

**City of Leawood
Planning Commission Meeting
May 25, 2021
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, Coleman, Block, Hunter, Hoyt, Peterson, Elkins. Absent: Stevens, Belzer.

APPROVAL TO SUSPEND CERTAIN RULES OF PLANNING COMMISSION DUE TO PANDEMIC:

A motion to suspend certain rules of the Planning Commission due to the pandemic was made by Coleman; seconded by Hunter. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

MEETING STATEMENT:

Chairman Elkins: To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Planning Commission is being conducted using the Zoom media format, with some of the commissioners appearing remotely. The meeting is being livestreamed on YouTube and the public can access the livestream by going to www.leawood.org for the live link. The public is strongly encouraged to access this meeting electronically; however, if you wish to comment on a public hearing item, please contact the Community Development Department to make arrangements.

Public comments will only be accepted during the public hearing portion of each agenda item where a public hearing is required. The City encourages the public to submit comments in writing prior to the public hearing by emailing comments to planning@leawood.org. Written public comments received at least 24 hours prior to the meeting will be distributed to members of the Planning Commission. Those wishing to appear remotely using the Zoom format media, should register at planning@leawood.org on or before Friday, May 21st, 2021, at 5:00 pm. Individuals who contacted the Planning Department in advance to provide public comments will be called upon by name.

Electronic copies of tonight's agenda are available on the City's website at www.Leawood.org under Government / Planning Commission / Agendas & Minutes. Because this meeting is being live-streamed, all parties must state their name and title each time they speak. This will ensure an accurate record and make it clear for those listening only. This applies to all commissioners, staff, applicants and members of the public who may speak. All motions must be stated clearly. After each motion is made and seconded, a roll call vote will be taken. The Chair or staff will announce whether the

motion carried and the count of the vote. Reminder, please mute all microphones when you are not speaking. Thank you.

APPROVAL OF THE AGENDA

Chairman Elkins: Does staff have any additions?

Mr. Sanchez: We do not.

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

ELECTION OF OFFICERS

Chairman Elkins: Under the bylaws of the Planning Commission, we are obligated to elect officers on an annual basis during our May meeting. I'll open nominations for Chair of the Planning Commission. Are there any nominations?

A motion to nominate Marc Elkins as Chairman was made by Coleman.

Chairman Elkins: Thank you. Are there other nominations? If not, we will close the nominations for Chairman.

Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

Chairman Elkins: I give you all my thanks. It's been my pleasure to serve you as Chairman of the Planning Commission, and I look forward to doing it one more year. With that, I'll open the nominations for Vice-Chairman of the Planning Commission.

A motion to nominate Commissioner David Coleman as Vice-Chairman was made by Block.

Chairman Elkins: Are there other nominations for Vice-Chairman? If not, I'll close the nominations.

Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

Chairman Elkins: Thank you for your willingness to serve, Commissioner Coleman.

Comm. Coleman: Thank you. Do we need a Recording Secretary?

Chairman Elkins: We do. The bylaws call for a Recording Secretary that has the power to delegate that responsibility when he/she thinks it is appropriate.

A nomination for Mark Klein as Recording Secretary was made by Coleman.

Chairman Elkins: Thank you. Are there any other nominations for Recording Secretary? Seeing none, I'll close the nominations.

Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

APPROVAL OF MINUTES: Approval of minutes from the April 27, 2021 Planning Commission meeting.

Chairman Elkins: Are there any revisions to the April 27 draft minutes?

Comm. Coleman: On Page 11, my third line down should be "going on" instead of "ground."

Chairman Elkins: Thank you. Any other revisions?

A motion to approve the amended minutes from the April 27, 2021 Planning Commission meeting – was made by Coleman; seconded by Block, Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

CONTINUED TO THE JUNE 22, 2021 PLANNING COMMISSION MEETING:
CASE 69-20 – HILLS OF LEAWOOD VILLAS – Request for approval of a Final Plat and Final Plan, located north of 151st Street and east of Mission Road.

OLD BUSINESS

CASE 07-21 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-55, DEFINITION, Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of a Car Wash – Full Service. **PUBLIC HEARING**

Staff Presentation:

Planning Director Mark Klein made the following presentation:

Mr. Klein: This is Case 07-21 – Leawood Development Ordinance (LDO) Amendment to Section 16-9-55, pertaining to the definition of a car wash – full service. On April 13th, we had a work session in which we talked about car washes. At the Planning Commission meeting, the LDO amendment was approved but felt too restrictive. Governing Body had similar concerns, so it was remanded back down and discussed in the work session. Tonight, the definition keeps what is currently in use but adds a clarification that allows the vacuuming and drying to go on separate from the totally enclosed building but under a canopy that is similar materials and architectural style. It would also be subject to the 60/40 Rule, setback regulations of the zoning district, and also screening with a berm

and/or wall with a 3' minimum height and accented with landscaping. I'd be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions?

Comm. Coleman: Looking at the revised wording, "Drying and vacuuming of vehicles may be performed under a canopy." This sounds iffy with the word "may."

Mr. Klein: We can certainly change that to "shall." Also, there is one other change. In the very last sentence, "be" should be added after "shall."

Comm. Coleman: Waterway is very well known. If this was enacted, a car wash would need to have an entire canopy covering the area for vacuuming once the car is washed?

Mr. Klein: It might be able to be broken up into two different canopies, depending on how they have it laid out on the site. The canopy would have to have the same architectural treatment that is on the main building. The current Waterway would be allowed as a legal, nonconforming structure. A brand-new car wash would have this requirement.

Comm. Coleman: I want to understand the purpose of screening. The vacuuming and drying areas not within an enclosed building shall be treated as onsite open-parking area. If the vacuuming is in a different area, such as around the corner or something like that, they would park in a stall?

Mr. Klein: That is correct. We looked at some that had a drying and vacuuming area off to the side, separate from the main building, and just happened to be adjacent to a public right-of-way. They would have the same screening that we would normally have for a parking lot. Since the cars are going to be parked there, it would help with screening the fronts of the cars.

Comm. Coleman: Then, those areas also have to have a canopy over each stall?

Mr. Klein: That is correct.

Comm. Coleman: Is that considered full service, or is that considered partial service? The Waterway model is definitely full service, but if someone brings the car out to a stall, is it still considered full service?

Mr. Klein: Taking Waterway as an example, the same employees would still dry and vacuum the car; they would just have it off to the side, under the canopy. They would still have stations for parking. We thought that the type that have stalls where the owner could vacuum would be a semi-full service as opposed to a full service.

Comm. Coleman: Do we authorize semi-full service in Leawood?

Mr. Klein: The Table of Uses indicates that it is full service, but the definition didn't call it full service, so we had a disconnect. The original intent was to clarify and establish that connection.

Comm. Coleman: So, semi-full service is not accepted.

Mr. Klein: Correct.

Comm. Hoyt: As a clarification, back to the initial change that Commissioner Coleman was suggesting with adding "shall" instead of "may" for the drying and vacuuming. I think we really want to say, "The drying and vacuuming of vehicles shall either be performed within an enclosed building or under a canopy that is architecturally compatible" because technically, they could keep it all within the enclosed building.

Mr. Klein: Yes, they could.

Comm. Hoyt: We don't want to exclude that possibility.

Chairman Elkins: Could you repeat that wording?

Comm. Hoyt: I would suggest that the first sentence could remain the same: "All washing activities must be done within an enclosed building." However, "The drying and vacuuming of vehicles shall either be performed within an enclosed building or under a canopy that is architecturally compatible with the main structure."

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

Public Hearing

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

Chairman Elkins: That takes us to discussion.

Comm. Block: Maybe just one more amendment to Commissioner Hoyt's recommendation: Where she was going to add the part about the enclosed building, maybe it should say, "shall either be performed in an enclosed building or under a canopy that is architecturally compatible with the main structure." The canopy references the need to be architecturally similar.

Chairman Elkins: That's a fair point. I actually wrote it down that way.

Comm. Block: Maybe I misunderstood her.

Comm. Hoyt: When I gave your official reading, I think that's how I did it. I think I didn't say it the first time.

Chairman Elkins: Let me read it one more time and make sure everyone is on the same page here. "However, the drying and vacuuming of vehicles shall be either performed within an enclosed building or under a canopy that is architecturally compatible."

Comm. Block: That's it.

Chairman Elkins: Any other discussion of the pending proposal to modify Section 16-9-55? Is there a motion?

A motion to recommend approval of CASE 07-21 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-55, DEFINITION, Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definition of a Car Wash – Full Service – with the change to the wording to read, "However, the drying and vacuuming of vehicles shall be either performed within an enclosed building or under a canopy that is architecturally compatible." was made by McGurren; seconded by Hunter. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

NEW BUSINESS:

CASE 89-20 STATE LINE MXD – Request for approval of a Rezoning from SD-O (Planned Office) and R-1 (Planned Single Family Low Density Residential District (15,000 Sq. Ft. per Dwelling)) to MXD (Mixed Use Development District), Preliminary Plan, and Preliminary Plat, located south of W. 86th Terrace and west of State Line Road.

PUBLIC HEARING

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 89-20 – State Line MXD – Request for approval of a Preliminary Plan, Preliminary Plat, and Rezoning. Staff would like to make mention of the three additional comments made by the public after the packets had been delivered to the Planning Commission. These are the same letters that were emailed this morning and this afternoon. Staff would also like to make a change to Stipulation No. 4 in the packet. We would like the stipulation to read, "All utility boxes . . ." We would like to add another stipulation that reads, "All power lines, utility lines, etc., both existing and proposed, including utilities and power lines adjacent to and within abutting rights-of-way are to be required and placed underground."

Comm. Coleman: Would that be part of No. 4 or a separate stipulation?

Mr. Sanchez: We could delete the first part of No. 4 and change it to this. Then, we would separate the second part into Stipulation No. 5.

Comm. Coleman: Then, everything gets renumbered.

Mr. Sanchez: We would end up with a total of 25 stipulations.

Chairman Elkins: The one thing I guess I'm missing here is prior to this change, there was clarity as to when it was supposed to occur. I don't see that. When would all power lines, utility lines, etc. be required to be placed underground?

Mr. Sanchez: Normally, that would trigger at the time of Temporary Occupancy Permit or Occupancy Permit.

Chairman Elkins: I think we typically call that out in stipulations, don't we?

Mr. Sanchez: We can add that to this stipulation.

Chairman Elkins: In a situation like this with different phases, are you contemplating that the requirement would be that all the power lines would be buried before any portion of the development is occupied?

Mr. Sanchez: Staff would like to recommend that it be completed at the end of the first phase.

Chairman Elkins: Thank you.

Mr. Sanchez: The proposed plan before you tonight proposes to rezone the property from SD-O (Planned Office) and R-1 (Low-Density Residential) to MXD. In addition, the applicant is proposing a Preliminary Plat with five separate lots and a Preliminary Plan with a total of eight buildings, totaling just over 316,000 square feet of development on 12.59 acres. This project will incorporate an existing single-family residential lot along 86th Terrace and State Line Road, which will demolish the existing home and will be turned into a green space area that the applicant has acknowledged will be designed with the help of the Leawood Homes Association. The main entrance into the development will be off State Line Road, just north of the underground passageway that leads to the Ward Parkway Shopping Center. This underground connection is also proposed to stay as part of this development and will serve as a pedestrian underpass to allow people to easily walk between the developments over to the shopping center across State Line Road without having to cross the street. The development will include four six-unit townhome buildings, a 182-unit apartment building, a two-story office building, and two out-lot parcels along State Line Road. The applicant has requested for approval a number of deviations, including an increase to residential density, an increase of Floor Area Ratio (F.A.R.), front building and parking setbacks, and a deviation to the interior setbacks. As the Planning Commission may remember, an LDO amendment was just passed recently to allow for an applicant to request an increase in density as long as they were providing a number of incentives to the city. That would include a mixture of dwelling types, vertical integration of uses, and sustainability. The applicant has met the requirements per the LDO in order to request these deviations. In addition, this project qualifies to be an

infill development project, which allows for the percentage of uses to be decreased to a 5% minimum of Retail, Office, and Residential. Staff recommends approval of Case 89-20 with the stipulations listed in the Staff Report, and I'd be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions?

Comm. Block: The PEI memo dated May 19th was a little confusing because it talked about how things did not conform to the LDO, but I think those are all the deviations, so they were just calling them out as reflected in the table?

Mr. Sanchez: Yes.

Comm. Block: I also noticed the Fire Marshal had concerns with road width and fireplaces. Has that been corrected?

Mr. Sanchez: If you look at the Fire Memo, you'll see the text that shows his issue, and then on the next page, it says that the revised drawing will suffice.

Comm. Block: I don't know if I read it that way. For example, on the first one, it says, "The revised drawings show 26 feet to the back of the curb, which leaves a space of 23 feet," but you're saying that it's okay?

Mr. Sanchez: Yes, all of the comments have been reviewed by the Fire Marshal.

Comm. Block: Okay, thank you. I don't know if I fully understand where the traffic light and turn lane will be. Is there going to be one? There was reference to it, but I don't know if I understood fully.

Mr. Scovill: The traffic light is proposed to be located directly across from the existing median break, across from the existing entrance on the east side of State Line Road. It would be aligned with the entrance to the existing development.

Comm. Block: That would be the one entrance to this part of the development?

Mr. Ley: It would be the primary entrance off State Line. There are connections to the adjacent property to the south.

Comm. Block: Is the northbound left turn lane more in the median? Does State Line get widened?

Mr. Scovill: State Line would not be widened, but the median would be redesigned to accommodate the left turn lane into this development. The intersection would act as a full-access intersection southbound to go east into Missouri or northbound to go west into Kansas.

Comm. Block: Thank you. We got some letters going back to October, and it sounds like those concerns have been addressed.

Mr. Sanchez: We have a number of residents online tonight, and they will be able to voice their concerns.

Comm. Block: The Interact Meeting happened after the revision and the addition of the townhomes?

Mr. Sanchez: That's correct.

Comm. Block: Was the shared parking resolved?

Mr. Sanchez: The applicant let us know today about the resolution between them and the property owner. Staff is fine with the resolution.

Comm. Block: That's for the easement on the parking?

Mr. Sanchez: That's correct.

Comm. Block: They also mentioned in past correspondence that the cut-through was a concern and that there would only be one entrance in this new portion. Is that still outstanding, or has that been dropped?

Mr. Sanchez: Staff talked to the Fire Department today, and they would like to keep all three access points for fire safety concerns.

Comm. Block: I think the property owner to the south had concerns that two of the three are their property basically, and this new development would only have one. Is that sufficient for everyone?

Mr. Klein: I believe the property owner to the south also took care of access to the south; however, I'll let the applicant speak to it since they were a part of the conversation.

Comm. McGurren: On Page 2, there is a reference about the existing underpass. For the record, who would be responsible for any maintenance for issues related to the underpass?

Mr. Sanchez: I believe is it our Public Works department.

Mr. Scovill: It is Public Works's understanding that the underpass is a private underpass and is maintained by the adjacent property owners. We do not maintain the underpass.

Comm. McGurren: Would you say that includes Ward Parkway Shopping Center and the existing development on the Leawood side?

Mr. Scovill: I don't know what occurs with respect to Ward Parkway in Missouri, but it is the city's understanding that the underpass is not a public facility.

Comm. McGurren: Is it the city's understanding that the new developers are aware that they are responsible for the portion of that?

Mr. Scovill: That might be a question for the developer.

Comm. McGurren: Page 10 references the emergency shelter. Given the different buildings and new structures, is there one emergency shelter or several?

Mr. Sanchez: That stipulation is for clarification for the applicant to be aware that it could be an issue or could be something they would have to provide. It is checked at the time of building permit.

Mr. Klein: At the time of Final Plan, they'll come in with better plans for the interior.

Comm. McGurren: On the larger documents, C1.8 is the overall look of the development. Lot 5 is an existing residential lot that obviously happens to be on State Line Road. The way I read this, that lot was going to be sold to the developer. The house was going to be removed, and this would become green space. Is the timing of that at the beginning of this entire process?

Mr. Sanchez: I believe we have a stipulation stating that, at the end of the first phase, that portion of the development has to be part of that first phase.

Chairman Elkins: I believe that is No. 10.

Comm. Hunter: Have the proposed revised stipulations been provided to the applicant prior to tonight?

Mr. Sanchez: Yes, we have been in contact with the applicant.

Comm. Hunter: The green space is going to be on the northeast corner?

Mr. Sanchez: Yes, it is at the intersection of 86th Terrace and State Line Road. There is an existing single-family home that will be demolished and then designed with the help of the HOA and neighborhood to create a green space.

Comm. Hunter: Back to traffic in general, I live over in that area, and traffic at 85th Terrace to get into Chick-Fil-A is ridiculous. State Line is not a wide road, and now this plan has two restaurants. Are you suggesting that there is going to be a stoplight basically at the AMC entrance and then another at 85th Terrace?

Mr. Sanchez: I believe that's how that goes.

Mr. Scovill: That is correct. I'd also mention that the signal at 85th Terrace is in the current Capital Improvement Program (CIP) to be replaced and enhanced with an improved left turn signal, which will greatly help the traffic in that area. It is 2026, but we're anxious and excited to get that done.

Comm. Hunter: There will be a light there and one behind Target, and that will be the light that is the entrance to this development?

Mr. Scovill: I believe so. The existing median break is approximately 1,000 feet south of 85th Terrace and is where the signal will be. It is just on the north side of the underpass.

Comm. Hunter: So, there will basically be three lights within a relatively short distance to get into Ward Parkway or into this development or the other buildings over there?

Mr. Scovill: Yes, that is correct. There are three lights, and two are existing. It meets spacing requirements for Missouri. It is a little close for what we prefer for spacing, but the site really can't be served otherwise. It does provide adequate separation from the signal to the north. It meets spacing requirements for that. It is something that was evaluated in the traffic study.

Comm. Hunter: And your traffic study said it was done at the height of the pandemic when there were no cars driving around. Has the city updated the traffic study?

Mr. Scovill: The city took into account the reduction in traffic. In fact, they utilized the Mid-America Regional Council (MARC) Operation Greenlight program that evaluates signals all across the metro. They inflated the traffic counts based on applying a ratio that is consistent with what we've seen in other areas of town.

Comm. Coleman: Mr. Scovill, regarding the three lights that Commissioner Hunter talked about. Can you show the southern one on the exhibit?

Mr. Scovill: It is not on the exhibit.

Comm. Coleman: There is one light currently, and then what?

Mr. Scovill: South of 85th Terrace roughly 1,000 feet will be an entrance and a signal. To the south of it will be a right-in, right-out to the development, directly south of what is being proposed tonight. South of that entrance is an existing signal.

Comm. Coleman: Right now, there is just a right-hand turn coming off State Line? There is just a ramp that goes down on the east side, which is where the light is going to be?

Mr. Scovill: Yes, on the east side of State Line is an access that's fairly wide. It dips down quickly.

Chairman Elkins: Mr. Scovill, can you point them out to us? Where is 85th Terrace on the plan?

Mr. Scovill: *(referring to plan, pointing out 85th Terrace)*

Chairman Elkins: That is the one that will be improved in the CIP, hopefully in the next four years?

Mr. Scovill: Yes, sir, hopefully sooner.

Chairman Elkins: I would encourage you to make it sooner if it can be afforded.

Mr. Scovill: It is currently in the budget, so that's good news. The primary entrance serving the development is located directly across from the existing entrance to the development in Missouri. There is a right-in, right-out entrance just south of the proposed development along State Line.

Chairman Elkins: Is the right-in, right-out actually into this new development, or is it an existing housing development?

Mr. Scovill: It is into that existing development to the south. It does not directly serve this development. For this development, the users would actually have to leave this site to go through the cross-access easement and then go to a right-in, right-out. That could happen; there could be some cross traffic, but I anticipate most users would utilize the signal that serves the primary entrance in and out of the development.

Chairman Elkins: There's been an expression of concern from a number of homeowners about folks trying to avoid the light and cutting through the neighborhoods. Does Public Works have any thoughts on that?

Mr. Scovill: We're hopeful that the improvements to the signal will decrease any cut-through traffic that might be occurring through the residential development to the north. This development did not contemplate cut-through traffic that might be occurring in the subdivision to the north of this development. They probably would have evaluated it if the development connected to the subdivision, but because it connected to State Line, they focused on the traffic along State Line. It is recommended that the new signals be coordinated. It is the Public Works Director's goal that we interconnect the three signals for the future. It will take cooperation with Kansas City, Missouri to make that happen, but it is a goal. There are opportunities to reduce cut-through traffic. The city has a traffic calming policy. I don't think these residents are interested in those options; they are looking for alternative solutions. We have discussed those with the neighbors, and the discussions are ongoing.

Chairman Elkins: Thank you. Other questions for staff? Mr. Sanchez, I have a technical question. I notice that Stipulation No. 15 calls for a model. It strikes me that it has been a while since I've seen a model. In the past, we've permitted 3D fly-throughs and

representations from software. Are there particular reasons that staff thought a model would be necessary this time?

Mr. Sanchez: A model can be presented in those formats as well.

Mr. Scovill: I wanted to clarify something. I missed the mark on that signal. It's actually located south of the development (*points out location on the plan*).

Comm. Hunter: So, what's the radius of the black dotted line on the picture?

Mr. Klein: I want to say that's the 500' radius they were using for notification.

Comm. Hunter: It's still three stoplights that are relatively close together. That was one of my other questions: how much control do you have over the stoplights on State Line? Do you always have to work with KC, MO to get that done?

Mr. Scovill: In these locations, these lights are owned and maintained by the City of Leawood in partnership with Kansas City, Missouri. We have an inter-local agreement where we act like the stewards, and they participate and have part of the decision-making process as well.

Mr. Klein: If I may, it is 1,000 feet.

Comm. Block: Going back to the stipulations you said you wanted to amend - No. 5 had a portion that it looks like you're striking. I didn't see that reflected on your sheet, and I wanted to make sure I get that right.

Mr. Sanchez: So, No. 5 is in your Staff Report, and it stays. We inserted a new one.

Comm. Block: It seemed like the No. 5 on your sheet, repeated the first part of No.5 that's in my packet.

Mr. Sanchez: There might be a little bit of difference. One of them has to do with a utility box that is above 56 inches, and then below 56 inches. That's the other stipulation.

Chairman Elkins: Do we effectively add a stipulation to the total list?

Mr. Sanchez: That is correct.

Chairman Elkins: Thank you. Other questions or comments? If not, I would invite the applicant to make a presentation.

Applicant Presentation:

Doug Weltner, 4520 Main, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Weltner: I have our entire development team and ownership group here tonight, including Emilee Weltner, Hunter Harris, Devin Schuster of Flint Development, and New Street Properties. I also have our architect Nicole Curry with BRR Architects, Dan Finn and Judd Claussen with Phelps Engineering, and Kristen Skinner with Priority Engineers. Last but not least, I have our counselor Curtis Petersen with Polsinelli Law Firm to answer questions.

First off, I'm glad to be back in front of the Planning Commission and Governing Body. As some of you may know, the last time I was in front of you was in 2014. I've been a developer since 1999 on the Mission Farms development. It's something we're very proud of, and I think Leawood is as well. We were the first MXD district in the City of Leawood and, I think, Johnson County. I don't think I need to spend a lot of time talking about the site, but we are available if there are any questions about it. This site is a classic infill site fronting State Line. Being on State Line and having it as our only access to the site really helps in not releasing any new traffic into the City of Leawood in the northern area. The site is approximately 12 acres. We also acquired this single-family lot, and it is part of the Rezoning before you tonight. We are building in the location of the Ward Parkway Shopping Center, which is about a 500,000-sq.-ft. project with retail and restaurants. It provides a lot of the amenities to the area. Of course, that was very interesting to use because of the walkability and the convenience that creates for future homeowners and apartment renters as well. Ward Parkway Shopping Center has been remodeled a few times over the years. This project was built in the late '60s and early '70s. This corridor has been a high-profile commercial corridor for some time, but I think it's really going to be interesting for us. With the money and investment we're going to make in this site, I think it's really going to reenergize this area. To the south of us, we have about 200,000 square feet of office. Most of those buildings were built in the '80s. This was a really great opportunity for us to get into Mixed Use. We wanted to move primarily to residential luxury apartments. We also have added 24 townhomes to the project. We're very excited about integrating that in with the rest of the Mixed-Use location for the office, retail, and restaurants that surround us. I think it's interesting that there really haven't been new apartments built north of 103rd Street in northeast Johnson County, really all the way to Shawnee Mission Parkway in over 40 years.

The vehicular tunnel that connects us to the shopping center will be converted to a pedestrian tunnel. We'll have some landscaping and beautification of it and will make it very walkable for our residents and other residents of Leawood who could connect to this maybe via the bridge that comes off 89th Street and crosses the creek down by the old Leawood Country Club. The 8700 Building is immediately south of our site. The pedestrian bridge connects us with the old Leawood Country Club, which is now a villa development. Potentially, there will be an easement that goes through one of the office properties and connects over to us, connecting residents over to the tunnel to go to Ward Parkway Shopping Center. I think it's important to understand what's there today. I think most people in Leawood would agree that this has been kind of an eyesore for a long time. I lived on High Drive just south of this site and drove by it every day. I can't believe this property hasn't had the opportunity to redevelop. We're really excited to do that. Obviously, I think it's going to be an improvement, not only for the commercial properties near, but for the residential neighbors as well. What is really attractive about the future redevelopment of this site is the green space on the north and the green space

to the west of us. It is very rare when a mature screen like you see in the pictures is available. We're very excited about the views from our site. We've worked hard with all the neighbors to the north to preserve this as much as we can because of the existing vegetation. Once the trees all bloom out, the homes to the north aren't visible. The green space will be available for the immediate neighbors and our community. We will also work with our landscape architect to add evergreens and additional plantings to help provide screening when the leaves fall from the bushes. It is an attractive area. It is important to the neighbors, and we totally understand that.

It is interesting to understand where we started. The first plan that we showed to the immediate neighbors to the north on 86th Terrace, we also included the residents on High Drive [and this plan] was shown at Interact Meetings. Green space, setbacks and height were very important to them. The first plan had the building line at 131 feet from their property line. The green space remaining to the pavement was 72 feet. Very quickly, we learned that they wanted that expanded. We had an office building on the site that was hindering us because we were trying to meet existing code. Version No. 2, we brought in November. We pushed it to 100 feet to the edge of pavement. We pushed the building to 155 feet and still had our office building on site. There were still concerns from the neighbors. They really didn't like the traffic that they might see or the cars parked along the north end. The edge of the parking lot in the previous pictures up against the trees is at about 93 feet. We're now trying to extend past that line. They still wanted to see if we could come up with something that would maybe get rid of, or screen the parking. We worked with others from Governing Body and staff, including Scott Lambers and Mark Klein, who were very helpful. We were able to amend the LDO that allowed us to drop the 66,000-sq.-ft. building. By dropping that, we now pushed the building to 200 feet. The office building is gone, and we were able to add the 24 townhomes as a nice transition piece for the neighbors to the north. We literally met the Saturday before Thanksgiving with neighbors on the site. Everybody seemed to be excited about the townhome addition and the removal of the office. This helped reduce our peak AM and PM traffic counts.

We've done a pretty extensive study. We have every tree located and every species located. It is our goal to be able to preserve as much as possible in this green space. This is a civil site plan that you have in your packet. In working with the neighbors, one of the things that they requested of us is that we not install the sidewalk going north. We show it on the plan. There's a note from part of our plan to the city that the neighbors have requested that we just landscape and not have this sidewalk along State Line. Sidewalks against curbs are not exactly a super attractive place to walk. They would prefer that it not be a part of our obligations. We're supporting them on that. We would also be willing to pay for the cost of it. We want to close the left-hand turn at 86th Terrace and match what is at 86th Street. You were recently talking about the street lights. The neighbors feel there's some movement that goes through their street today to get to 85th Terrace. That would close that off. We're willing to pay for it if we can do that at the same time we do our improvements with the intersection. Again, we're supporting the neighbors on that. I asked our traffic engineer what she thinks of closing that left-hand turn and keeping 86th Terrace with just right-in, right-out movement. She actually believes it helps State Line from a traffic point of view.

I've already mentioned that we made a real commitment to these north neighbors and to the west. This green space is an area for their enjoyment. We will actually be responsible for it. We will maintain it. It's going to be an area they get to enjoy. We will keep it as kind of a wooded environment as it is today. You mentioned in your previous conversations with staff about the situation at 8700. We want to go on the record that we have a written agreement with Mr. Denzer to provide parking easement during business day hours. That parking easement would be effective when this project is approved. Both of us are glad to have that behind us. Another item that has come up in neighborhood meetings is their concern about quick-service drive-through restaurants. We want to make it clear that these two outparcels are super important to the brand of our project and the people that are going to live there. Nobody is more concerned about that than us. The two outparcels with drive-throughs are strictly placeholders, and we put the worst case for the traffic engineer's study, and it had minor impact. We don't have anybody identified for these. They will also require a Special Use Permit in the future, which I'm sure includes a Public Hearing. I just want to remind people that these are drive throughs but not necessarily restaurant drive throughs. There are drive throughs on Roe: coffee, bakery, bank, pharmacy, and cleaners. Restaurants are going to be 50% drive through in this country, and that is not just quick-service fast food. We will gut this at a later date, and I promise that we are going to be very conscious of whoever ends up on those outparcels. They have to be complementary to the rest of our project.

I hope everyone would agree that our architects have done a nice job. This has some preliminary architecture that we'll really get into at Final Plan. I think this is going to be a significant energizer for this corridor. I think bringing residents into this corridor is really going to help the office, and hopefully, we're going to see a lot of people putting money into their existing property. Obviously, this is a much better look than what we're looking at today with the previous parking lots I've shown you. Before I go into the stipulations, I really want to thank the neighbors and the HOA officers for working with us. We've really enjoyed working with them, and hopefully, we've made friends with some of them. We want to continue that, as we're going to be part of the community.

We would agree to Stipulations 1-24, except for the following. We'd like to see No. 16 deleted. It requires enclosure of downspouts within a building and not on the exterior. We'd like to push that to Final Plan. My experience with Mixed Use is that we haven't put everything inside the project, and it is somewhat limiting, especially when we want to do sloped roofs and things like that. Also, on the rewrite of No. 4, we would request that you have the trigger be the Certificate of Occupancy just in case we run into the power company being a little slow in getting us there. Also, on No. 15, I would like to see if we could revise that, which Ricky has already agreed to do with the 3D rendering to serve as the model. We totally understand the responsibility for the underpass, and we are aware of that. That's all I have tonight. I look forward to your approval on our project. I really appreciate your consideration. Our whole team is here for any questions.

Chairman Elkins: Thank you. Questions for Mr. Weltner or his design team?

Comm. Coleman: Thank you for bringing this proposal to us. Could you put a rendering of the development on the screen, specifically the buildings?

Mr. Weltner: That's not what's in front of you now?

Comm. Coleman: From a bird's eye viewpoint.

Mr. Weltner: You want a Site Plan (*displays on monitor*).

Comm. Coleman: Thank you. There are four buildings of townhomes that are going to be about three stories. There is the office, which is in the northeast corner and is how many stories?

Mr. Weltner: Two.

Comm. Coleman: Then, the two restaurant pads are just south of that. Then, the apartment complex is four to five stories?

Mr. Weltner: Correct. As you saw, the parking lot significantly drops as you move west. That northwest corner becomes five stories just at that far west end. It steps down at the roof level as well.

Comm. Coleman: Is all the parking surface?

Mr. Weltner: No, there is a four-level garage that is internally wrapped and not visible to the street. We have approximately 219 parking spaces in the garage; the rest will be surface.

Comm. Coleman: You alluded to the idea that this would not be fast food on the pad sites, but you are leaving the option open to have a drive through, like a Panera or some type of fast casual as opposed to a dine-in, sit-down. Is that correct?

Mr. Weltner: Again, they're kind of just placeholders right now. We haven't made any decisions about what those exact tenants would be. We would anticipate a quality or brand that would be consistent with the kind of occupancy we're looking for. I get that it might be a bank; it may be a sit-down restaurant without a drive through.

Comm. Coleman: How many phases do you anticipate with construction?

Mr. Weltner: I think we have three phases. The first is the townhomes and multifamily buildings. The three outparcels would be after Phase 1.

Comm. Coleman: Regarding the lack of sidewalk on the north side, you said that the local residents did not want a sidewalk going to that lot, so there will be no sidewalk on the north part of the development?

Mr. Weltner: It is not something that is important to us at all, and they have requested that we not install that sidewalk.

Comm. Block: I think you said the improvements would be potentially made at 86th Terrace. That's the street directly north of the project, correct? You would eliminate the ability to turn left there?

Mr. Weltner: Yes.

Comm. Block: There's no access to this parking lot from State Line now?

Mr. Weltner: It all comes in the vehicular tunnel, and we're converting that to a pedestrian tunnel.

Comm. Block: So, the new access to State Line Road would be somewhat steep like it is on the other side of State Line?

Mr. Weltner: I think that probably would be the case. It would be similar to that, and that's why it has to come so far into the property before we're able to do any other movement.

Comm. Block: With those three outparcels, how much of that is going to be even with State Line or above?

Mr. Weltner: The top of the roof of the outparcel building would be 4 feet above State Line. You can see that the apartment buildings fall off.

Comm. Block: The two-story office building would be 20-ish feet above State Line?

Mr. Weltner: It's not quite that high according to our architect. The grade is much lower on the north side than it is on the south. The south side of the property is almost level with State Line. On the north side is a pretty big drop. That is really not much taller than our one-story building south of us.

Comm. McGurren: First of all, thank you for your effort and time. I'm curious if you could give us a range and expected cost for rent within the apartments and ownership within the townhomes.

Mr. Weltner: That's a hard number today because of the cost environment of construction. We're doing similar-size townhomes just north of the Plaza, and we're now approaching around \$700,000. I'd love to see us staying in that range. If we can, I think we'd have a lot of buyers in that market and something that could be very successful. The apartments should be around \$2 a square foot or more per month. Our average unit size is 950 square feet, so we're at \$1,900 a month average on the apartments.

Comm. Coleman: Regarding the amenities, is there something in addition to the pool?

Mr. Weltner: Today's environment in the Mixed-Use apartment homes means we'll have a community room. We'll have billiards rooms, quiet rooms, dry saunas. We really have

to be competitive in today's market. It's all about the amenities. We'll have a room for a kitchen where they can bring in a local chef and host a party. Obviously, we'll have exercise rooms available. We're also looking at a rooftop amenity. We're going to do probably more than we did at Mission Farms, for sure.

Comm. Coleman: Will the townhome owners have access to any of those amenities, or is it going to be completely separate?

Mr. Weltner: We haven't really addressed that. We've talked about it, but at this point, all we've done is discuss it.

Chairman Elkins: Thank you. Other questions? Mr. Weltner, I have a couple that I want to clarify. Commissioner Coleman asked about the timing of the office building on Lot 5. I think I saw a stipulation that said that Lot 5 would be developed in the Final Plan with the first phase of the development. Can you refresh me on what is going to be built first?

Mr. Weltner: Lot 5 is the home that is being torn down. It is green space. We will landscape it as part of Phase 1.

Chairman Elkins: The office building is Building 2?

Mr. Weltner: Yes.

Chairman Elkins: And that would be later on in the development phase?

Mr. Weltner: That is the current phasing.

Chairman Elkins: Just to follow up on the issue with the sidewalk to the north, would you contemplate there being a sidewalk along the east boundary up until you get there, or are you talking about no sidewalk at all along State Line?

Mr. Weltner: The neighbors have requested no sidewalk connection to 86th Terrace from our site.

Chairman Elkins: From south of the beginning of your site down to, for instance, approximately where the 8700 building is, would you have sidewalks along there?

Mr. Weltner: Yes, and we've actually provided for a sidewalk that connects from 8700 to the tunnel.

Chairman Elkins: Then the idea would be that the sidewalk would continue up to about Lot 5? Is that where you would terminate it?

Mr. Weltner: Nothing north of the entrance to our site.

Chairman Elkins: There would be no sidewalk on the east side of Building 2, then.

Mr. Weltner: Correct.

Chairman Elkins: Any other questions for Mr. Weltner and his team? This case requires a Public Hearing. We'll give the public a chance to express their thoughts, and then we'll come back to you for an opportunity to respond. We allot about five minutes per speaker.

Public Hearing

Lee Schuenmeyer, 8620 Sagamore Road, Leawood, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Schuenmeyer: I live just north of the development. Thank you for your time, and congratulations on your reelection to the Chair, Vice-Chair, and Secretary. I want to thank Mr. Weltner and his staff for being open and accommodating for hearing out our thoughts for the last few weeks and months for myself and my neighbors. I know several of us have talked both with him and together about the development, and the general consensus that I've heard from everyone has been that we are for the development with some minor adjustments, most of which had been addressed by Mr. Weltner verbally here tonight. I have a small presentation to illustrate what I'm talking about (*shares screen*). I'm speaking for myself, being informed by my neighbors and having a general consensus about things. I'm going to speak very specifically about a couple different items on the list that we have. Those are the drive-through fast food restaurants that are called out specifically as 4,000-sq.-ft. drive-through restaurants in the proposal, the safety issues that align with the traffic diversions along State Line Road to 86th Terrace, the residents' green space that we touched on briefly tonight, and the traffic lights that would cause more cut-through on 86th Terrace and cause problems. I have a 4-year-old son, and my neighbors have another half dozen-dozen children that live on 86th Terrace and Sagamore out to 85th Street. We're concerned about increased traffic. Specifically around the restaurants, in the proposal itself, it calls out for these 4,000-sq.-ft. drive-through restaurants. While I agree that these are placeholders, in the proposal, they are specifically called out as identical restaurants that meet the exact requirements around quick-service restaurant operators. Burger King calls these specifically 3,000-4,000-sq.-ft. buildings that are specifically designed for quick-service restaurants. It's almost as if it was taken off the page and placed in the proposal itself. Along with those in the same site, at least eight or more meet those exact requirements, so 4,000 approximate square feet in an established, well-lit, and street-accessible line. Some of them call for corner lots; some of them call for traffic lights. No mistake that these are written in here not as placeholders but as quick-service restaurants, at least initially. I'd like to call out that if it is an option to have something else, it should be placed in the proposal and resubmitted to absolutely exclude a quick-service restaurant and call out a bank or anything else that Mr. Weltner called out. I think that's entirely plausible. Those kinds of facilities would be welcome, but as for a quick-service restaurant that these seem to be designed for, I would object. As far as comparisons in the area, this is a complete outlier that has been laid out here in this proposal. Mission at 106th, which is inside of Leawood, Kansas, has no drive-through restaurants. Park Place is a massive facility, and there are no fast food drive-through restaurants there. It is the same at Kessler, which is not in Leawood, but it is a

nearby facility that has similar aspirations for Mixed Use. It has no fast food or drive-through restaurants along with its single-family, townhome, and apartment living. My request would be to have the plan resubmitted with explicit language disallowing restaurants with drive throughs and no quick-service restaurants at all so that the voice of now matches the voice of future about what could possibly be there. Then, make the plan approval contingent, meaning that this plan would not be approved without explicitly removing the left turning lane access from State Line to 86th Terrace. I have not seen the traffic study. It is not in the packet here. Just from standing outside several days, moving in, going along, and everything else, the traffic only increases during the day and evening as people try to avoid stopping to turn left if they're headed westbound toward Kansas, going deeper across Lee Boulevard to the west side of State Line Road. I would also ask that they require the development to create tenant business restrictions to limit noise and light pollution after 10:00 p.m. explicitly and require the green space easements to be included in the proposal to reduce noise and access to private properties. All these good things that Mr. Weltner is talking about, we would like them to be written explicitly in the proposal as opposed to being just talked about. The only other thing I would mention is with regard to the lights. Currently, they have one, three, and four [traffic] lights that are laid out. The additional new [traffic] light would be the second [traffic] light. The largest distance is around 1,200 feet between one, two, and three. In about 3,000 feet, there would be four stoplights on State Line Road. I'm not saying it's a bad thing; I just wanted to clarify because there seemed to be some confusion about it. Thank you for this development, as long as it meets a couple minor corrections and some more explicit language.

Chairman Elkins: Thank you. We appreciate your comments. Next on the list is David Snider. We will circle back at the end. I'll move on to Lisa Battani.

Lisa Battani, appeared before the Planning Commission via Zoom and made the following comments:

Ms. Battani: Thank you for your time. I won't reiterate points that have already been made. I was on one of the letters that hopefully got into everyone's packet. I am speaking on behalf of several of the neighbors on 86th Terrace. Several of us have been furiously texting during this entire presentation. I'm going completely off-script, so I'll hit the points we've been talking about since the presentation started. I would also like to thank Doug and Emilee, who have been very gracious with their time and who have worked with us from the beginning. We appreciate the changes that have been made so far. I would love if they could put that photograph back up of the north-facing view from the parking lot. For anyone who has not visited the site, I encourage you to do so. I want everyone to understand that a large number of those trees will go. The green space between the large oak trees and our back yards will have several trees missing, so that cover that is so beautiful now will change. We respectfully ask that the green space and all of the trees remain. Traffic has been hammered extensively, but I will make a couple additional points. There was one gentleman speaking, and I apologize that I don't remember who it was. He mentioned a calming study in a conversation with people within our neighborhood. I'm speaking for several of us, and I have never been involved

in any conversations around that and would certainly be interested in doing so. We are definitely in favor of closing off the median and probably some additional traffic changes. I'm going to reiterate the stoplight situation that Lee hit at the end. If that stoplight is added, there will be five stoplights between 83rd Street and 95th Street. The proposed entrance and exit to this development is very close to 86th Terrace. I think it would be nice if there could be some collaboration between the existing office buildings and maybe Ward Parkway Mall to spread that entrance and exit for all of those places in a similar spot. There's already a stoplight at that Leawood office building. Perhaps that shared stoplight could become an entry and exit point for everything with some non-stoplight entry and exit points so that the traffic congestion is not so bad. We have talked at length about the possibility of burying the power lines within our neighborhood, and we hope that this could be something done in conjunction with this project. The portion of the presentation that just went, regarding the height of the apartment building is the first time I've heard that it is five stories. I would like some clarification about that as well. For anyone who hasn't been to our neighborhood – and it sounds like several people do live around this area – I happen to reside in a small, single-story ranch home. The idea of seeing a five-story apartment building plus a rooftop activities area doesn't make me very happy. I'm reading through some notes to make sure I've covered everything everyone texted during the presentation. I think we would like to ask that those of you who are making these decisions tonight know that we are definitely in favor of development. I can't agree with that point more. I think we just want to make sure that it is a win for everyone involved. Making that parking lot beautiful and adding some nice homes and restaurants over there is ideal, but it's definitely a different animal than when you talk about single-family residences and office buildings versus several townhomes and 182 apartment units in that small space. It does seem like a lot. We thank you for taking our concerns into consideration. I would love to have some of those visuals put back up for further discussion if possible. Thank you for your time.

Chairman Elkins: Thank you. We appreciate your comments. Next on my list is Holly Stetler.

Holly Stetler, 2023 W. 86th Terrace, appeared before the Planning Commission via Zoom and made the following comments:

Ms. Stetler: I live right next to Lisa, who just spoke, and I live a couple streets up from Lee, who spoke initially. I don't have a whole lot of other comments to make. Lee and Lisa did an excellent job. We've been working together a lot, along with Doug and this development. We're excited about the development, but I think without repeating everything everyone just said, we just want you all to know that we are all very invested in this. Doug and Emilee have been very gracious to meet with us many times and even have come to the green space to meet. I really appreciate and would echo what Lee said that getting a lot of these things in writing before the project is proposed would be a big breath of fresh air to those of us on 86th Terrace because we are directly north of this property, and right now, most of us sit in our back yards and enjoy the wooded space behind us. It's a lot of the reasons why a lot of us purchased these homes. There's not anybody in our back yard. Adding hundreds of people back there is meant to hopefully

add value to our homes, but we know it will also add a lot of extra people. We want to, as much as we can, keep that green space, decrease traffic on our street, and avoid fast food lines and hearing drive through orders while we're sitting out, enjoying the evening with our families. I don't have a whole lot to add that Lisa and Lee did not say, but we wanted you to know that we all are very invested in this and appreciate you looking further into it with us.

Chairman Elkins: Thank you for your comments, Ms. Stetler. Jane Van Tassel?

Jane Van Tassel, 8612 Sagamore Road, Leawood, appeared before the Planning Commission via Zoom and made the following comments:

Ms. Van Tassel: I think that my concerns have been addressed by Lee and Lisa. I'm in complete agreement with what they both stated. Something new that has come up tonight is the rooftop amenity. I would like more information about that, and also, I was not aware that it would be five stories. That seems very invasive to our neighborhood and just our peace in general. I'm wondering if it's going to be a bar. I would just like more information around that. I'm also incredibly concerned about the traffic, and I don't think it has been addressed very well. I would like more information on that. My greatest concern there is the amount of traffic that this will bring in and how the traffic is spaced out on State Line Road. Most importantly, I'm 100% in favor of 86th Terrace being blocked because most of us have dogs and children. Most of us have dogs and children. Even today, we get a lot of cut-through traffic. I just want to state my case there. That's really all I have. Thank you.

Chairman Elkins: Thank you. David Snider, are you online?

David Snider, 2016 W. 86th Terrace, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Snider: Thank you for calling my name again. I was out of the room when you called it the first time. I live directly across from Lisa. I'm not directly adjacent to the development; I live across the street. I have one additional comment to make, and then I also want to comment on the things that Lisa said. I'm concerned about the traffic on our street, like everyone else is. I'm also concerned about if the developer is going to provide on-site parking for the workers. I'm afraid that, with the lack of parking, they're going to park on our street and walk over to the development. I'd like to have that question answered. I also agree with the closing of the median. I've been retired since 2013, and it's amazing the amount of traffic that has come through our street since then, especially since the pandemic with all the delivery trucks and yard people. I also agree with Lisa about the green space. I can see the parking lot now, so I'll be able to see the five-story height of the building, also. Hopefully, something can be done about that. Thank you so much for allowing me to comment. I agree that the development will be fabulous for our neighborhood.

Chairman Elkins: Thank you. We appreciate your comments. Is there anyone else online who wishes to be heard on this case?

JoLynn Hobbs, Leawood Homes Association President, 8309 Lee Boulevard, appeared before the Planning Commission via Zoom and made the following comments:

Ms. Hobbs: I'm not on the list, but if you would allow me to make a comment... First of all, thank you for the opportunity to send the Planning Commission a letter. I appreciate that opportunity. I think our residents have done an exceptional job of pulling together a grass roots effort. I also think that Doug and Emilee Weltner have done a great job of working with our residents, working ideas, and making changes. I wanted to note that. Within my letter, I notated the top concerns of our residents within that letter. Of course, that dealt with the drive throughs. It also mentioned the removal of the left-hand turning lane to reduce traffic through that area and the sidewalk to the north of the development. I also wanted to go on record, as many of the residents have, that the idea of five stories is new information. In the meetings I've attended, four stories have been mentioned, and that has been a concern of the residents. I just wanted to mention that as well. Thank you so much. I appreciate your time this evening. I also appreciate the time from the Weltners, their team, and all of our residents.

Chairman Elkins: Thank you. We appreciate both your letter and your comments tonight. Is there anyone else online who would like to be heard on this case?

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

Chairman Elkins: That takes us to giving Mr. Weltner and his team the opportunity to respond to some of the comments made by the public.

Mr. Weltner: First off, let me introduce our architect so she can address the concerns about the five stories. She's going to walk through the height of the property. (*displays grading plan on monitor*).

Nicole Curry, Studio A Architecture, 123 SW Boulevard, Kansas City, MO, appeared before the Planning Commission via Zoom and made the following comments:

Ms. Curry: The grade steps down significantly the farther it goes from east to west. Along the north side, which is the side of most concern, we start as a four-story building closest to State Line. As we get to the west edge of the parking garage, we step down as the grade steps down, so the four-story building steps down a floor. It is still four stories, but as opposed to floors 2, 3, 4, and 5, it is 1, 2, 3, and 4. Then, as we move farther west, when we get to the edge of the current parking lot, we have one unit that is five stories. We do not step up; the building goes down. That ground floor at that location is 19 feet below the northern property line. The building does not step up; it steps down. Then, the west side has four units that are at the five-story level. As we turn to the south, there are

another three units. Those are the only locations, with the exception of a few in the courtyard that face out and are at five stories. Everything else is at four stories, and take conscious note that we are stepping down the hillside whenever we can. The other thing we wanted to note is that this site is currently zoned for a five-story office.

Mr. Weltner: When I was asked about the amenities, I was listing off some things. All of these amenities are a bit in discussion. I brought up the rooftop amenity. That is basically a room that people can go to. It's a very small room with a balcony. It's not a rooftop bar or anything like that. We understand that would be totally different, and we don't want to promote that at that location. We want the building to offer a different view to the residents. We're talking about a very small room that you might see in a more urban apartment building in Crossroads or something like that.

Chairman Elkins: Mr. Weltner, could you speak to the concern about parking for workers during the construction phase?

Mr. Weltner: Our plan would be to be able to park onsite and utilize the outparcels. This would include all construction and staging vehicles.

Chairman Elkins: Thank you. As I understood in your presentation, you are supportive of the idea of removing the left-hand turns into 86th Terrace. Did I understand that correctly?

Mr. Weltner: If we could get that approved when we do the intersection, it is something we would be willing to do.

Chairman Elkins: Are there any questions for Mr. Weltner based on the comments from the public?

Comm. Block: Going back to the elevation, maybe you said this, but I don't know if I heard it for sure. If I was standing at the tree line and looking south, it would be the north elevation of the apartments. It's going to basically be straight across the top with no area that is higher than the others on the horizon?

Ms. Curry: We are at four stories starting as we walk across the north. Nothing goes up. As we go down the hill, the building steps down a floor. (*referring to plan on monitor*) From there, everything continuing west steps down one floor from where it was on the east. Then, we do not step back up. The grade continues down, and we were able to put a few units – I believe eight total – most of which are on the west and south lowest levels. It is not a full floor by any means.

Comm. Block: Along the north, the straight line across the top, would have a straight roofline?

Ms. Curry: Yes. Once we step down one floor, it does not step back up.

Chairman Elkins: So, the roofline would step down a floor from the five stories to the four stories?

Ms. Curry: No, it is always four stories; it is just that we are stepping it down a hill until it gets to the very west edge.

Chairman Elkins: So, the roofline will be straight from east to west across the northern perimeter.

Mr. Weltner: Again, the building is four stories and steps down. It looks like four stories all the way across. It is still holding the same roofline (*shows rendering*). This is what you see at the northeast corner, closest to State Line. It runs down four stories, and then it drops down a floor. Then it goes all the way to the corner.

Chairman Elkins: So, there actually is a drop in the roofline about midway.

Mr. Weltner: Correct.

Comm. Block: So, that almost looks like its three stories from the north, I guess.

Mr. Weltner: At this point, yes.

Comm. Block: Then, the 86th Terrace improvements, I don't know if I understand. Would you extend the median? Is that how you would eliminate the turns either west onto 86th Terrace or north onto State Line?

Mr. Weltner: There is currently a left-hand turn onto 86th Terrace for northbound traffic. We would just repeat what's at 86th Street, and we would just basically put the median back in and take away the break.

Mr. Scovill: I talked with David Ley, Director of Public Works. He communicated that this item would need to be assigned by City Council to the Public Works Committee for their consideration to eliminate the full access at 86th Terrace. If this were to fall in line with the established traffic calming policy, there would need to be a petition presented and a study performed. I'm not saying it couldn't occur, but it would probably need to be discussed. I would assume we would try to follow the current procedures outlined in the traffic calming policy. Although, this would not qualify as a traffic calming element, I think they would probably look to that document as a guide.

Comm. Block: If that does occur, would it not push more traffic to 86th Street or that median that exists today?

Mr. Scovill: There is currently a median at 86th Street, so 86th Terrace would be very similar. Basically, it would right-in, right-out. It would eliminate any traffic on State Line going northbound, wanting to go west from being able to turn left. If these residents

wanted to come home and were northbound on State Line, they would need to go to 85th Terrace to make a left at the signal. Delivery trucks would need to do that same.

Comm. Block: But that's a larger thoroughfare?

Mr. Scovill: 85th Terrace is still a residential street, but it does serve higher traffic.

Comm. Block: Regarding the power lines being buried, I thought there was something in the packet about an agreement that the power lines would be buried. I'm not positive where those are going to be now.

Mr. Sanchez: The updated stipulation talks about the power lines along State Line Road. Those will be buried. I think the neighbors talked about the power lines on the north side. Those power lines are well into those neighbors' yards and are not within this property, so the city cannot mandate this developer to drop those lines. It would require either a private agreement between this developer and the neighbors or something along those lines. The city cannot ask the developer to do that.

Chairman Elkins: Mr. Klein, as a procedural question, it sounds like Mr. Ley is concerned that the process for adjusting the intersection at 86th Terrace is maybe not within the scope of this project. I'm struggling on my aerial to see where it is. Can you comment from a procedural standpoint as to whether 86th Terrace is or is not or should or should not be a part of this project?

Mr. Klein: Basically, it will affect much more than this neighborhood if the median is closed. As Brian indicated, traffic will find other ways to go through. It is something the city would really need to evaluate. I don't think it's something that could be approved tonight. As Brian said, it would probably be referred to the Public Works Committee. Maybe that could be done between the time of Preliminary and Final, depending on how long it takes them to come back. It may be something that can be started, but I don't think it can actually be approved with this application.

Chairman Elkins: Thank you. Mr. Weltner, did you have anything else you wanted to add to the record tonight?

Mr. Weltner: No, I think we still are available for any questions.

Chairman Elkins: Thank you. Are there other questions for Mr. Weltner or his design team?

Comm. Hoyt: I have a couple questions. One relates to the plan designating specifically Building No. 3 and Building No. 4 as restaurants, which was mentioned tonight that it's not been a firm decision yet. A couple of the folks who participated in the Public Hearing questioned whether that ought to be changed on the plan. This veers into procedural issues, but I'm wondering if we approve this plan and it says that Building No. 3 and No. 4 are very specifically restaurants, but yet the developer does, in fact, decide that a bank

or dry cleaner or whatever is more appropriate will be there, wouldn't it be better to leave those building designations a bit more general? I'm wondering if you think it might warrant changing the designations if you haven't decided for sure those are going to be restaurants.

Mr. Weltner: When we identified them as restaurants, we were trying to give something for the traffic study and create a worst-case scenario. As you well know, we can easily do a Snooze, which is a very popular concept that's come recently to Kansas City, or some kind of a breakfast and lunch place. I could still see another restaurant that would be potentially appropriate on the other site. Whether or not it would add drive through, I don't know. That's kind of where we are on those. I guess I'm a little confused. Everybody keeps saying that this is identified as a restaurant. I've only seen that, I think, in the traffic study because that's what we directed her to do at the time. In the Site Plan comments from the Staff Report, they call it retail.

Comm. Hoyt: I'm looking at Sheet C1.2, and it says it's a restaurant.

Mr. Weltner: We look at it as restaurant / retail. It's interchangeable.

Comm. Hoyt: Maybe this is now directed more to Mr. Klein. When we approve a plan like this with the designation of restaurant specifically, what are the implications of that down the road if, in fact, the developer decided not to do a restaurant?

Mr. Klein: Having a restaurant in there is an indication of what they were thinking and what staff is looking at as far as the drive throughs. If they came back with something else, it would not kick them back because it would be less intensity than a quick-service drive-through restaurant would be. They would have the ability to do that. I know we talked with Mr. Weltner, and it would require a Special Use Permit if it involved a drive through. He said that, but I also want to make sure that everybody is clear that if it is a sit-down restaurant, it wouldn't require a Special Use Permit. A bank with a drive through would not require one, either.

Comm. Hoyt: I'm not categorically opposed to a restaurant or a drive-through restaurant. I would evaluate that at the time. I'm just questioning if we really don't have a firm idea that it's going to be a restaurant why we would put that on there.

Chairman Elkins: Mr. Weltner, would you and your team be opposed to changing the designation on the Site Plan and other materials from restaurant to retail?

Mr. Weltner: Give me one moment.

Comm. Hoyt: I honestly haven't been able to figure out why the neighbors don't want a sidewalk. I'm just curious if I could get a little more clarification on that and how the city feels about that. We've tried to go in the direction of having more sidewalks and having walkable streets and so forth. This seems to go against that trend.

Mr. Sanchez: As far as the sidewalk is concerned on Lot 5, it is always staff's preference to create as many pedestrian accesses as possible. We would like that pedestrian point. Not only that, but it serves as a point of access for people to then access the new area of green space that is being created for the surrounding neighbors, surrounding retail, office to the south, and maybe even people from the shopping center. It is staff's preference that we keep the sidewalk.

Comm. Hoyt: I'm just wondering what the logic of the opposing view is to not have the sidewalk.

Comm. Hunter: I'm a little unclear why the neighbors don't want the sidewalk there, but I will say that it's a really busy, narrow area. The sidewalk is right next to State Line, and it's probably one of the busier areas of State Line. It seems like it could be dangerous to have a sidewalk there. From a safety standpoint with kids accessing the green space right next to State Line, it could be a reason.

Comm. Coleman: I don't see a sidewalk there currently. There's one farther down State Line, but there is no connection currently to 86th Terrace.

Mr. Sanchez: You are correct. The sidewalk terminates at the north side of the 8700 building. This project would extend it all the way up to 86th Terrace. As far as where the sidewalk is located, there is a curb, and we are asking for 10 feet of green space and then the sidewalk.

Comm. Hoyt: It seems to me, on the assumption that people are going to walk there, whether there is a sidewalk or not, it would be safer to have a sidewalk than to not have a sidewalk.

Comm. Coleman: Or people are just going to walk on the green space.

Mr. Scovill: I just commented to Ricky that I believe it's actually shown in the plans as a 16' green space, so it's quite a bit more than our standard 10' buffer. We do have a complete streets policy by ordinance, and we do look for improvements in connectivity, not just for vehicles but pedestrians and cyclists. It would be in line with that.

Chairman Elkins: Thank you. Mr. Weltner, about the designation for Buildings 3 and 4, what does your team think?

Mr. Weltner: Again, I think we've made our statement on that. Those are placeholders. I'd hate to put anything on the map that wouldn't allow me to do a coffee bakery and then do a breakfast/lunch place. I'll just use McClain's as an example. It needs a drive through, and I'd hate to take that off the map as well. If you want to call it restaurant/retail, that's fine. We were trying to hold it as the most intensive use to see what the traffic study looked like, and then obviously, we can go the other way.

Chairman Elkins: Other questions for Mr. Weltner or his team? If not, we'll move on to the discussion portion.

Comm. Coleman: I have a question for staff. The current zoning is SD-O and R-1?

Mr. Sanchez: Correct.

Comm. Coleman: The developer's team member mentioned it is currently zoned for a five-story office building. Is that correct?

Mr. Sanchez: I believe SD-O allows for a 60' maximum height in a building, which could be up to six stories.

Comm. Coleman: Since it has two zonings on it, how does it work with SD-O and R-1? Is part of it R-1 and part SD-O?

Mr. Sanchez: Lot 5 is R-1, and the rest is SD-O.

Comm. Coleman: That makes sense. The office buildings that surround that current property are how high?

Mr. Sanchez: They are 3-4 stories. The 8700 building does the same thing with the grade, where it is the same level and drops to another level at the bottom.

Chairman Elkins: Discussion?

Comm. Hoyt: First of all, I think it's a really exciting development. It's exciting to see it developed, too, because it has been an eyesore for quite some time. I'm really appreciative of the development group and of the way they have involved the neighbors. I compliment the neighbors on their involvement as well. I think it's a great process so far, and ultimately, it will lead to a wonderful development. I would suggest and feel more comfortable if we simply did designate Buildings 3 and 4 as restaurant/retail because I think it would better reflect the discussion that has happened tonight. I've been on the Planning Commission long enough to know when these things come back for final review, it is nice to have the picture of what we were all thinking at the point when we voted on it. I would welcome that very minor, almost editorial change. I haven't really heard a great reason why we wouldn't want the sidewalk, so I would be inclined to keep the sidewalks. It seems like a lot of the issues of traffic and so forth either have been resolved or are at the point where they will be resolved. The green space seems to be coming along nicely. I think it's a great project.

Chairman Elkins: Thank you. I would encourage the commissioners, even though it sounds that the 86th Terrace traffic issue is really outside our jurisdiction for now, I know Governing Body and other portions of the city appreciate our observations. If you have thoughts or observations on this extension of the median that we've discussed so much tonight, please feel free to put it on the record as well.

Comm. McGurren: I would agree with Commissioner Hoyt's comments. I would feel that in the Preliminary Plan stage, this is a favorable plan. It seems that there is additional work to be done. The great news is the developer and the residents have made it through a tremendous amount of that work already. Hopefully, this is just a bit further to get down the road to where, when we see this at Final Plan, a lot has been resolved. I am in favor of the sidewalks. I am in favor of the extension of the median that would eliminate the left turn onto 86th Terrace for vehicles headed north on State Line. I support the plan and would be interested in seeing it move forward toward Final Plan.

Chairman Elkins: Thank you. One other issue that I want to make sure doesn't get lost in the discussion is that Mr. Weltner and his team questioned Stipulation No. 16, concerning downspouts in the MXD district. This is a topic that seems to come up regularly. Even though I've gone on to discussion, Mr. Klein, do you or Mr. Sanchez want to comment on the question of downspouts?

Mr. Klein: Typically, this is something we have at the time of Final Plan. The reason we put it in this one is we started to try to make people aware of the expectations before the time of Final Plan. Staff will still have it on the Final Plan, and it is our expectation.

Chairman Elkins: It seems that I recall another MXD plan where we had this discussion. I thought we ultimately concluded that there was something about the MXD concept that put the downspouts essentially internally. I can't remember exactly. I think it was something along 135th Street.

Comm. Coleman: It was Cameron's Court.

Chairman Elkins: Or was it across 135th Street?

Comm. Coleman: I thought we had a big discussion on Cameron's Court.

Mr. Klein: I know Cameron's Court was also arguing to not enclose the downspouts as well. I've heard the argument that if it's a residential development, then the downspouts shouldn't be enclosed. It's something the city has been doing for a while. Mission Farms is an example. The residential above the retail has the downspouts out on the residential portion and internalized on the retail portion. It provides a much cleaner look. It's not technically a requirement in the LDO, but it is a stipulation we typically put in.

Chairman Elkins: Thank you. Other commentary on the proposal?

Comm. Hunter: Are you okay with the applicant's request with No. 4, that those requirements be fulfilled prior to issuance of a Certificate of Occupancy?

Mr. Sanchez: Yes.

Comm. Coleman: I would like to thank the developer, even though I will greatly miss the opportunity to take my teenagers out driving on that nice open piece of land except for the light poles, which have been scary at times. When I first moved to Kansas City over 20 years ago, I remember going down State Line saying, “Who would build such a big piece of parking lot for this little shopping center?” It never made sense to me to begin with. I assume back in the ‘60s or ‘70s, someone had the idea that 15 parking spots were necessary for one portion of a store. I’m very glad to see that this piece of property is being put to good use in the future. Right now, as I mentioned, I wanted to clarify with Mr. Sanchez about the current zoning. With SD-O, it is currently zoned for six-story office building. In my mind, this is a much better opportunity to put something there that is a nicer fit with the residential neighborhood to the north and residential neighborhood to the west than an office building. I’d rather have an apartment building there. I really like the townhomes. I think there is a great need in the city and general area for that kind of housing. If it was me, I’d probably make it all townhomes instead of apartment complexes, but I really like that portion of it. With regard to the traffic, I see most of the traffic actually using the cut-throughs to the office buildings to escape the property. I can see the line of cars at the new stoplight that will be there, but I see a bunch of impatient people that are going to try to go south through those other developments to get to State Line. I don’t know what you do with that. It’s a very unique piece of property. State Line is usually a mess anyway. I drive that road every day to work, and sometimes, it’s good; sometimes, it’s bad. With that, I think some of the things the other commissioners have mentioned would be good to try to alleviate the traffic at 86th Street, but however you address this piece of property, there will still be traffic issues no matter what. I don’t think that’s going away. The one concern I really do have with this property is the restaurant/retail sites. When we’ve done other Mixed-Use developments, we’ve usually seen them incorporating the restaurants and retail into the residential portion. When the developer did Mission Farms, he really did a great job of pulling in the retail and restaurants to the first floor of the residential portion. I’m not in favor of pad sites in MXD. I think it takes away from the Mixed Use and sense of place that we’re trying to create. Whether you put a drive-through bakery like McClain’s, that has limited hours, or a Burger King that’s practically almost 24 hours, I don’t think that is a good use of that space. With that, I like the overall development. I’m supportive of it. I just wish those pads were switched to something a bit better than just a pad site.

Chairman Elkins: Thank you. Other comments? One of the things I think is refreshing about this project, which is a difficult site with infill work that Leawood has not done much of in the past, is the development team and the neighborhood and their collaborative approach to this. Often times, we are put in the difficult spot of considering these in the context of the neighborhood and the developer not having even talked with each other. It was refreshing to see the progression, taking into account the concerns of the neighborhood. I, too, am concerned about the traffic. I think staff makes a very good point that making that kind of a change to the intersection of 86th Terrace and State Line will certainly directly impact the neighbors who spoke this evening but will also have additional impacts that radiate out in the general area. It would be difficult and, it sounds like, inappropriate for us to address that tonight without the consideration of the various other committees within the city and the consideration of the impact they may have as

well. I think most of my other thoughts have been addressed by the other commissioners. I appreciate the work that staff has done as well. Where does that leave us? Is there anyone who would like to take a pass at a motion concerning the recommendation of Case 89-20?

A motion to recommend approval of CASE 89-20 STATE LINE MXD – Request for approval of a Rezoning from SD-O (Planned Office) and R-1 (Planned Single Family Low Density Residential District (15,000 Sq. Ft. per Dwelling)) to MXD (Mixed Use Development District), Preliminary Plan, and Preliminary Plat, located south of W. 86th Terrace and west of State Line Road – with the modifications to Stipulation No. 4 to require Certification of Occupancy, the addition of No. 5, the modification of No. 15 to allow for a 3D rendering - to create a total of 25 stipulations – was made by Block.

Mr. Klein: To clarify the model, we are basically looking for a sketch-up model. It is actually required at the time of Final Plan. It can be a digital model, and it's a little different than the renderings, which will give shots from different perspectives. Really, we need the whole model to be able to fly around the site and view it from different perspectives during review.

Chairman Elkins: The choice would be a digital model or a physical model?

Mr. Klein: Yes, because I believe they've already provided us with a sketch-up massing model. They are already going down that road.

Motion amended to modify No. 15 to require a digital model or physical model.

Chairman Elkins: Did you want to do anything with respect to the description in the plan documents with respect to Buildings 3 and 4 or just leave them?

Comm. Block: From my opinion, it doesn't really matter at Preliminary. It doesn't hold them to that or not allow them to change it. I'm okay with it as written.

Motion seconded by Hunter. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

Five-minute recess

Chairman Elkins: Noting the time, I would entertain a motion to extend the meeting.

A motion to extend the meeting for a period of 30 minutes was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

CASE 36-21 – MOLLE TOYOTA OFF SITE PARKING – Request for approval of a Special Use Permit, located south of 104th Street and west of State Line Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Grant Lang made the following presentation:

Mr. Lang: This is Case 36-21 – Molle Toyota – request for approval of a Special Use Permit for a temporary use of land for off-site parking. This site is located south of 104th Street and west of State Line Road and consists of a gated asphalt parking lot with a decorative black fence along 104th Street, allowing for a total of 56 parking spaces. The parking lot stores new vehicles for Molle Properties and has been in use by Molle since 1999. The application meets all requirements per the Leawood Development Ordinance. Staff recommends approval with the stipulations listed in the report. I'd be happy to answer any questions.

Chairman Elkins: Are there questions for Mr. Lang?

Comm. Block: It looks like this is every two years. Is there a way to extend this beyond that or give them a longer approval, or does the LDO require it?

Mr. Klein: I think staff is more comfortable with the two years. It's not necessarily through the LDO. That area has a lot going on with the floodplain and potential future issues. We just don't want to put a long term on it.

Chairman Elkins: Other questions? If not, Mr. Holland, are you representing the applicant?

Applicant Presentation:

Curtis Holland, Polsinelli Law Firm, 900 W. 48th Place, Ste. 900, Kansas City, MO, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Holland: I don't have a formal presentation. As you mentioned in the beginning, this case has been heard and considered by this group. There might be new members, but the Chairman has heard it probably more often than he cares to. As to your comment about the term and to give you context, the staff has mentioned that this property has had this use since 1999. We're going on 21 years. For the first maybe 13-15 years, we did this on an annual basis. There's no reason for it. It's very costly. We've asked each time we've come before the board to have a longer term. We kept getting shot down until eventually, the board saw the wisdom of giving us two years. We were very grateful for the two years. Again, we've been doing this for 21 years now. There's not really been any change. We would like for you to consider a longer term. I understand what Mark said, but we've been hearing that same response for 21 years, and there hasn't been any change. This costs probably close to \$10,000 to come before you with this application because we had to update the Site Plan, and that was costly. There is a significant expense every time we come before you, even if it is not that expensive. It doesn't seem

necessary. If you could see your way to a five-year term, we would be appreciative. If something comes up within five years relative to the creek, we're going to be the first ones to know about it, and we'll make adjustments to our use of the property at that point in time. If there is a better use to make of the property within the five years, we will do that, too. Again, it seems a waste of everybody's time to be doing this every two years even. We would appreciate a longer term and maybe some consideration for a five-year term. With that, I don't have any other comments. I'd be happy to answer any questions you may have.

Chairman Elkins: Do you or your client have any objections to the 10 stipulations?

Mr. Holland: The only one is No. 1, which limits the term to two years.

Chairman Elkins: Thank you. Are there questions? Seeing none, because this is a Special Use Permit, a Public Hearing is mandated by the LDO. Is there anyone online who wishes to be heard?

Public Hearing

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

Chairman Elkins: That takes us to a discussion. It sounds like there is a bit of an issue to talk about. What is the thought on extending the Special Use Permit to something beyond two years?

Comm. Hoyt: I remember this issue coming up so often, and I also remember the rationale for not going out to five years. As a compromise of sorts, a Planning Commissioner serves for three years. With a two-year rotation, that means twice within a single term that this might come up. What if we extended it to three years?

Comm. Block: I'd just ask Mr. Klein again, what's the downside? You're concerned about the creek washing half of this away? Don't you have other mechanisms within the LDO for enforcement to bring it back before they use it? I don't know what staff is afraid of.

Mr. Klein: Part of it is just if there was redevelopment going on in the area. Right now, this area is legal nonconforming in practically every way imaginable, including lot sizes, screening, and setbacks. If there were ever an opportunity for a plan to come through to unify the whole thing, either with the current tenants being part of it or not, the concern is that if a Special Use Permit could delay that. Obviously, it may not happen within that period of time, but that is the reason. We had the cell tower at 9617, and we wanted to take it down, but we had leases that were longer, so we had to wait a couple years to do that.

Comm. Block: But if they own the land and someone wants to raze all the property to the north, they couldn't acquire it by eminent domain or anything, could they? The property owner would still have to agree to sell it. How would the other developments on the north side of 104th impact it?

Mr. Klein: I'm not sure if it would be one developer who would want to raze everything or if maybe there were an opportunity for a new tenant to take out some and incorporate others around it. It's just the unknown. You're right that it probably wouldn't be through eminent domain unless the city got involved. I wouldn't say it couldn't happen, but it's likely to be private.

Comm. Block: If that happened and if they decided they wanted to sell this or raze it, could they release the Special Use Permit? Would it have to play out the whole term?

Mr. Klein: Say there's a situation where they didn't support it and they wanted to continue to keep on parking but the rest of the development wanted to do something else. Mr. Holland would probably say that they would reconsider at that time, but we just never know.

Mr. Holland: With all due respect to staff, I really just think that's a red herring. We've been having this discussion probably 15 times over the 21 years we've been there. There are probably 20 parcels of property. In the event that there is some plan to redevelop the area, we're likely to be willing participants if there is a better use of the property than we're making of it. Again, this just seems like a waste of everybody's time, and it's expensive, frankly, for my client to keep coming back every two years. Three years would be great; five years would be better. I can't see what's going to change in three years or five years, but I appreciate you giving me the time.

Comm. Coleman: When did this move to a two-year term?

Mr. Klein: It may have been around 2015 or something like that. I think they were asking for five years at that time as well.

Comm. Coleman: I think this is my third go-around on this one as well. That would make sense. I'm with Commissioner Hoyt. I don't mind extending it to a third year. Obviously, the Governing Body is listening to this, and they'll be the ultimate decider whether they want to do five years. I'm with Commissioner Hoyt to move it to three years.

Comm. McGurren: I would agree.

Comm. Peterson: I must say I first came on the Planning Commission in March of 2019. This is the second time I've heard this, also. I have a feeling that Commissioners Hoyt and Coleman have heard this at least once more than that. It seems reasonable to extend it to, at a minimum, three years. Personally, I would not recommend five, but if someone did want to extend it to four, I would have no problem. I agree that it should be at least

three. This seems to be such a great expense for the applicant to go through every two years.

Chairman Elkins: Thank you. Other comments? Is there a motion?

A motion to recommend approval of CASE 36-21 – MOLLE TOYOTA OFF SITE PARKING – Request for approval of a Special Use Permit, located south of 104th Street and west of State Line Road – with 10 stipulations and a modification to No. 1 to read, “This Special Use Permit shall be limited to three years from the day of approval by the Governing Body” – was made by Hoyt; seconded by Coleman. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

CASE 56-21 – LEAWOOD PLAZA – DALMARK DEVELOPMENT GROUP – Request for approval of a Revised Final Plan, located north of 123rd Street and west of State Line Road.

Staff Presentation:

City Planner Grant Lang made the following presentation:

Mr. Lang: This is Case 56-21 – Leawood Plaza – Dalmark Development Group – request for approval of a Revised Final Plan. The applicant is requesting approval for the addition of a fence surrounding the existing patio on the site. The project is located within the Leawood Plaza development and is zoned Planned Neighborhood Retail. The Comprehensive Plan designates this property as retail. The existing patio is located on the west side of the building, and the proposed fence will surround and be constructed out of aluminum with a wrought-iron design. The application meets requirements of the Leawood Development Ordinance. Staff recommends approval of Case 56-21 with the stipulations listed. I’d be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions?

Comm. Block: I just have a comment. It’s on the heels of this last one. I guess this is a requirement to have to go through this process, but they’re probably going to spend more on this process than they are on the fence. It’s unfortunate.

Comm. Coleman: What is currently in the building?

Mr. Lang: It is the headquarters for the Dalmark Development Group. A few years back, they converted the bank drive-through lane into a patio. In wintertime, when it snows, they have people still try to go through there, so they thought they could put up a fence and add a few more amenities, helping people understand is it no longer a drive through.

Chairman Elkins: Other questions? If not, is the applicant present?

Applicant Presentation:

David Galback and Zach Nichols appeared before the Planning Commission via Zoom and made the following comments:

Mr. Nichols: Thank you, Commissioner Block. We definitely echo your sentiments on the process, but I understand that it is the process. Also, it is an amenity for our employees. Unfortunately, with how long this was a bank, we do have people that still attempt to drive through it. Right now, we have orange barricades to try to deter people from doing that. We look forward to putting up a fence and formalizing this as a patio. We would like to object to Stipulation No. 2. We actually submitted this, wanting to leave the aluminum exposed, which is kind of a galvanized look, which is what we're going for with our design. We would look for approval to strike that and allow the aluminum to be exposed.

Chairman Elkins: Thank you. Any questions for the applicant or their team? Mr. Lang, do you care to comment on the stipulation relating to the color of the railing?

Mr. Lang: Sure. The intent of Stipulation No. 2 is to try to keep the design of the development intact. Currently, they have a lot of bronze and cream colors. We thought it was in keeping with the overall Leawood Plaza development.

Chairman Elkins: Mr. Nichols or Mr. Galback, I don't know that we necessarily want to get into a give-and-take here, but can you respond to the question about consistency with the rest of the development?

Mr. Nichols: I would say that it is our design intent that it does match the current look and feel of the development and will provide a different aesthetic than just making everything match. We have already gotten permission or agreement from our neighbors in the development. They all signed off on the color choice and agree with our design intent of what we thought would look better for our building and the development as a whole.

Chairman Elkins: Thank you. Any other questions?

Comm. Hoyt: Are there current regulations in place for this development that would give guidance on this?

Mr. Klein: I believe this development is old enough that it didn't really have Design Guidelines. Currently, as Mr. Lang indicated, there are a lot of window framings and a lot of metal that is dark bronze. On this particular building, they have some cream areas that go around the buildings and some bronze areas on the roof and the trash enclosure. Staff was just concerned that it was adding a third color on the building. They have black light fixtures left over from the bank and the bronze roof and trash enclosure. They have the cream going around the windows. We were just trying to make it match.

Chairman Elkins: Any other questions? If not, we'll move on to a discussion.

Comm. Block: I would leave it to the designer. With Town Center, we approved something not too long ago that was quite different than the rest of the complex. This is an old site. I don't know that the exposed aluminum would be my choice, but I trust somebody that does this for a living. If someone thinks it will enhance the area, then I'm okay with it.

Comm. Peterson: I agree with Commissioner Block. I would leave it to the designer in terms of color selection. Quite frankly, if they want to go with the aluminum color, I think it would be fine. Out of curiosity, I would be very interested to find out if the cost of the fence exceeded the cost of submitting this to the Planning Commission.

Mr. Nichols: It does, and that's our other thing with the fence. We could go buy a cheap aluminum fence that would conform to the current LDO and meet everything and probably cost us \$10,000-\$15,000 at the most. We're actually doing a completely custom fence that is going to cost us \$50,000. It is quite a bit more. We've invested in our building. We've invested in this parcel. We want to continue to elevate what we can control within the shopping center.

Chairman Elkins: Thank you. Other questions or comments? Is there a motion?

A motion to recommend approval of CASE 56-21 – LEAWOOD PLAZA – DALMARK DEVELOPMENT GROUP – Request for approval of a Revised Final Plan, located north of 123rd Street and west of State Line Road – striking Stipulation No. 2, leaving a total of five stipulations – was made by Block; seconded by Hunter. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

CASE 58-21 – ONE35 MIXED USE – Request for approval of a Revised Final Plan, located south of 135th Street and west of Kenneth Road.

Staff Presentation:

City Planner Katherine Geist made the following presentation:

Ms. Geist: This is Case 58-21 – One35 Mixed Use – Request for approval of a Revised Final Plan. The project encompasses a total of 6.725 acres and is part of a larger 135th Street and Kenneth project. It is one side of the total 18.25-acre Mixed-Use portion. This encompasses the tract to the west of High Drive and north of 137th Street. This plan is a revision to the Final Plan that was approved by Governing Body on February 22, 2021. The Floor Area Ratio for this project will stay the same as what was previously approved at .42. The square footage and discounted percentages are identical as well. There are still three buildings associated with the project. Building A is still solely residential, consisting of 91 units. Buildings B and C have shifted percentages with an increase in residential units and a decrease in office space. There are now 193 residential units for an overall density of 10.6 dwelling units per acre. This was an increase of nine units from the previously approved 184. The two buildings that have non-residential uses in them are planned to have some type of retail and/or office. This plan still meets the Leawood

Development Ordinance requirements for percentages of use within a Mixed-Use development. In response to the nine-unit increase, the below-ground enclosed parking was adjusted to meet the LDO requirement for the increased number of units. In addition, the Landscape Plan was slightly adjusted, though still in conformance with LDO requirements. The final change was to exterior building materials, some of which increased or decreased in percentage across the façade of the buildings. All materials match the approved materials from the previous Final Plan. The set of Design Guidelines that were reviewed previously have been updated slightly to reflect the change in the number of units, as well as incorporating examples of the amenities that will be available with the greater One35 Mixed-Use project. This application meets all requirements of the LDO. Staff recommends approval of Case 58-21 with the stipulations listed, and I'd be happy to answer any questions.

Chairman Elkins: Thank you.

Comm. McGurren: I may have missed it, but where or how did they add the nine units?

Ms. Geist: They adjusted the office space and converted it to units. When the MXD ordinance requirements were implemented, we shifted the percentages around. They were able to have a lower percentage of office. The footprints of the buildings are the same. They were just able to reorganize the space between the two buildings.

Comm. Block: With that LDO change to increase density, wasn't there a requirement to improve or add additional common space or amenities? Have those already been met?

Ms. Geist: I believe those were already met.

Mr. Klein: Actually, I think you're thinking of residential density increasing. They are still within their residential density that they're allowed. The change they're taking advantage of is that office and residential had to be 20%, retail 10%. Those got adjusted down to 15%, 15%, and 5%. They didn't have the same requirement.

Chairman Elkins: Other questions? Ms. Geist, I'm trying to relate the phasing with what we're being told. We contrast west of High Drive with east of High Drive. High Drive only goes about ¼ -1/3 of the way into the development. What is included in what we're being asked to approve tonight?

Ms. Geist: I believe this portion was originally Tract G. The location map in your packet doesn't have roads and public improvements, but if High Drive were to go down the middle, the portion that is highlighted is west of High Drive, which is all we're looking at tonight. Curving up under that would be 137th Street. The tract below is not part of this application.

Chairman Elkins: So, Phase 1 and Phase 3 are not part of this.

Ms. Geist: Correct. I believe this is Phase 2 now. It originally was Phase 4, so that actually was changed with Case 102-20, which we approved back in January. The area to the east of High Drive is still part of the One35 MXD project, but it's separate from this application.

Chairman Elkins: Not to be a pessimist, but I'm concerned about what happens if this development stops with what we're referring to tonight as west of High Drive. If you looked at the portion that is west of High Drive, would it stand on its own in meeting our LDO requirements?

Ms. Geist: I believe so. That was kind of an issue that we talked through a bit previously. The applicant wasn't sure about phasing, so when we did the platting, we came up with a new phasing.

Mr. Klein: Originally, the residential portion was south of 137th Street and would be Phase 1. That bled over on the north side, and they ended up changing to townhomes. The Mixed Use is Phase 2 and Phase 3. It does require the whole thing to be put together. One of the things they did early on was some of the open space in the northeast corner. We had discussion about that at the time. Staff had some concerns with regard to the open space being pushed all the way to the corner. We didn't feel that it was being adequately used. The applicant put some trails in. It was included in the Mixed Use. The zoning they got done was actually Phase 2 and Phase 5 that you see in your packets. Currently, it is zoned MXD. The project itself keeps it unified with a cross-access parking agreement.

Chairman Elkins: Let me make sure I'm tracking with you. If we looked at only what is referred to in this case as west of High Drive, would it meet all the LDO requirements?

Mr. Klein: It would probably be too dense. None of the residential is located east of High Drive; it's all located on that smaller portion in Phase 2.

Ms. Geist: I'll also note that all of the residential units that are not considered assisted living are west of High Drive. There are assisted living units, but they are not considered part of the density calculation. The density calculation does include the entire MXD.

Comm. Block: Phase 1 is still going to start first?

Mr. Klein: It is my understanding that it is still the intent.

Comm. Block: Did I read in this packet that Phase 2 would happen at about the same time?

Mr. Klein: It is possible. Originally, they didn't think the Mixed Use would happen for a long time in the future, and then I guess all of a sudden, they got some interest. It went from being the last phase to being the second. It could be that, depending on the drivers,

they could move up. It is my understanding that they plan on going forward with the residential Phase 1 and this at the same time or closely behind it.

Chairman Elkins: Other questions for staff? I would invite the applicant to join us.

Applicant Presentation

Appeared before the Planning Commission via Zoom and made the following comments:

Patrick Reuter: Henry Klover and Rick Lashbrook are online as well. We think Katherine and Mark did a great job presenting. We agree with the Staff Report and all the stipulations. We are open to questions.

Chairman Elkins: Thank you. Questions for the applicant? I don't think I have any, either. We'll move on to discussion. If not, is there a motion?

A motion to recommend approval of CASE 58-21 – ONE35 MIXED USE – Request for approval of a Revised Final Plan, located south of 135th Street and west of Kenneth Road – striking the traffic analysis, subsection ii, with 35 Staff Stipulations – was made by Block; seconded by McGurren. Motion carried with a unanimous roll-call vote of 6-0. For: Block, Coleman, Hunter, McGurren, Hoyt, Peterson.

CASE 70-21 – 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 required specifications for laminated composite shingles, and solar roofing. **PUBLIC HEARING**

Staff Presentation:

Planning Director Mark Klein made the following presentation:

Mr. Klein: This is Case 70-21 – Leawood Development Ordinance Amendment to Section 16-2-10.3. This pertains to roofing on single-family homes. As you recall, we had a work session on April 13th when we talked about a number of changes with regard to roofing. We have people who are waiting with applications, so in order to respond quickly to them, we are taking them as soon as we can get consensus and approval. Tonight, we are taking two issues. One is with regard to allowing darker colors, as we talked about at that meeting. Currently, the LDO requires weathered wood or the look of weathered wood. We've been getting a lot of applications for darker roofing materials, and I think there is a little bit of conversation as far as contrast. The other thing we would like to change here is to add a solar slate to the options. We now have the Tesla roof, and it is the first roof we've seen that actually looks like a roof as opposed to having panels on top. If you notice in that section, you'll see a requirement that it has to be a uniform look over the whole roof. The reason for that is some of the other solar roofs that are out there don't have a panel on brackets, but they still look like a patch. The Tesla roof makes the whole roof look uniform. The panels look like the rest of the roof. Staff wants to add those changes. We sent corrections today. There is a highlighted version as well. In the existing portion, it should have been "ply" instead of "play." We also added

punctuation to tie requirements together. I have some roofing samples to show you. With regard to the darker materials, we wanted to make sure we didn't get just a black asphalt shingle. We are keeping the five color granules. When we talked to some roofing manufacturers to get a feel for if they felt it would help prevent it, they indicated that they thought it would. That is part of the reason we left it in there. We didn't want just a stark black. Most of the ones we've been seeing are more of a charcoal grey with a little bit of other grey in them.

Chairman Elkins: While you're getting the samples ready, I don't have great confidence we'll finish this in three minutes, so is there a motion to extend our meeting to 10:00 p.m.?

A motion to extend the meeting 30 minutes to end at 10:00 p.m. was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

Chairman Elkins: Our meeting is extended until 10:00 p.m., which is the mandatory adjournment time under our bylaws.

Mr. Klein: In front of you, I've placed roofing materials. Almost all of them incorporate some of the colors. Part of what we want to keep is at least five color granules so we don't have the flat black look. I also put the Tesla shingle farthest to the right. It is supposed to have a slate look to it. It is 3/16 thickness, and it will overlap a little bit. I had a video that I showed at the work session that shows that it shimmers a little bit and does look pretty black, but black slate looks the same. This is probably the best thing out there to allow residents to have the solar ability.

Chairman Elkins: Do we permit black slate?

Mr. Klein: *Inaudible response.* As you notice with the Tesla shingle, it also has texture on it. We have that in the requirements. The Tesla panel is glass. Part of our concern with that is how it would stand up to hail. It actually has a Class 3 impact rating. To achieve this, it is tested with a ball that is 1 ½ inches [in diameter] from 25 feet in the air that is dropped. It is not Class 4 that will get insurance discount, but it seems like it will hold up. Staff would be happy to answer questions.

Comm. Block: On Page 5, it talks about the solar shingle. Should it have a minimum instead of requiring it to be 3/16 inch? The other ones did. That's all I have.

Comm. Coleman: If I recall, did you see these out on a real house in sunlight?

Mr. Klein: I took a drive one weekend, and they had two of them going on in Topeka. One was in the process of being put on, and the other was fully installed.

Comm. Coleman: How reflective are they? Are they going to blind the neighbors?

Mr. Klein: I wouldn't say that. We actually passed a couple synthetic slate ones that also had a little shine to them. This is probably a little bit more than them, but it wasn't like a flash of light.

Chairman Elkins: Are there other questions for Mr. Klein? If not, this is an amendment to the Leawood Development Ordinance, so a Public Hearing is in order.

Public Hearing

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

Chairman Elkins: That takes us to discussion. Any comments? It is interesting to see us entering the modern world of a truly electric roof. It will be interesting to see when the first one comes into Leawood. If there is no further comment, is there a motion?

A motion to recommend approval of CASE 70-21 – 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 required specifications for laminated composite shingles, and solar roofing – including the revision to add the word “minimum” to Article 2 on Page 5 - was made by Block; seconded by McGurren. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Hunter, Hoyt, Peterson.

Chairman Elkins: Is there any other business to come before the Commission? If not, I want to thank the commissioners. This was a good meeting. We discussed some pretty significant issues, and we got done before 10:00. I don't think a final decision has been made yet, but I would note that the Governing Body has begun discussing opening City Hall for business possibly as early as June 1st. We'll have to have discussion with staff about whether we'll continue to proceed with Zoom calls. I've heard we're the most popular television show sponsored by the City of Leawood with a maximum of about 150 people who were at one of our meetings. There will be more to come on that. Hopefully, we will begin to return to a more normal meeting format when we get to June.

Mr. Klein: With regard to the Zoom meetings, I think it is an option that the city wants to keep open. Even if we have in-person meetings, we want to allow that. It seems like it really helped as far as participation. With regard to masks and things like that, we will still require the masks in common areas, similar to what we're doing now with the social distancing outside Council Chambers, and then they can come in one at a time, or a team could come in together at least for now. I also wanted to remind everybody about the Mid-America Regional Council awards ceremony. It is June 11th. Debbie sent out an invitation. It is through Zoom, but it would be great if you would like to sign up for it.

Comm. Coleman: I think the Zoom meetings have really gone well for us. I think we've had great attendance during it. I also think it allows the public a great opportunity to participate in the process that they haven't had before. They don't have to come down to City Hall and sit for potentially four hours until their case is heard. They can sit in the comfort of their homes. I think it's been a great thing for public participation.

Comm. Peterson: Do you have any idea what kind of participation has there been in terms of viewership from the public, either by Zoom or just viewing the meetings on YouTube?

Chairman Elkins: Our IT department has been tracking that. As I said, the Planning Commission has both the highest single attendance for a single meeting as well as the highest average. We can get an email out with the specifics on that. With that, we'll stand adjourned. Thank you all for a great meeting.

MEETING ADJOURNED