

**City of Leawood
Planning Commission Meeting
October 22, 2019
Dinner Session – 5:30 p.m. – No Discussion of Items
Leawood City Hall – Main Conference Room
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: McGurren, Hunter, Belzer, Hoyt, Elkins, Coleman, and Petersen. Absent: Block and Stevens.

APPROVAL OF THE AGENDA

Chairman Elkins: We have a revised agenda. Would staff care to describe the changes?

Mr. Klein: The only change is we showed Case 102-19 being continued to the November 26th Planning Commission meeting.

A motion to approve the agenda was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

APPROVAL OF MINUTES: Approval of the minutes from the September 24, 2019 Planning Commission meeting.

Comm. Coleman: On Page 1, under approval of minutes, it should be Commissioner Coleman instead of Mr. Coleman.

Chairman Elkins: Are there any other changes?

A motion to approve the revised minutes from the September 24, 2019 Planning Commission meeting was made by Coleman; seconded by Hoyt. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

CONTINUED TO THE NOVEMBER 26, 2019 PLANNING COMMISSION MEETING:

CASE 102-19 – CURÉ OF ARS CATHOLIC CHURCH AND SCHOOL – Request for approval of a Rezoning to R-1 (Planned Single Family Low Density Residential), Special Use Permit for a Place of Worship and Elementary School, Preliminary Plan, Preliminary Plat, Final Plan, and Final Plat, located east of Mission and north of 95th Street. **PUBLIC HEARING**

NEW BUSINESS:

CASE 100-19 – PLAZA POINTE – 5 O’CLOCK LIQUOR – Request for approval of a Special Use Permit for Packaged Liquor Sales, located south of 135th Street and east of Briar Street. **PUBLIC HEARING**

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 100-19 - Plaza Pointe - 5 O’Clock Liquor - Request for approval of a Special Use Permit for Packaged Liquor Sales, located south of 135th Street and east of Briar Street. This case is before you tonight due to a change in the operational staff of the liquor store. Special Use Permits for the City of Leawood run with the applicant/operator instead of with the site. This way, as operations or ownership changes are made, the city will have an additional opportunity to review the use and the site to ensure the use that is being asked to be permissible should stay as that use. The property has operated as a retail liquor store since 2001, and the new operator of the store has confirmed that the hours of the store will remain the same. No exterior changes to the building or signage with this application. Staff recommends approval of Case 100-19 with the stipulations outlined in the Staff Report.

Chairman Elkins: Thank you. Questions for staff?

Comm. Coleman: I have a question on the name of the entity. On the last page on the map, it says Par 4 Liquor. Is there a name change from Par 4 Liquor to 5 O’Clock Liquor?

Mr. Sanchez: The Site Plan was actually one from an existing case. The new name of the applicant will be BHAHB, LLC, and 5 O’Clock Liquor will remain the name of the store.

Comm. Coleman: Do you know where the interact meeting was held?

Mr. Sanchez: I believe it was held at the liquor store, but the applicant may be able to answer that better.

Chairman Elkins: Thank you. Are there other questions for staff? Mr. Sanchez, what is the duration of the Special Use Permit being applied for here?

Mr. Sanchez: For packaged liquor sales, they will get a Special Use Permit for 20 years; however, since the ownership changed with that regulation set, we will see it more often than that.

Chairman Elkins: Hopefully the new owner will operate for more than 20 years. Any additional questions for staff? Seeing none, I would invite the applicant to come forward.

Applicant

Presentation:

Ramesh Shakamuri, 4821 W. 135th Street, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Shakamuri: I have no additional comments.

Chairman Elkins: Do you have an objection to the stipulations in the Staff Report?

Mr. Shakamuri: I don't.

Comm. Coleman: Where was the interact meeting held?

Mr. Shakamuri: At the store.

Chairman Elkins: Any other questions for the applicant? This case requires a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Hoyt; seconded by Coleman. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

Chairman Elkins: With the closing of the Public Hearing, is there any discussion by the commission of this application?

A motion to recommend approval of CASE 100-19 – PLAZA POINTE – 5 O’CLOCK LIQUOR – Request for approval of a Special Use Permit for Packaged Liquor Sales, located south of 135th Street and east of Briar Street - was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

CASE 101-19 – LEAWOOD ELEMENTARY SCHOOL – TEMPORARY MODULAR CLASSROOMS – Request for approval of a Special Use Permit for a Temporary Modular

Classroom Building, Preliminary Plat, Revised Preliminary Plan, Final Plat, and Revised Final Plan, located north of 123rd Street and west of High Drive. **PUBLIC HEARING**

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 101-19 - Leawood Elementary School - Temporary Modular Classrooms - request for approval of a Special Use Permit, Preliminary Plat, Revised Preliminary Plan, Final Plat, and Revised Final Plan. The property is located north of 123rd Street and west of High Drive. The Leawood Elementary School is currently seeing an increase in its student population and are projecting for increases in students to come. This modular classroom building will be used to help overcome some of those capacity limitations within the school. The modular classroom will be located at the northeast corner of the existing elementary school and will contain enough space for two classrooms. The trailer will be approximately 561 feet from the closest residential properties. The applicant has proposed trees within the median of the drive aisle just east of the proposed modular building to help screen the trailer from the residents within Pembroke Court subdivision. The applicant is also proposing to replat the property. The current school property is located on two separate parcels. The revised plat will create one lot for the entire site. The applicant has communicated with staff that they intend the classroom to stay for at least a period of five years. Per the Leawood Development Ordinance (LDO), temporary buildings are allowed with a Special Use Permit in two-year increments. The school district will have the ability to come back and renew those two years, so they would come back for another one and then another one after that to complete the five years. Staff recommends approval of Case 101-19 with the stipulations listed in the Staff Report.

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

Comm. Hoyt: Maybe this is a better question for the applicant, but I'll start with you. What is the expectation that is going to occur over that five-year period of time that will then eliminate the need for the modular classroom?

Mr. Sanchez: I think that would be a better question for the applicant.

Comm. Hoyt: You're not aware of any permanent structures they will be asking for?

Mr. Sanchez: Not at this time. We don't know of any indication that the school is intending to expand. That would have to be a separate application at a later date.

Comm. McGurren: What do you believe is the advantage of going from two to one lot?

Mr. Sanchez: The reason we had the applicant go from two lots to a single lot is that right now, the lot zig-zagged into the building and didn't meet the setback requirements. The trailer would also have to meet setback requirements. That takes care of that whole issue of setbacks and non-conformance.

Comm. McGurren: Staff sees nothing negative in this proposed change or potential things that could come up in the future?

Mr. Sanchez: No.

Comm. Coleman: I have a question with regard to fencing around the structure. I didn't see anything on the drawings. Can you elaborate if there is any fencing proposed.

Mr. Sanchez: There is a 4' fence proposed on the north and south sides that will connect to the school to keep the students from leaving the campus if they go from the building to the modular school.

Comm. Coleman: Would you mind pointing that out on the drawings?

Mr. Sanchez: (*Refers to plan*) I've outlined in red where the fencing would be on the north side to connect to the school. On the south side is an existing sidewalk that would be gated, and it would continue on to the school.

Comm. Coleman: Is the gate currently in the plans?

Mr. Sanchez: The gate is shown on the plan.

Chairman Elkins: Other questions? Thank you. With that, I would invite the applicant to step forward.

Applicant Presentation:

Brad Kiehl, HTK Architects, 9300 W. 110th Street, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Kiehl: I don't have additional comments at this time.

Chairman Elkins: Do you have any objections to the 25 stipulations in the Staff Report, including the Special Use Permit term of two years?

Mr. Kiehl: We don't have objections. We've discussed it with the district, and we've gone back and forth and are good with the stipulations.

Comm. Hoyt: Do you know the answer to my question about the expectation of what will occur over the five-year period that would mean there would no longer be a need for the modular building?

Kent Anderson, Assistant Director of Facilities and Operations for Blue Valley School District, appeared before the Planning Commission and made the following comments:

Mr. Anderson: We don't know how far out we're going to need the mobile units. We're seeing younger families coming back into the area. That school is designed for a certain capacity, and at this point, we have no plans to add on to that. We would be looking at things such as boundary changes and so on if we need to go that far. This is something we can't project out that far and know for sure whether we will need that trailer in five years or not or whether we need an addition on the building. That would be something that would probably come up in a bond-planning process in a couple years. We would implement that if it were needed at that time. If not, we could always pull that mobile unit and move it somewhere else.

Comm. Hoyt: I was curious because once upon a time, I was on the Blue Valley Planning and Facilities committee. That school was losing population.

Mr. Anderson: We've been seeing re-greening in a lot of the older neighborhoods now. As they become more affordable, younger families are moving in. It's happening all over, especially on the north side of the district.

Comm. Belzer: What classes will specifically be in the modular unit?

Mr. Anderson: It's not typically regular classroom classes; it's usually a special class such as special education, music, or something to that effect. We don't know for sure what is going in, but the standard K-5 classes would stay in the main building.

Comm. Coleman: Obviously, I got my question answered on the fencing. With regard to the gate, can you describe it in a bit more detail? How will the access work?

Mr. Kiehl: The intent is not to make this a lockdown situation. It's always going to be unlocked because we want to provide egress through that side door coming out of the building that goes into that area. That allows us to go out through the gate. It's just a matter of defining a perimeter for visitors and for kids. We can provide a visual barrier as well.

Comm. Coleman: The gate itself is going to remain unlocked 24/7?

Mr. Kiehl: Yes.

Comm. Coleman: Will it just be a little latch?

Mr. Kiehl: Yes.

Chairman Elkins: Thank you. Other questions? Is the mobile classroom that is proposed a new purchase, or is it a mobile classroom that Blue Valley has in inventory right now?

Mr. Anderson: It's one we have in inventory. I couldn't tell you the exact age on that.

Chairman Elkins: What typically is the useful life for a mobile classroom like this?

Mr. Anderson: It really depends on how often it is moved because that causes more wear and tear. We can get 20 years if we need to pretty easily. We maintain things the best we can to keep them lasting. I think this is only the second location.

Comm. Coleman: Assuming you get approval, what is your timeline for starting the construction of it, and when do you hope to have it in operation?

Mr. Anderson: It's something we want to get done and operable for next year, but we want to start the construction of it so we can move it over spring break. Construction could start over winter break and then get it prepped to move over spring break.

Comm. Coleman: You're hoping to use it this school year?

Mr. Anderson: If it's functional at that point and if the school has a need for it, yes. We don't typically move classes mid-semester like that. If we do, it would be the second half of the second semester.

Comm. Coleman: So, it's currently in storage somewhere?

Mr. Anderson: It's being used at Liberty View Elementary school on the west side of the district. We're moving it from there.

Chairman Elkins: Thank you. Because this is a Special Use Permit, our LDO requires a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Hoyt; motion seconded by Belzer. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

Chairman Elkins: That takes us to a discussion of the application. Are there comments from the commission? I would just have a question for staff. Is there provision in either the LDO or in other rules and regulations that would govern the appearance of the mobile classroom in the event that, when they come back in two years and staff has a view that it has deteriorated in an inappropriate fashion, there would be an avenue for staff to consider?

Mr. Klein: Neighborhood Services Department requires all properties in the City of Leawood to be maintained. If it was falling out of repair, the school district would be contacted and would have an opportunity to repair the trailer.

Chairman Elkins: From a jurisdictional standpoint, staff's view is that the school district is like any other property holder in the City of Leawood?

Ms. Knight: Yes.

Chairman Elkins: Any other questions or comments?

A motion to recommend approval of CASE 101-19 – LEAWOOD ELEMENTARY SCHOOL – TEMPORARY MODULAR CLASSROOMS – Request for approval of a Special Use Permit for a Temporary Modular Classroom Building, Preliminary Plat, Revised Preliminary Plan, Final Plat, and Revised Final Plan, located north of 123rd Street and west of High Drive - was made by Coleman; seconded by McGurren. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

CASE 116-19 – TOWN CENTER PLAZA – LOT 4-A TOWN CENTER PLAZA THIRD PLAT – Request for approval of a Revised Final Plat, located north of 119th Street and east of Nall Avenue.

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 116-19 - Town Center Plaza - Lot 4-A - Town Center Plaza Third Plat - request for approval of a Revised Final Plat. The property is located north of 119th Street and east of Nall Avenue. An updated Staff Report has been placed on the dais pertaining to this case.

Staff would like to make a few small corrections to the Staff Report. You will see that they are already highlighted in the Staff Report that is provided to you. On Page 2 under the History section, the Governing Body approved the plat and plans for this site and the Shake Shack site on November 19, 2018, not 2019. The second correction is under the Deviations section. It is the reference to the LDO section for the correct deviation. It should read 16-4-9A(c)(d). With this case, the applicant is requesting a deviation to the interior side yard setback from 10 feet to 7 feet. The multi-tenant building on this site is existing and currently operational. During the permit review process, the building was shifted east to allow for 7' sidewalks along the west side of the multi-tenant building. The reason for that is there is a parking lot on that side, so to allow for the overhang of the cars, we would still want a 5' walking aisle for pedestrians. A deviation to the interior side yard setback is available per the LDO as long as the project provides sufficient compensating open area for the deviation and still meets the requirement of 30% open space for the lot, and the applicant has met this criterion. No other changes are being proposed to this site or building with this application. Staff recommends approval of Case 116-19 with the stipulations listed in the Staff Report.

Chairman Elkins: Thank you. Questions for Mr. Sanchez? I think you described this, but I'm having a little trouble getting my head wrapped around it. Originally, this was platted at Lot 4-A and 4-B, or was it a single lot?

Mr. Sanchez: Before it was On the Border, it was one singular plat. When the Shake Shack and the multi-tenant building came in, they split the lot. Now, it is two separate lots. This is just pertaining to Lot 4-A, which is the multi-tenant building.

Chairman Elkins: Again, what exactly is being done to Lot 4-A as a result?

Mr. Sanchez: It is the side yard setback, so the eastern side yard that is closest to Shake Shack has a middle sidewalk area. During the permitting process, the building had to shift over to the east to allow for that other sidewalk on the west side. Doing that shifted the building over from the 10' side yard setback it was originally planned for. Now, they are coming back to request the deviation to allow for a 7' side yard setback.

Chairman Elkins: So, this is largely an academic question, but I'm trying to get my head wrapped around it. When they shifted the Shake Shack building over, why did that not violate the side yard setback for the Shake Shack lot?

Mr. Klein: There are two buildings. One is on Lot 4-A, which is the multi-tenant building. Lot 4-B is the Shake Shack building, which is actually 10 feet from the interior property line that splits north and south. The multi-tenant building shifted closer to that interior property line. The standard requirement is a minimum of 10 feet from interior property lines, but deviations were available

through the LDO. If we had known about this originally, we would have requested the deviation at that time; however, this happened at the time of building permit when it was determined that sidewalk needed to get wider in order to accommodate the pedestrian traffic. As a result, it was closer than 10 feet; it was down to 7 feet. That's when the applicant contacted staff. We are bringing it through the process to request that deviation to allow it to go to 7 feet. We checked to make sure they had the required open space they would need for the deviation as well.

Chairman Elkins: Thank you. Questions for staff? Now is perhaps not the time to push the point, but it is probably the more appropriate time to give you an opportunity to respond. I've got a little bit of concern about coming in after the fact and modifying to accommodate what has happened. I understand the circumstances, but as a matter of proper order and procedure, I'm a little concerned that we permitted this to go on. As it turns out, all's well that ends well, and if it had not, I know you would have stopped it, but can you comment a little bit as to how slippery this slope is for us to be considering an after-the-fact revision?

Mr. Klein: There have been other times in the past with a modification in the field. In this case, the first I became aware was when the applicant submitted a letter. They needed to get a letter to the bank for title and insurance on the building. They did a survey, and they noticed that the building was closer than 10 feet. When they contacted us, we verified that it was closer. At that point, we figured the best way to remedy the situation if it was available was to take it through this way. Really, it should be the Planning Commission and Governing Body approving a deviation and not staff. That is part of the reason we're bringing it through the process. We want to ensure legal requirements are being checked and it comes through Planning Commission and Governing Body.

Chairman Elkins: Had the multi-tenant building already been constructed when this came to everyone's attention?

Mr. Sanchez: The building was already operational by the time staff knew about the side yard setback encroachment.

Chairman Elkins: Again, hindsight is 20/20, but is there a failure by building codes or inspectors? I'm concerned that it was the bank that picked up on it as opposed to our staff.

Mr. Klein: That was the first I was aware of the situation. I did contact the building department and talked to Travis Torrez. I tried to find the approved building plans. I think there was some discussion at the time that the building needed to move over, but I don't think it was to this extent. From the plans I saw, it was supposed to move over 7 feet, 4 inches, and it ended up moving closer than that. At that point, staff checked the approved plans and noticed there was no deviation. We checked to make sure it was available through this process.

Comm. McGurren: Would it have been possible or feasible at the time that staff found out for Planning Commission to review a deviation months ago?

Mr. Klein: At the time it went through Planning Commission and City Council, if we knew about it, the deviation would have been requested at that time. If you're asking if it was possible to put the construction on hold for a couple months while they went through the process for approval, it would have been a difficult situation.

Comm. McGurren: Not at the start of construction but when it became known; was that five months ago or three months ago?

Mr. Sanchez: This was the quickest staff was able to get this project into this process for you to hear. We have done our due diligence to try to work with the applicant to figure this out. This was the quickest route to go.

Chairman Elkins: I think Mr. Klein indicated that staff found out about it after the building was already operational. They couldn't have brought it to us any earlier. That's why I'm concerned about it being an after-the-fact revision. Thank you. Is the applicant present?

Applicant Presentation:

J.D. Christie, 4800 Main Street, Suite 400, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Christie: I have nothing to add to the comments.

Chairman Elkins: Do you have any objections to staff's stipulations?

Mr. Christie: No.

Chairman Elkins: Questions for Mr. Christie? Can you tell us a little bit from your perspective about how this came to be and why it is that we're being asked after the building is constructed to approve the deviations in this particular application?

Mr. Christie: As Mark and Ricky may have mentioned, we came through last fall with our Preliminary Plan, Final Plan, Final Plat, and all that through the entire process. We had full approval through you and Governing Body. I believe it was November. This was a matter that was done through the building permit process. Our original plan that was approved by the Governing Body did have a 10' interior setback. We were working with staff, and that's when it was moved to accommodate a wider sidewalk toward our house on the west side of the property. It just kind of shifted our building closer to the interior line.

Chairman Elkins: Thank you. Are there other questions? That brings us to a discussion of the application. Are there comments? Again, I would note my concern. These things do happen, but there is a proper order and sequence. I would note for the record that sometimes Leawood has a reputation of being difficult to work with by developers. In this instance, I think we ought to note that we did accommodate practicality and moved forward in an expeditious manner. It does concern me that the offset of the building didn't come to the attention during the permitting process; it seems that it came to attention afterward. That gives me pause for concern.

Mr. Klein: I just want to make sure you understand that when it went through the building process, it was discussed. That's why I mentioned that I saw some plans that said 7'4" as opposed to 7'. There was maybe discussion at that time. The first I became aware of that was when this letter request came. Then there were a couple different numbers thrown out. In the process, they were trying to accommodate the building and correct the sidewalk situation. When we became aware of it, we figured the best thing to do was to make sure the approvals were given by the proper entities.

Chairman Elkins: I appreciate that fact, and as you know, I'm one for dotting I's and crossing T's. That's clearly what's happening here. I just have a little bit of queasiness about the process. Good news if it was identified in the building permitting process and if they discussed it. I would have preferred them to discuss it with you. I'm a little concerned that it didn't get to you until after the fact. It's something for everyone to take a look at. Any other comments?

Comm. Hoyt: It seems like it would be fairly simple to pinpoint where this came up in the process. Whatever point that is ought to be made aware that, in the future, when things like this happen, it needs to be immediately brought to your attention so you can expedite it.

Chairman Elkins: I would agree with that. If there are no other comments, is there a motion?

A motion to recommend approval of CASE 116-19 – TOWN CENTER PLAZA – LOT 4-A TOWN CENTER PLAZA THIRD PLAT – Request for approval of a Revised Final Plat, located north of 119th Street and east of Nall Avenue - with the stipulations in the Staff Report and the noted deviation - was made by Hoyt; seconded by Peterson. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

CASE 39-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-10.3, MATERIALS AND COLORS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to permitted and prohibited materials. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 39-19 - Leawood Development Ordinance Amendment to Section 16-2-10.3, Materials and Colors. I want to draw your attention to a revised ordinance. The word “include” was left out. Section 16-2-10.3(b), it read, “Prohibited exterior building materials for both commercial and residential unless otherwise noted, but are not limited to the following . . .” We added the word “include” before “. . .but.” Staff was looking at different materials and colors. As time has gone on, technology changes, and different materials come through. Although this list isn’t exclusive or inclusive, it’s not completely limited. We do like to try to make sure people have guidance when they go to the LDO as far as allowed materials. In this particular case, there are two lists. The first is for permitted materials. We actually added six new materials to that list. We also clarified some of the other materials. For instance, we originally listed stone but clarified that we meant natural stone. We clarified “clay-fired” with brick. Cementitious stucco is the one that’s most confusing because often times, the architects are used to using architectural stucco, or what they perceive to be Exterior Insulated and Finish System (EIFS). EIFS is allowed for detailing, but they are using it as a fill material, so we generally try to clarify that early on. We figured we would modify that here as well. There was one material that was added to the prohibited list: manufactured stone. It originally came in early 2000. Originally, the city was excited about it; however, over time, we noticed that there seemed to be some problems with it that we noticed when we did site inspections. We want to add that to the prohibited list. It doesn’t prohibit it completely; it still allows it for detailing, commercial, and single-family. This application clarifies that the permitted and prohibited materials lists are not all-inclusive. We also want to make the clarifications I mentioned. We also wanted to make sure that we had a list of the materials in the prohibited section that state whether they are allowed within the single-family or commercial because those are the two categories we typically see. Staff is recommending approval of this application, and I’d be happy to answer any questions.

Chairman Elkins: Questions for Mr. Klein? It seems like it’s my night to answer questions. Mr. Klein, I know we’ve talked about this, but just to clarify for the record, describe for us the difference between the cast stone that is permitted in the proposal and the manufactured stone that is not permitted.

Mr. Klein: Cast stone is regulated by the Architectural Cast Stone Institute, and they have certain standards as far as creating the material. Most of the time, the cast stone looks like limestone. I’m

not sure if you're aware, but the sills of City Hall are cast stone. The difference is it has a much higher compressive strength, and it also has a lower absorption rate, which makes it a bit more durable. The manufactured stone is also called cultured stone and has a much lower compressive strength. We've noticed that it tends to detach from the buildings, which is more a product of the installation. We have noticed this at Ironhorse Center, Nall Valley Shops, and Cornerstone. We've noticed it has actually fallen off the building. Additionally, it does not have the same texture all the way through, so if it breaks, it looks obvious. Also, some are fading rapidly over time.

Chairman Elkins: Both the cast stone and the manufactured stone are not natural stone, but the difference is that the cast stone we're looking to put on the approved list meets the standards of the Architectural Cast Stone Institute.

Mr. Klein: Correct; just like the vinyl windows and the soffits that meet certain requirements.

Chairman Elkins: Can you explain what the cementitious stucco is as distinguished from plaster stucco?

Mr. Klein: The plaster stucco is also called architectural stucco and is really EIFS. It's a system that has some drainage behind it. I'm not an architect, so I can't get too specific about it. I'm not sure if you remember back in the early 2000s with questions about mold and stuff going around. I think the product has gotten a lot better since then, but it's not as durable. The cementitious stucco is actually more like concrete; it's much more solid and holds up a bit better, especially lower down on the building with mowers and landscaping.

Chairman Elkins: Plaster stucco has always been on the approved list?

Mr. Klein: Plaster and cementitious are the same thing. Typically, when staff is coordinating with the applicants, we'll call it cementitious because the architects know what we mean.

Chairman Elkins: Does the old-time stucco that I grew up with had chicken wire fall within these categories?

Mr. Klein: That's what we want. That's plaster stucco, and it has a good record as far as being durable.

Comm. Coleman: Mr. Klein, I know you sent an email out this afternoon. Can you describe the difference between what you put on the dais versus what is in our packets?

Mr. Klein: The only difference is the word "include" was added to item B (*shows on monitor*).

Chairman Elkins: Because this is an amendment to the LDO, a Public Hearing is required.

Public Hearing

Kevin Jeffries, Leawood Chamber of Commerce, 13451 Briar Drive, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Jeffries: I'm glad you're addressing this. What is interesting to note, too, is the cost difference of these materials because it can run the building costs up a lot. As we've seen, construction costs have gone up continuously, but we also don't want our buildings falling apart, either. I know we say we like natural stone, but with all the ice melt we use around here, even natural stone starts getting eaten up because I've seen it in several buildings around town. When we put anything near the ground where ice melt is, it's at risk. I just want you to be aware of that, too. That was all I wanted to add.

As no one else was present to speak, a motion to close the Public Hearing was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

Chairman Elkins: That takes us to discussion on the proposed amendment to Section 16-2-10.3, relating to permitted and prohibited building materials in the City of Leawood.

A motion to recommend approval of CASE 39-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-10.3, MATERIALS AND COLORS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to permitted and prohibited materials - to include the revision provided by staff - was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

CASE 115-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-4, TEMPORARY USES STANDARDS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to temporary use standards. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 115-19 - Leawood Development Ordinance Amendment to Section 16-4-4 regarding temporary use standards. Temporary use permits are issued by the Director of Community Development for special events typically. When you see a concert series at Town Center Plaza or a sidewalk sale or something similar, they get a Temporary Use Permit. Currently, there are limitations on these permits that have recently become more difficult to really allow some

of the events. The reason is developments are trying to be successful and draw people in. They'll have promotions in the wintertime. Previously, there was a limitation of no more than six events annually. That has become a limiting factor that is not workable. We are recommending eliminating that factor. Additionally, there is currently a limitation of no more than ten consecutive days. That works well for some events but not others. Occasionally, a seasonal store will come in and will need more time. We would like to allow for 30 days. We also used to offer a 2/3 discount if all six permits were purchased at the same time so we could plan when certain events would take place. Currently, the fee is \$50 for a Temporary Use Permit. Staff is recommending approval of this application, and I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for Mr. Klein? I'm curious about removing the limit on the number of special event permits that any one applicant can have. It seems that it removes a lot of the city's regulatory authority over such events. Can you speak to that in a bit more detail? I understand six may not be workable, but it seems that there ought to be some sort of limit.

Mr. Klein: I spoke with Richard about this as we were working through it. He is the one who has to approve these. We see a lot more of these requests coming for Park Place and Town Center Plaza. I'm sure Ranchmart will have a number of events as well. It affects the shopping centers more than individual residents. In talking with him, he thought it would be best to eliminate the limit altogether.

Chairman Elkins: So, what kind of discretion does he have to approve or not approve a special event application? Does he run a risk of a claim of arbitrary capricious action if he denies an application?

Mr. Klein: The current ordinance lays out standards that he has to approve it. They do have to provide an application, Site Plan, off-street parking spaces. Seasonal flower sales are easy because there are criteria that fit. The rest of the permits are limited to the event. For instance, a concert series is different than a birthday party, which is a lot different than a sidewalk sale. There are standards that have to be met to ensure it doesn't have an adverse effect on the surrounding properties. He has to make sure it doesn't obstruct pedestrian areas. In general, he has to determine if the event would have a negative impact on the surrounding areas. As long as it meets those criteria, it typically gets approved.

Chairman Elkins: I guess the concern I have is I know in one of our neighboring cities, the seasonal flower sales, in particular, seem to be a four-season event. There was a tent on the same corner year after year. It wasn't terrible, but they were selling different types of flowers depending on the season. I'm curious if you think that once we remove this six-event limit whether Mr. Coleman would have the authority to decline an application if necessary.

Mr. Klein: The seasonal flower sales are a separate entity within this permit, and they have a limitation as far as what they can do. I believe it's a maximum of 90 days. These are mostly on the rest of the Temporary Use Permits, and they vary. Town Center Plaza might have the concert series or a sidewalk sale. They have had a car show before or holiday events. Because they are variable, the intent is to allow it if it is not causing an adverse impact. If it became a problem, I think staff would be back before you, requesting a limitation.

Chairman Elkins: Thank you. Other questions for staff?

Comm. Hunter: You're seeing most of these with the large multi-tenant areas.

Mr. Klein: Yes, they are the ones we see. Town Center Plaza used to do the Temporary Use Permits for the special screenings for AMC so they could go a bit later. Park Place might want an event where they block off the streets and have a farmers' market. I think we're seeing more of these as retail is getting more competitive. It's understandable, and obviously, we want everyone to succeed. As long as it doesn't have an adverse impact on surrounding properties, we would support it.

Chairman Elkins: Thank you. Other questions? This case requires a Public Hearing.

Public Hearing

As no one was present to speak, a motion to close the Public Hearing was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

Chairman Elkins: That takes us to discussion.

A motion to recommend approval of CASE 115-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-4, TEMPORARY USES STANDARDS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to temporary use standards - was made by Belzer; seconded by Hoyt. Motion carried with a unanimous vote of 6-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, and Peterson.

MEETING ADJOURNED