. Petersen: I don't want to be overly repetitive. I know we talked to KCP&L, and they had a strong preference that we not do this. I think the argument is pretty intuitive. Whether we can try to do it is not the question; the question is if this is pragmatic for trees that are going to grow for 20-30 years. I'm not an arborist, but whether you're talking about ornamental or shade trees, they have a significant root infrastructure, which is why the utility company is concerned.

Chairman Elkins: Does the utility right-of-way cover not only where the proposed trees will go but also where the sidewalk is?

Mr. Petersen: What I don't know for sure is whether or not we're dedicating the full 5' or some of the sidewalk or all of the sidewalk. There will be placement for it.

Chairman Elkins: Do you want to go to your fourth stipulation?

Mr. Petersen: Yes, sir. I'm going to mention No. 21 just because it's on the page. Staff said this was a duplicate, and we agree with that. The final suggestion has to do with No. 23, speaking to the two stalls on the west side. We would like to remove this stipulation. Because of Chris's design to bump it out on the west side of the parking lot, we think those are functional parking spaces. We would ask that you allow us to keep those.

Mr. Ley: We're fine with removing those. It gives them room to put a tree in those locations.

Chairman Elkins: Thank you. Anything else, Mr. Petersen?

Mr. Petersen: Sometimes, it is tempting to defer architectural discussion to Final Plan, but similar to a previous plan that we talked about, it can be hard on a design team and the owner's time and resources. You have been able to hear Chris present about elevations. We would love to hear about that as we move forward with the city in a public-private partnership. We invite you to offer comments.

Chairman Elkins: Thank you. Questions for Mr. Petersen?

Comm. Strauss: Staff said we could address some things during Final Plan. I'd like to hear your thoughts on someone working in the office building and wants to go to O'Neill's. How do they safely get over there?

Mr. Olsson: If you're working in that new building, you're going to walk through this exciting new public plaza that we have. We have a sidewalk system that runs the entire length of the building and is covered all the way to that point. When it is raining or snowing, you are under cover for the vast majority of that walk over to O'Neill's.

Comm. Strauss: I think people look for the shortest distance between two points. You talked about how you pulled the parking south, creating a sidewalk up there to have people get across the development.

Mr. Hafner: I understand your point. I try to keep pedestrian traffic from commercial development away from some of those things if we can, if we can accommodate it other directions. I think your point is well taken between the retail and the connection. I think we could work on a crosswalk to make that happen. I don't think getting patrons and people across the drive, along the residential property and the school, and back down is a path that people would take more than being part of the active environment with loading docks and trucks.

Comm. Strauss: The other question was about the McDonald's circulation.

Mr. Hafner: I had a conference call with McDonald's corporate, working through this Site Plan. There are positives and negatives to the plan for them. Right now, they have a dedicated entrance off 95th Street. Consolidating that was a discussion and a concern. I think we tried to do our best everywhere we could to increase throat depth and safety. It's a huge thing. How do we slow people down? We're using speed tables and crosswalks. I think we can continue to refine, but I don't know if we're going to be able to essentially make that a one-way access based on the user inflow and how this site works. I understand the McDonald's at 119th and Roe and how that works. This one is just slightly different in how it operates. We're still working through some of the operational challenges McDonald's has with this layout. We're going to continue to refine that plan.

Mr. Petersen: Just to add context, the reason we're having these conversations is any change that is happening here is happening as a cooperative group. What Chris is implying is that so far, everyone has been cooperative, but anything that, we couldn't be sure that would be supported.

Chairman Elkins: Commissioner Belzer, have you gotten your questions answered, or do you care to put them back to the applicant?

Comm. Belzer: I'm curious what tenants you've secured for the new structures.

Mr. Petersen: You're going to get the ever-exciting answer that is sincere. At this point, there's nothing I can share because of confidentiality. I think you'll be happy with what this huge remake will do to the offerings to the public.

Mr. Hafner: You asked about ownership and architectural style. This isn't the same. I like Ranch Mart South. This is a big paradigm shift from the architecture of Ranch Mart South. It retained the big overhangs, shake roofs, and craftsman style. This is much more modern, much different materiality. I would put this more in the architecture style of Apple and Crate & Barrel at 119th and Roe.

Mr. Petersen: Just like Camelot is not the same at One Nineteen. They are complementary but not the same.

Chairman Elkins: Any other questions for the applicant?

Comm. Stevens: Approval of the landscape is not really part of this right now, but to go back to the stipulation that you're proposing on No. 18 with the offset of trees along Mission and increasing those 18 trees and 52 ornamental trees, to be clear, the current internal number of trees is just meeting the requirements. This would be an addition of trees in landscaped areas within the internal site?

Mr. Petersen: That is a good clarification. We anticipated this and already distributed those. The 18 and 52 trees called for on Mission Road are distributed through the rest of the site. We are going beyond code internally.

Mr. Klein: I want to make a clarification as far as landscaping with street trees. There isn't a deviation in the LDO for this. I don't believe Planning Commission or City Council has the ability to approve removal of the street trees under this process. We talked with Public Works. It is our understanding that we have this condition of street trees along frontages throughout the city. A lot of utilities are running through there as well. Additionally, they will add some dirt on top of some of these, which will make it a bit easier. I wanted to make sure everybody understands the process.

Chairman Elkins: What is the LDO reference?

Mr. Klein: It is Section 16-4-7.3(b)1.

Mr. Petersen: This is a pretty important point, I think. With respect to code interpretation, 16-3-9A is where we believe there is the ability for this body to recommend a deviation. I'll stop there, but I'm happy to go deeper if you would like.

Mr. Ley: Can I talk to that a bit? If you give this deviation, you will give this deviation to every development and every resident along the property within Leawood. There are utility lines in the right-of-way in front of everybody's property. This is something we deal with all the time. As a matter of fact, we're burying the power lines north of Ranch Mart, and KCP&L is actually boring those underneath the existing trees. AT&T and Time Warner will do the same. It is something utilities deal with all the time. We have never had pushback from the utilities with boring. It is actually required if there are street trees. As far as staff is concerned, it is not an issue that we would have concerns with the utilities. Their cross-section is not really accurate. It shows the curbs on the parking lot as the same elevation as Mission Road, and the curbs on the parking lot sit down about 1.5'. That is where we get into being able to fill on top of that area where the trees will be planted by close to 2' to give enough dirt for the trees to grow.

Comm. Pateidl: In an effort to move this along, Mark, frequently, we will see applications like this come before us where we have a stipulation that a Landscape Plan acceptable to both parties will be submitted prior to Final Plan. I don't think we are going to resolve this issue as far as the trees being there or not being there during the course of this meeting. I don't want to hold up the application. Is there a practical solution we can use with an alternate stipulation?

Mr. Klein: Typically, we would say that they have to come back with a Landscape Plan that meets the requirements of the LDO. That is what we would be looking for. With regard to Section 16-3-9(A)1, part of that is that the deviation does not violate the general purposes, goals, and objectives of this ordinance and the regulations subject to the deviation and other replicable regulations. Part of that is the whole point of having street trees is to have tree-lined streets. As David indicated, we see this all the time on different commercial developments. You can see it would make a big difference if none of them had street trees.

Mr. Petersen: We have no ulterior motive. This is not a money issue. We want it to be done well. We'd like to figure it out now, but it seems like there are factual questions that need to be nailed down. If there is some way to move it along with some acknowledgement that there may be utility conflicts and we will all work together to find out if that's true, we would be great with that.

Comm. Pateidl: I think there is a way to move this application along. Whether or not we are qualified to tell you if there is conflict with utility lines, we are qualified to interpret the rules and regulations as far as our LDO is concerned and look for alternatives to move the application along. Mark, while I appreciate you clarifying the section on the deviation, I'll ask you again if we can incorporate that standard stipulation regarding the

Landscape Plan, and then you can figure out what this is in the right forum? This is not the forum to get to the resolution for this problem?

Mr. Klein: As you said, landscaping is approved at the time of Final Plan, and they just have to meet the LDO. Typically, that is the stipulation.

Comm. Pateidl: If we struck No. 21 and incorporate the standard stipulation in its place, would that be acceptable to the planning department?

Mr. Petersen: Our point is if a deviation is ultimately needed, we are asking to look at the facts carefully outside of this body. If the deviation is justified because of conflicts, we would ask for support. If it's not, it's not.

Chairman Elkins: From what I'm reading and doing it on the fly, I think there is a valid question as to whether this would fall within the deviation under the LDO.

Mr. Petersen: I don't think you want me to argue, but I could argue right now in support and explain it. I'm only holding back out of respect.

Chairman Elkins: I appreciate that. Why don't you step back, and we'll go to the Public Hearing?

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Strauss; seconded by Coleman. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: That takes us to discussion. I'll first entertain a discussion of the proposed plan, saving the question about the stipulation changes. Let's begin by talking about the proposed plan.

Comm. Strauss: The general comment is this is a great opportunity that Leawood has been waiting for to update the other half of Ranch Mart. We appreciate this opportunity before us.

Comm. Pateidl: I'll sum it up in one word: outstanding.

Chairman Elkins: I agree with that, and I appreciate the work that both the ownership team and design team have done. This is a challenging space. As Mr. Petersen said, we've waited a long time. This is a positive step in the right direction with respect to that particular piece of property. Let's go to the stipulations in question. I'm going to take them in order and get a decision from the commission on each of them. Then we'll go to a final motion that incorporates the decisions that are made on those. For the record, I would ask that this sheet be included in the record of tonight's proceedings (*referring to summary of stipulations being challenged provided by the applicant*). Let's start with No.

4 with reference to the burial of utilities and power lines and the condition of a final occupancy permit. The applicant has suggested that it be qualified to the new construction that is proposed here.

Comm. Strauss: The way it is currently written in our packet, could existing businesses turn over and have new occupancy? I think that is the concern of the developer.

Mr. Klein: This has to do with this particular project before you. These stipulations are attached to the improvements they are doing on this application. It doesn't mean they can't change tenants. Staff's primary concern is if you place the requirement on a specific building and the building doesn't get constructed, then they never get buried.

Comm. Strauss: They've started redevelopment, and maybe burying is one of the last tasks, but existing developments can turn over during construction.

Mr. Klein: They would be doing parking lot improvements and landscaping as part of this overall site. We would think that would be when the power lines would be dropped.

Chairman Elkins: The problem with that is that it's not what No. 4 says. It says that this must be done prior to final occupancy of any building within the project. We've already established the project includes the re-sheathing, if you will, of existing buildings. If that's the case and they lost a tenant, no other occupant could go in that space until the power lines are buried. I think there is a fair question there. I understand the city might interpret that differently and apply it differently, but based strictly on the language in here, no building in the project can be occupied until the lines are buried.

Mr. Coleman: I kind of agree with that. There is certainly some way to get this worked out. I understand they will be under construction in part of this and have a change in tenant in another part. We wouldn't want to hold that up. There's a lot to this whole project. That is why I mentioned a Memorandum of Understanding (MOU). Maybe this says something that they agree to work out an MOU prior to some date set for the burial of power lines, or we may need to get more specific about the burial of the power lines on Mission Road.

Chairman Elkins: Do you think it's reasonable that an MOU could be achieved before Governing Body considers this proposal?

Mr. Coleman: It's possible.

Chairman Elkins: Or at least before Final Plan comes before us?

Mr. Coleman: I would think so. I think we could work it out.

Mr. Petersen: That's a great point. I try not to say things that are superfluous for this body, but there is a public-private partnership that has already been discussed. There is a formal process that happens. There will be a development agreement, which I can

promise based on experience with Camelot that burial of the power lines will 100% be a condition. We are required to do this. The key part that you just triggered in my brain is that the Final Plan, which should be done per normal city process, on or about the same time as the development agreement, so there may be something to what you are getting at, which is this may be documented by the city by the time we get to Final Plan.

Mr. Coleman: I'd be okay with that.

Comm. Block: Staff is asking for any building; the applicant is asking for the last building. Why don't we just put in the second sentence, "This must be done prior to final occupancy of any new building"? It sounds like that's what staff is actually getting at.

Chairman Elkins: I think staff is concerned about the highly unlikely event that the new building is not constructed.

Comm. Block: There are two buildings, and I thought the concern was the two-story building and the back would not be constructed.

Chairman Elkins: I think it's either one. Again, I think it's very unlikely. If we can get this approved, it is going to happen.

Mr. Coleman: I think putting something in there about the MOU being developed prior to the time of Final Plan approval, it would provide for the burial of the power lines along Mission and 95th. This is our standard language, and this isn't probably a standard project.

Chairman Elkins: Mr. Pateidl, do you have some language to offer up?

Comm. Pateidl: I would modify the last sentence, "This must be done prior to the final occupancy of the new construction," which is really what the applicant is asking for, "subject to applicant and Governing Body entering into a Memorandum of Understanding on existing tenant space prior to Final Plan."

Mr. Petersen: I was thinking the MOU, which will actually be a development agreement, would be the subject of burial of the utility lines versus the existing tenant space, but I know we're on the same page.

Comm. Pateidl: I think we're pushing the edge of the envelope.

Mr. Petersen: You think we're saying the same thing?

Comm. Pateidl: No, I think what I interpret your concern is that you don't want to be restricted from doing business in the normal course of business with the existing facilities that you have. You have new construction coming in, and you're saying it will all be buried before you get to that. I don't want to get into the issue of buried utilities; I only want to get into the issue of your doing business. I'm leaving you the opportunity with

this alteration to enter into a Memorandum of Understanding regarding your ability to function as you should on the tenant space, should new tenants be required in that regard so that you're not locked out of occupancy.

Mr. Petersen: That is a great clarification. We are in agreement to keep business going. We just need to make sure the language says that. We agree.

Chairman Elkins: It sounds like we have an agreement, in principle, between staff and the applicant with respect to No. 4. At this time, I would entertain a motion with respect to the commission approving that change to Stipulation No. 4.

A motion to amend Stipulation No. 4 to include the verbiage: “This must be done prior to the final occupancy of the new construction, subject to applicant and Governing Body entering into a Memorandum of Understanding on existing tenant space prior to Final Plan.” – was made by Pateidl; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: The next stipulation in question deals with the trash enclosure. Comments from the commission?

Comm. Pateidl: I actually have a question for staff. I'm not sure I understood some of the earlier comments regarding this trash enclosure. Are we talking about a trash enclosure for the bank or everything else?

Mr. Klein: Currently, the bank doesn't have a trash enclosure. They originally came in with a big bank of trash enclosures along the north property line. This is, in large part, for other tenants within the development.

Comm. Pateidl: This is not an issue related to the bank itself?

Mr. Klein: The applicant might be able to clarify a bit more.

Comm. Pateidl: Let me ask in a different way. Currently, they do not have a trash enclosure, and they are not making any changes to their building. Currently, this work shouldn't impact their business at all. I would guess they would be grandfathered to not have a trash enclosure. It is not a bank issue.

Mr. Klein: Correct.

Comm. Pateidl: By any stretch of the imagination, if this is really related to the restaurants, I'm at a loss for words for explaining how I feel about forcing the issue of a trash enclosure being attached to the building of a bank. I think the alternative, whether it's a loose interpretation of the columns as part of the building, and as an accommodation to do this rather than have these enclosures on the north side next to the

residents and the balance of it, is there really a strong ground to say this proposal doesn't meet the spirit of the law as well as the letter of the law?

Mr. Klein: The interpretation is a big part of it. I know Mr. Petersen indicated it just had to be attached, but the LDO says it needs to be integrated into the design of the building. That's where we're looking for a little more than putting it on the side of the building. This is something that could be visible from 95th Street. We're not saying they can't place it somewhere else on the site that might work a bit better.

Comm. Pateidl: Where is the alternative?

Mr. Klein: There might be opportunities to have it someplace else. I know they indicated they looked at that. Maybe it would take a bit more discovery to determine if there is another spot.

Mr. Coleman: They are building a completely new building that has no trash enclosures. I would suggest that the completely new building incorporate trash enclosures with it because that's what these are for.

Comm. Pateidl: What is the objection to the modification of Stipulation No. 9 by adding the verbiage, "At the time of Final Plan, the applicant shall relocate the proposed trash enclosure at the NBKC Bank"? Isn't that what you're asking them to do?

Mr. Klein: Either relocate it or integrate it more with the building architecture.

Comm. Pateidl: You want it relocated from the column to somewhere, and that's what this modification to the stipulation says, at least in my mind.

Chairman Elkins: The applicant wants to strike that.

Mr. Petersen: If you heard me say that it wasn't for the bank, that's a key fact in the analysis. The bank doesn't have any sort of exterior trash other than walking across to the dumpster on the north property line. This is for the bank. Then also the restaurant space, which is approximate to it, needs a trash enclosure. We asked how we could meet the code, which is not free-floating trash enclosures and not aesthetically pleasing. We would be open for staff to give suggestions on design for the non-masonry part. It is anchored by a building that uses the trash enclosure as well as the building across from it.

Comm. Pateidl: I have two questions. Who has the deed to the property the bank is located on?

Mr. Petersen: We own the land; the bank owns the building. It's a ground lease.

Comm. Pateidl: Has the bank agreed to this?

Mr. Petersen: This is something we would be able to do under the agreement. I don't know if they've specifically agreed to it because this was a late design change, so probably not. I'm not worried about this because they don't even have a dumpster right now.

Comm. Pateidl: This may be a question for the architect. What do you see as an alternative for the trash enclosures for the restaurant?

Mr. Hafner: I really struggled with it because we wanted to create this pedestrian pathway from the east parking lot into our new plaza area. That's where a lot of those dumpsters sit right now. Again, we had a more consolidated location, but it was closer to the residences and was not architecturally attached. As Mr. Petersen mentioned, we walked around this building and other locations to try to find a good location for that. For the new building we're building, we relocated those to integrate them into the architecture of the north side of Price Chopper in a nook. We just ran out of room from the standpoint of the ability to put the trash enclosures up there. Then pragmatically, a restaurant user not dragging trash across the plaza to the northwest to get to those enclosures was important to us to be able to get out of their service area in the back and get across the parking lot in a short, efficient manner to be able to put it in to something here. This was my idea. I tried to put it on the north. I thought it would make more sense on the north of the bank building. There's just no space. Everything has already been occupied by exit doors or existing HVAC. I thought the columns were integral to the building. We'll make the masonry match the bank building. It won't necessarily match the architecture of what we're doing on the rest of the shopping center, but I want it to look like it's part of the bank building. That was the thought process. It wasn't going inboard of either column and just setting something in there. It's bigger than what it needs to be because I wanted to make sure we spanned from column to column and created something a little more substantial that did make it architecturally part of the building.

Comm. Pateidl: I recall at Mission Farms, there is a trash enclosure that is across the parking lot from the buildings on the north, totally enclosed, gates and all. Why wouldn't a trash enclosure of that nature be allowed on this, or would it be allowed on this?

Mr. Klein: We have had trash enclosures in the past that were shared. Part of this issue is the aesthetics of the trash enclosure. They mentioned that there were utilities on the north side of the bank. In the past, we've also had some who would enclose an enclosure that would accommodate both utilities and the trash enclosure. We're looking for something that doesn't look stuck on to the end of the building, looking like it's freestanding. We're looking for it to be more integrated with the design of the building. To Richard's point, they have a lot of buildings that are being constructed new. This is probably the easiest time to find an opportunity to move it into a different location.

Comm. Pateidl: As long as we're going to be looking at planning this, I personally have my doubts if the bank would be fine with it. I wouldn't do it if I were the bank. To have this freestanding as an alternative so we get some orderly conduct of trash control, which

is extremely important with the residents and the school, and if we've allowed this in other developments and it's been acceptable, at least have those cards still in the deck.

Mr. Klein: A lot of it is the design. You mentioned maintenance of the trash enclosure. That is a huge issue. It's part of the reason this requirement exists in the LDO. When the city allowed trash enclosures in the parking lot, they weren't maintained very well. In this particular case, the trash enclosure faces away from the bank. The bank has no visual if the gates are open or closed. The city is looking for something that is a little bit more integrated into the building so there's more of a tendency to make sure that it is maintained. Across the street from us now is a trash enclosure that many people don't realize is there. They designed it in such a way to make it look like it was integral to the design of the building.

Chairman Elkins: I want to make sure I'm tracking correctly. As I understand the LDO, freestanding trash enclosures are not permitted. Am I mistaken in that?

Mr. Klein: No, and part of what we want is to make sure it is not only attached to a column only and then is otherwise freestanding; we are looking for it to be integrated into the architecture of the building itself.

Chairman Elkins: I think I misunderstood. I thought the suggestion was, at Mission Farms, we had a freestanding trash enclosure. That's not the case, correct?

Mr. Klein: I honestly don't remember. It is possible.

Chairman Elkins: That is water under the bridge.

Comm. Strauss: How often is the trash accessed?

Mr. Petersen: For putting trash in or removing trash?

Comm. Strauss: I guess both.

Mr. Hafner: Putting trash in would be every day from a restaurant standpoint; from the bank, not so much. Removal, I would think for something that size and use, it is probably ever 2-3 days.

Comm. Strauss: Have you looked at a trash truck and its maneuverability to get between those parking spaces?

Mr. Hafner: We deal with that quite a bit. Most of the time, trash trucks are showing up at off hours for commercial delivery. We would coordinate that as well to make sure that path is clear. Again, I had a different location that didn't meet the LDO, and we are trying to be respectful of that. I do think we would work with the trash company to make sure they had proper access to those enclosures.

Comm. Strauss: Can you tell me the tradeoffs? The obvious location is back by the delivery dock where no pedestrians walk. I'm sure you considered that early on.

Mr. Hafner: We did put some of them there. Some of our new locations are just east of the retaining wall at the loading dock (*shows on the monitor*). The original consolidated trash enclosure was back with the stalls. When we met with staff, we tried to find some locations. We found the ability to put them in the locations shown on the plan. The problem is I couldn't get the number of dumpster locations in those two spots. We had a user that needed more, so that's where this location came into play. The lineal footage of all three of those locations equaled the consolidated location I originally showed.

Mr. Petersen: To state the obvious, if it was as easy as drawing another dumpster in the back, I promise we would not have wasted 30 minutes of your time.

Mr. Hafner: We're trying to do nice, four-sided architecture on the new building as well, so we want to maintain that. You can see the cemetery and the location of the trash dumpster. The view from the public way or vast majority of the parking lot would not be impacted by that location.

Comm. Strauss: Where is the front door?

Mr. Petersen: It would look out across the patio. The restaurant is never going to let this look bad.

Mr. Hafner: They look that way, and they have an outdoor patio that wraps behind the screen wall that dedicates their outdoor space.

Comm. Strauss: That seems awkward that 2-3 times a day, someone will walk out the front door with trash.

Mr. Hafner: We have a screened service area on the back of the building. It is an existing building with gas and power. We have a new building going in with an elaborate screen wall that sits off the face of that building 10' with landscaping in front of it. We've got service access. In reality, the back-of-house for this restaurant user would come out the back and not out of the front door.

Chairman Elkins: Other thoughts or comments about how we can solve this issue?

Comm. Coleman: I would just agree that it is difficult. I will say that the bank's drive-through is right next to that, and I'm sure the bank will not be happy, as their people going through the drive-through will catch the odors. Also, the people eating outside of the restaurant could be affected as well. It is a difficult situation. I don't have a solution, but I don't think the current location will work.

Comm. Pateidl: Since this is a Preliminary Plan and the architect hasn't figured out how to solve the problem, we're probably not going to figure it out tonight, either. I suggest a

modification to the last sentence of No. 9 to read, “At the time of Final Plan, the applicant shall have proposed trash enclosures that meet the provisions of the LDO.”

Chairman Elkins: How is that different than the first long sentence of paragraph 9?

Comm. Pateidl: The only difference is it says that the applicant shall relocate the proposed trash enclosures from the bank, which at this point in time presupposes that the argument over whether or not that location is a fixed part of the building is resolved. I don’t believe Mr. Petersen feels that it is. I do believe Mr. Klein thinks that it is. Therefore, we’re at a standstill. They are required to come back with proposed locations at Final Plan.

Chairman Elkins: Isn’t that what the current language says?

Comm. Pateidl: The argument I would make is that, should Mr. Petersen win the argument as to what is a fixture of the building, that location at the bank would be acceptable under the LDO.

Chairman Elkins: The challenge is that it is, at least in part, up to us to decide who the winner of that argument is. Who else is going to make that decision? If they’re at an impasse, Mark is going to have his position; Mr. Petersen is going to have his. That is what we’re here for.

Comm. Pateidl: That is what we’re here for in the Final Plan when it’s brought to us.

Chairman Elkins: That’s a fair point. Any additional thoughts? Does staff care to comment on the proposed wording?

Mr. Klein: Usually, at the time of Final Plan, the architecture is approved. There might be an opportunity for a little more exploration as far as how that can be done to meet the LDO. The applicant also indicated the architecture and hoped you would review it. He indicated that now is the time that it gets tentatively approved. We look at other things at Preliminary and look at architecture at the time of Final. I think it would be acceptable.

Mr. Petersen: I just respectfully think you accomplish your goals by deleting it because the sentence that is left says we have to meet the LDO. We’ll work with the City Administrator, City Attorney, and staff. There is no motive other than to make this work. We are all on the same page. We want it to look good. If you delete the last sentence, it doesn’t mean we can put it there; it means that we’ll have to come back to discuss it at Final Plan. With leaving the sentence in, it is presupposing that we have to move it from this location. That is our concern. I think the city still holds the cards by deleting the last sentence. I know that’s somewhat repetitive. Thank you for letting me have that closing statement.

Comm. Pateidl: I concur.

Chairman Elkins: I tend to agree with that as well; although, I think we need to confirm the language of the LDO.

Mr. Klein: “Loading dock service areas are not permitted on the street side of a building unless approved as part of the development plan. In all cases, the areas shall be screened from view with landscaping, architectural elements designed as part of the building, or structure enclosures and service elements such as loading doors shall be integrated within the building elevation design so as to minimize visual impact of such elements. Any loading docks or loading areas shall be completely screened from the public streets by a solid wall, fence, evergreen plantings. The design of the trash enclosures must be shown on the Preliminary and Final Plan.

Chairman Elkins: It really doesn't say that the trash enclosures have to be integrated.

Mr. Klein: We're looking at it as part of Enclosures. “Enclosures and service elements, such as loading doors, shall be integrated.” Although it gave loading doors as an example, we are looking at an enclosure as being part of that.

Chairman Elkins: One possibility I would suggest is to strike the last sentence as requested by Mr. Petersen, but I would add in to the third line, “. . . be architecturally attached and integrated into the individual buildings.” This makes what we are looking for clear. Thoughts from my colleagues?

Comm. Pateidl: I concur.

Comm. Strauss: I concur.

Comm. Block: That's fine, but I didn't hear him say “attached.” All I heard was “integrated.”

Chairman Elkins: I heard it the same way. That's why I'm proposing both.

Mr. Klein: You're correct.

Chairman Elkins: Does someone care to make a motion?

A motion to modify Stipulation No. 9 to strike the last sentence: “At the time of Final Plan, the applicant shall relocate the proposed trash enclosure at the NBKC Bank” and add to the third line, “. . . be architecturally attached and integrated into the individual buildings” – was made by Strauss; seconded by Pateidl.

Chairman Elkins: I would say for the record that, from my perspective, the fact that we are striking the last sentence should not be interpreted as an endorsement that the enclosure as proposed in the plan is something the commission is endorsing.

Comm. Belzer: I agree.

Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: We'll move on to the trees.

Comm. Pateidl: We took that out and said there will be a Landscape Plan in accordance with the LDO for the Final Plan.

Chairman Pateidl: How does the applicant feel about that?

Mr. Petersen: If that language is used, it settles the issue that we necessarily have to plant in what I am calling the beehive. I'm pretty sure we all agree that if there are conflicts, we need to visit the portion of the LDO that I cited. I believe a deviation could be granted. If we have more time with City Administrator and City Attorney and determine there really are ways to pragmatically plant the trees, I promise we will plant the trees. If we can get language to say that we will work on it and not just to say that the LDO stands because that would imply we have to plant no matter what, but that we go to work with then professionals of the city and utility companies to determine if this is something that is really pragmatic. Hopefully, that's a good compromise.

Chairman Elkins: Thank you. Commissioner Pateidl, could you repeat what you are proposing for Stipulation No. 17?

Comm. Pateidl: First, I would ask staff to cite what our standard stipulation is regarding Landscape Plans. We may modify that from that point.

Mr. Klein: Usually, it's, "At the time of Final Site Plan, the applicant shall provide a Landscape Plan that meets all requirements of the LDO."

Comm. Pateidl: I don't know if you want to incorporate anything more in conjunction to Mr. Petersen's request regarding the utilities and working with that or if that is broad-based enough to allow you the opportunity to take this to the proper forum.

Mr. Petersen: All we are asking is you add that it is an acknowledgement by this body that a discussion needs to happen to figure out if there are conflicts. We're asking you to acknowledge that the discussion happen and that the facts be determined.

Chairman Elkins: However we go, the Landscape Plan has to comply with the LDO.

Mr. Petersen: It could include a deviation if there are conflicts. That is why this is a bit more complicated.

Chairman Elkins: And we may have to decide that at the time of Final Plan.

Mr. Petersen: Fair enough. If there is an acknowledgement that we will determine if there are conflicts, work with staff, and show up at Final Plan to be in accordance with the LDO or ask for a deviation if we all agree that this can't pragmatically be done, it would be acceptable. I don't think there is a lot of disagreement in the room.

Comm. Pateidl: Mark, if I understand what you said earlier, this is not a matter we can grant a deviation on.

Chairman Elkins: That is where there is a disagreement between the applicant and staff.

Comm. Belzer: We wouldn't be able to acknowledge that, then.

Chairman Elkins: That's a legal issue for them to resolve. At the end of the day, the Landscape Plan has to comply with the LDO. We may have to take up in front of the commission at Final Plan if staff and the applicant can't come to an agreement, then it falls in our lap as to whether a deviation can or should be granted. I would leave the language exactly as Mark said. I think the record in front of us is sufficient to answer the question about what the commission expects in terms of the conversation between the applicant and staff going forward. Do I hear a motion to that extent?

A motion to modify Stipulation No. 18 (which is now Stipulation No. 17 due to prior revisions) to read, "At the time of Final Site Plan, the applicant shall provide a Landscape Plan that meets all requirements of the LDO" - was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: I think everybody agreed to the duplication issue, and that takes us to No. 23. What I thought I heard was that staff agreed to the deletion of No. 23. Do I understand that correctly?

Mr. Coleman: We didn't have an issue. They're moving it over so they can get that in there.

Chairman Elkins: What we end up with is what we have on the record for the change to Nos. 4, 9, 18, and the changes that staff incorporated at the beginning of their presentation. Now, we have 32 stipulations. Mr. Petersen, are you in agreement?

Mr. Petersen: Yes.

Comm. Strauss: I wanted to add a stipulation that we've talked about related to the safety of the egress out of McDonald's. I heard the city and the applicant say they could look at it further. I would like to add that the city and developer will continue to identify the safety concern of the northwest egress from McDonald's. I see that as a daily safety issue. I'll back down and not add anything on the north pedestrian access. I agree that is not as frequent, but the other is a daily safety concern.

Chairman Elkins: What is your expectation if staff and the applicant come back and say they conclude that the current proposal is the best they can do, which is what I think I heard both staff and the applicant say?

Comm. Strauss: I don't know. I just see that this was very similar to 119th and Roe, and that was a problem that got resolved. I don't see why this issue can't be resolved at this location. It was acknowledged as a problem at 119th and Roe. I think that it would come down to my vote with the final design.

Chairman Elkins: What is it you would like them to come back with?

Comm. Strauss: I would like to see ingress only at that location and not egress. What I heard the applicant say is it is something that could be evaluated. That is just not a safe movement in the opinion of someone who works in the transportation business. Turning left and either going north or south on Mission Road is just a safety problem. It wouldn't be designed that way if we were designing this site from scratch.

Chairman Elkins: Go ahead and state your proposed stipulation.

Comm. Strauss: I could propose we change it now if the commission is on board with it.

Chairman Elkins: We can go either way; I agree.

Comm. Strauss: Maybe there is some circumstance that I don't know about. I just want to let the commission and City Council know that it is a safety concern. I'd like the city and developer to work it out and see what they come back with at Final Plan.

Chairman Elkins: The stipulation would be that the city and the applicant will reconsider the traffic flow around McDonald's on the southwest corner of the project?

A motion to add Stipulation No. 33 to read, "The city and the applicant will reconsider the traffic flow around McDonald's on the southwest corner of the project" was made by Strauss; seconded by Stevens.

Chairman Elkins: Mr. Ley, do you care to comment? I think what we're asking you to do is to reconsider it. When we get to Final Plan, if you say it's the same, we'll have to consider whether we're willing to recommend it to Governing Body or not.

Mr. Ley: We're fine with that. Staff is fine to discuss that with the applicant. This site is different than 119th and Roe. The way the access is, the building would be rotated 90 degrees with access leaving the drive-in, going north. We could try to move the access a little to the east, but trying to create one-ways and people backing up into the parking lot might be difficult. We can work with the applicant.

Mr. Petersen: We all had trouble hearing in the back.

Chairman Elkins: The stipulation is the applicant and staff are directed to reconsider the traffic ingress and egress patterns around the McDonald's on the southwest corner of the project.

Mr. Petersen: That is acceptable. I would add on that this was a request to do our best and work with staff, we'll do that all day long.

Chairman Elkins: That's all we're asking.

Comm. Strauss: I think McDonald's accepted one-way access at one location we know of.

Chairman Elkins: Again, as Commissioner Strauss indicated, if we adopt that, it will be up for discussion and decision when we come back for Final Plan. We have a motion and second.

Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: Are there any other modifications to consider at this point? We'll move on to a discussion of Case 115-18 as has been modified. If there is no additional commentary, I would entertain a motion.

A motion to recommend approval of CASE 115-18 – RANCH MART NORTH SHOPPING CENTER – REDEVELOPMENT – Request for approval of a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit, located north of 95th Street and east of Mission Road – with the following adjustments:

- **No. 4:** “This must be done prior to the final occupancy of the new construction, subject to applicant and Governing Body entering into a Memorandum of Understanding on existing tenant space prior to Final Plan.”
- **No. 9:** Strike the last sentence: “At the time of Final Plan, the applicant shall relocate the proposed trash enclosure at the NBKC Bank” and add to the third line, “. . . be architecturally attached and integrated into the individual buildings”
- **No. 17:** remove
- **No. 18** (which is now Stipulation No. 17 due to prior revisions) to read, “At the time of Final Site Plan, the applicant shall provide a Landscape Plan that meets all requirements of the LDO”
- **No. 23:** remove
- **No. 33:** Add stipulation to read, “The city and the applicant will reconsider the traffic flow around McDonald's on the southwest corner of the project”
- **No. 34:** Modify to read, “. . . 1-33.”

was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Five-minute recess

CASE 116-18 – THREE HALLBROOK PLACE – Request for approval of a Preliminary Plan and Preliminary Plat, located south of College Boulevard and west of State Line Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 116-18 – Three Hallbrook Place – Request for approval of a Preliminary Plan and Preliminary Plat, located south of College Boulevard and west of State Line Road. There are changes to be made on the stipulations before you tonight. Planning staff would like to remove Nos. 9 and 11 from the list. No. 23 should read, “. . . 1-22.”

The applicant would like to construct a new four-story office building totaling 119,853 square feet. The building will be placed along the northeast corner of the lot with parking surrounding the west and south sides. Tract A is located along the southwest corner of the site and is being used for Best Management Practice (BMP) purposes for Two Hallbrook Place south of the located project area and the proposed office building. Two entry drives are located at the west side of the site coming off Overbrook Road. Two plaza areas are proposed with this project. One is around the entrance, and the second is at the northwest corner of the building. Bicycle parking is also proposed on the southwest corner of the building, along with a trash enclosure and generator area along the south. There are two pedestrian connections coming off Overbrook Road to the office building. One comes from College Boulevard; the other comes from State Line Road. Staff’s recommendation is that a public amenity area be constructed at the southwest corner of College Boulevard and State Line Road to help connect pedestrians offsite into the site. The project meets all regulations per the LDO, and staff recommends approval of Case 116-18 with the stipulations listed in the Staff Report.

Chairman Elkins: Thank you. Are there questions for staff? Seeing none, I will entertain a motion to extend the meeting until 9:30.

A motion to extend the meeting until 9:30 was made by Pateidl; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: We’ll hear from the applicant.

Applicant Presentation:

David Rezac, VanTrust Real Estate, 4900 Main, Suite 400, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Rezac: We appreciate the opportunity to be in front of you this evening to present our application. We’re very excited about this project. I’ve got a very brief presentation to walk you through and offer a bit more detail. (*Refers to presentation on the monitor*)

The site is just south of College Boulevard and west of State Line Road. It is east of Overbrook, and to the south is the adjacent Hallbrook parcel. I'm joined tonight by the rest of our project team. We have a codeveloper: Chinquapin Trust Company. Our architect is Burns & McDonnell. Civil engineer is Phelps Engineering. Our landscape architect is BBN Architects. In addition to the 8.37-acre parcel we are building the building and parking on, a storm detention tract is located in the southwest corner of the site that is included in this proposal. We successfully held our Interact Meeting with adjacent neighbors on October 9th. As was mentioned, the office building is 119,853 gross square feet. It is four stories tall, and we have 469 surface parking spots. The building is sited on the high end of the site. There is a lot of grade and terrain change as it falls to the southwest. We believe that creates a really great presence and holds the primary corner. Per the LDO, the project will be landscaped with many new trees, shrubs, and ground cover to seamlessly fit into the rest of the Hallbrook development. As was mentioned, we have a 3,600 sq. ft. entry plaza that will be landscaped with seating areas and special occasion lighting to enhance the pedestrian experience. Three Hallbrook Place is an office building with clean lines, materials, subtle scale, and appropriate proportions. This modern office building is a perfect complement to One and Two Hallbrook Place and the rest of the Hallbrook development. Schedule-wise, we hope to get through both the entitlement process and permit process with the city by mid-summer 2019, which would allow us to begin construction soon after. Our goal is to have this project complete by Fall 2020. We are working diligently with city planning staff to ensure our submittal aligns with the design requirements of the LDO. We appreciate all their assistance getting to tonight. Lastly, we have read and accept all 22 stipulations in the Staff Report. At this point, I'll open up to any questions you may have.

Chairman Elkins: Mr. Rezak, I can't tell you how much that pleases us. We are grateful.

Mr. Rezak: Me, too.

Comm. Coleman: Do you already have a tenant?

Mr. Rezak: We do not. We are actively pursuing tenants, so if you happen to know anybody who would be interested in being in this area, let me know.

Chairman Elkins: Other questions? I'm trying to get myself oriented. The old farmhouse is where?

Mr. Rezak: It is to the west of this property.

Chairman Elkins: If there are no more questions, this application requires a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Pateidl; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: That takes us to a further discussion of Case 116-18. Comments by the commission?

Comm. Belzer: I really like this proposal, especially with the added pedestrian areas and connections to Hallbrook Place One and Two. I also like the elevation. We watch fireworks from this space every 4th of July. Having it higher up makes it even better. I don't know if you've ever been around that area on the 4th of July, but it's a very heavily attended spot.

Comm. Coleman: I agree with Commissioner Belzer. It's a great project. It looks fabulous. Hallbrook is one of the crown jewels of Leawood, both residential and office space. It is definitely a proud addition to Leawood and to the tax rolls as well.

Chairman Elkins: I would concur with that. Other comments?

A motion to recommend approval of CASE 116-18 – THREE HALLBROOK PLACE – Request for approval of a Preliminary Plan and Preliminary Plat, located south of College Boulevard and west of State Line Road with the following modifications: remove Stipulation Nos 9 and 11 and modify No. 23 to read, “. . . 1-22” – was made by Coleman; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

CASE 113-18 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.3, R-1 (PLANNED SINGLE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT) (15,000 SQ. FEET PER DWELLING) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to exceptions to the side yard setbacks. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 113-18 – Leawood Development Ordinance Amendment to Section 16-2-5.3, R-1 (Planned Single-Family Low-Density Residential District) with regard to deviations to setbacks. At one point, zoning regulations did not have a 15' side yard setback requirement; it was much less than that. Many buildings are located there that do not meet this setback. As part of relief to that, the LDO allowed the Board of Zoning Appeals (BZA) to grant exceptions as opposed to variances. The difference is that a variance has a much higher standard with five factors that are difficult to meet, including a unique quality of the property and hardship that cannot be caused by the applicant. In recognition of that, an exception was allowed so the BZA could determine if

they felt that it had a negative impact on the adjacent property owners. Currently, there are side yard exceptions allows for those houses that do not meet the 15' setback for the additions they are putting on; however, there are some things that are located within those conditions that make it difficult. I would like to go through that. Currently, the requirements for a side yard exception within the R-1 zoning district indicate that the existing structure was legally constructed with a side setback of less than 15'. Additionally, in no case shall the existing structure and any proposed addition be located any closer than 10' to the property line. The proposed addition will be continuous and consistent with the existing side build line of the existing structure. The proposed addition shall not cause further encroachment than that of the existing structure. Part of the problem the BZA is running into is that many of those buildings are closer than 10'. We would like to propose to have the BZA still consider each case, but if the house was closer than the 10', they would still have the ability to apply for an exception rather than a variance, which is almost impossible to get. There are two elements they would like to remove from these stipulations. One is that the existing structure was legally constructed with the side setback of less than 15', and in no case shall the existing structure of any proposed addition be any closer than 10'. By removing these, it allows houses that are closer than 10' to still be eligible for that deviation. The second change is that the current requirement is that the proposed addition be continuous and consistent with the existing side build lines of the existing structure. That means that wherever the addition is, the line of the existing house would continue. An addition could encroach less than the current structure that would not be contiguous with the building line. We would like to remove that one as well. Again, the BZA would still hear these cases; however, it would allow more flexibility for them. Staff is recommending approval, and I would be happy to answer any questions.

Chairman Elkins: Is the practical effect of this that we are lowering the bar that an applicant has to show in order to achieve the same results?

Mr. Klein: We are lowering the bar but still requiring that the review be done.

Chairman Elkins: The standard to grant the requested action by the BZA is being lowered, essentially making it easier for an applicant to qualify.

Mr. Klein: It makes it easier for an applicant to qualify.

Comm. Pateidl: I just want to be very clear that anything to do with respect to this particular provision does not apply to teardown and rebuild as far as setbacks are concerned for new structures.

Mr. Klein: This is meant for additions to existing structures as opposed to razing and starting from scratch, yes.

Comm. Strauss: If there is an existing house that has a 17' setback and then they add an addition that drops it below the 15', so it didn't start out lower than 15'. Does that also fall within this new guideline?

Mr. Klein: That would not be the case because the first one would be kept where the existing structure was legally constructed with the side setback of less than 15’.

Comm. Strauss: That’s what I wanted to clarify.

Chairman Elkins: Other questions? If not, a Public Hearing is required.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Pateidl; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: That takes us to discussion of the proposed amendment. Any additional comments?

Comm. Strauss: Mark, how is what we’re voting on here different than what we’re talking about for the next case? Oh, there is no next case.

A motion to recommend approval of CASE 113-18 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.3, R-1 (PLANNED SINGLE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT) (15,000 SQ. FEET PER DWELLING) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to exceptions to the side yard setbacks – was made by Strauss; seconded by Stevens. Motion carried with a unanimous vote of 7-0. For: Hunter, Belzer, Pateidl, Strauss, Coleman, Block, and Stevens.

Chairman Elkins: Before we adjourn the meeting, I want to give my thanks to all the commissioners as well as staff. We worked hard this evening, but I think we achieved a positive result in the cases considered. Sometimes, we have meetings that last 20 minutes; sometimes, we have meetings that last 3 ½ hours. I very much appreciate the work you all went to. Some of the commissioners have recommended that we try to anticipate some of the challenges we have with respect to stipulations. I have spoken to Mr. Coleman about that. In some cases, staff doesn’t have any advance notice and we have to deal with that, but in some cases, they are aware that there is a dispute and will try to incorporate that into the package going forward.

MEETING ADJOURNED