

**City of Leawood
Planning Commission Meeting
January 25, 2022
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: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson, Elkins. Absent: McGurren.

APPROVAL OF THE AGENDA

Chairman Elkins: There is a quorum present. Does staff have any revisions to the agenda?

Ms. Geist: We do not.

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

APPROVAL OF MINUTES: Approval of minutes from the November 23, 2021 and December 14, 2021 Planning Commission meetings.

Chairman Elkins: Are there any revisions to the November 23, 2021 draft minutes? Is there a motion?

A motion to approve the minutes from the November 23, 2021 Planning Commission meeting was made by Coleman; seconded by Block. Motion carried with a unanimous vote of 7-0. For: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: Are there any revisions to the December 14, 2021 Planning Commission meeting?

A motion to approve the minutes from the December 14, 2021 Planning Commission meeting was made by Coleman; seconded by Block. Motion carried with a unanimous vote of 7-0. For: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

CONTINUED TO THE FEBRUARY 22, 2022 PLANNING COMMISSION MEETING:

CASE 110-21 – BI-STATE CENTENNIAL PARK – INTERNATIONAL AVIATION – Request for approval of a Preliminary Plan and Final Plan, located north of 141st Terrace and east of Kenneth Road. **PUBLIC HEARING**

CASE 144-21 – MARKET SQUARE – ADVANCED AMBULATORY SURGICAL CENTER – Request for approval of a Final Plan, located north of 135th Street and east of Mission Road.

CASE 154-21 – MISSION FARMS – PARCEL E – Request for approval of a Preliminary Plan, located north of Interstate 435 and east of Mission Road. **PUBLIC HEARING**

CASE 03-22 – CHURCH OF THE RESURRECTION – ADA DROPOFF – Request for approval of a Revised Final Plan, located south of 137th Street and east of Nall Avenue.

CONSENT AGENDA:

Chairman Elkins: Does anyone wish to withdraw a case for additional consideration?

Comm. Peterson: I just want to make a correction to the case. On the very first page, it reads “located north of W. 123rd Street and east of State Line Road.” I believe it should be west.

Mr. Klein: That is correct.

Chairman Elkins: We’ll note the change to the title of the case.

CASE 177-21 – LEAWOOD PLAZA – 2nd PLAT – Request for approval of a Final Plat, located south of 121st Terrace and west of State Line Road.

CASE 02-22 – HALLBROOK OFFICE CENTER – 5th PLAT – Request for approval of a Final Plat, located south of College Boulevard and west of State Line Road.

CASE 04-22 – CREEKSIDE MONTESSORI SCHOOL – WALL SIGN – Request for approval of a Final Plan, located north of I-435 and west of State Line Road.

CASE 05-22 – RANCHMART – NBKC – Request for approval of a Final Plan, located north of 95th Street and east of Mission Road.

CASE 06-22 – LEAWOOD SOUTH COUNTRY CLUB – DECK AT 18th GREEN – Request for approval of a Revised Final Plan, located south of Overbrook Road and east of High Drive.

CASE 08-22 – S. PAIGE SANDER CPA, LLC (8000 LEE BLVD.) – WALL SIGN – Request for approval of a Final Plan, located south of Somerset Drive and west of Lee Boulevard.

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

NEW BUSINESS:

CASE 82-21 – COCHERL FAMILY SUBDIVISION – HEARTLAND ESTATES LOT 1
– Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north
of 143rd Street and east of Kenneth Road. **PUBLIC HEARING**

Staff Presentation:

City Planner Catherine Geist made the following presentation:

Ms. Geist: This is Case 82-21 – Cocherl Family Subdivision – Heartland Estates – Request for approval of a Revised Preliminary Plan and Revised Final Plan. This is located north of 143rd Street and east of Kenneth Road. On the project site is an existing 2-story office building with a total building square footage of 10,550 square feet. The applicant is requesting approval of a Revised Preliminary Plan and a Revised Final Plan to expand the parking lot, located to the south of the building, as well as to add landscaping, a brick paver patio, and a retaining wall on the west side of the building. Patio furniture will be approved with a separate Final Plan at a later date. Additional changes include the addition of 5’ wide sidewalk connections that connect to existing sidewalks along 143rd Street and Kenneth Road. A 7’ concrete sidewalk will be added to the front of the building to accommodate the parking lot. No changes are being made to the building elevation with this application. The addition of the parking lot is the largest change to the site at this time with 19 stalls being added. Once constructed, there will be 43 total stalls onsite. Two new parking lot luminaire will be added to light the southern parking lot, and they will match what is existing onsite. Two new flagpoles are being added at 20 feet each, and the plan is to relocate an existing one at 24 feet. Landscape berms accented with trees and shrubbery are proposed to shield the parking from view along 143rd and Kenneth Road. Additional landscaping will be added to the entirety of this site in the form of additional trees and shrubbery. A variance was granted by the Leawood Board of Zoning Appeals on October 27, 2021, allowing the applicant to deviate from the 60/40 Parking Frontage Rule. In addition, the applicant is proposing to extend the parking field approximately 21 feet past the western face of the building. All of the existing parking lots to the north end at the west end of the buildings. Staff would recommend that the parking lot expansion on the south side of the building be pulled back to the west end of the building to match the parking lots that are directly to the north. This application meets all requirements of the Leawood Development Ordinance, and staff recommends approval of Case 82-21 with the stipulations in the Staff Report. I’d be happy to answer any questions.

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

Comm. Block: If the parking lot were shortened or brought more to the east, how many spots would they lose? It goes 21 feet now; you’d let them go 6 feet.

Ms. Geist: I believe they’d lose about two spots. Currently, they have a turnaround at the end.

Comm. Block: If they still had a turnaround, wouldn't they lose more than that?

Ms. Geist: Our proposal was to have them back up to where it extends 6 feet past the front of the building to allow for the turnaround but still be closer to be in line with the rest of the buildings.

Comm. Block: If they lost the two spots, what would the ratio be?

Ms. Geist: The Business Park (BP) district does not have a parking ratio. We used the office use of the building to calculate parking, which is 3.0-4.0 parking spaces per 1,000 square feet. This put them at 42 parking spaces. They have 43. If they lose the two spots, it is below the recommendation, but it is not a requirement.

Comm. Block: If they lost the two spots, would people have to go park on the street again?

Ms. Geist: I believe that would be the result, yes.

Chairman Elkins: Thank you. So, if they lose the two spots, individuals could have to park on the street?

Ms. Geist: That would be a good question for the applicant. They do have the existing parking lot to the southeast portion of the site. I don't know how many stalls it has. They are adding 19 spots to what are already there. I'm not sure if those are full on a daily basis.

Chairman Elkins: In staff's proposal, they would add 17 rather than 19.

Ms. Geist: Correct.

Comm. Stevens: Maybe it would help to further explain the details of the 60' wide pipeline easement along where they want to expand. That is for two major gas lines?

Mr. Klein: A major gas line easement goes along the west side of the buildings, which is why they have the current building setback.

Comm. Stevens: Is the 60' dimension from the property line or from the right-of-way?

Mr. Klein: I'm not sure if it is exactly along the property line.

Ms. Geist: It looks like both easements do go from the property line.

Comm. Stevens: In the site drawings, they indicate where the easement line occurs. There are notations that say that the easement is from the right-of-way, extending to the farthest setback line on the east and that the easement is shown from the right-of-way to the building setback line. It looks like one or the other is not correct.

Mr. Klein: It could be that it angles a little bit. It might be a good question for the applicant.

Comm. Stevens: Is it correct that paving sidewalks, patio, and parking can be within the easement?

Mr. Klein: With a lot of the easements, concrete can extend into it with other restrictions under the pipeline, such as tree roots.

Chairman Elkins: Thank you. Ms. Geist, could you explain the underlying reasons for staff's desire to reduce the size of the parking lot?

Ms. Geist: Primarily, the reason is aesthetics (*shows aerial view*). It is reconfigured so there is a parking lot on the southeast side. It runs linear, north-south.

Chairman Elkins: If I read the Site Plan correctly, part of this patio also extends beyond the hypothetical red line. Is it staff's position it should be reduced as well?

Mr. Klein: The concern about the parking lot is that the patio is farther north. They went to the Board of Zoning Appeals to get the variance from the 60/40 rule. Staff is trying to limit it to what they had on the rest of the properties. The aerials show spaces on the site, but there are cars parked on the street as well. It seems that cars may be on the street no matter what. We are trying to hold them to the line of what they had before.

Chairman Elkins: Thank you, but given the variance, what is currently planned is for the patio to exceed the red line. Staff is not arguing that it ought to be reduced as well; is that correct?

Mr. Klein: Correct, and I believe that is outside the 90 feet from the property line. The 60/40 rule is from the property line back 90 feet.

Chairman Elkins: I understand that. I'm just trying to get to the seeming inconsistency that staff's position is the parking should not encroach on the hypothetical red line, but it is okay for the patio to do so.

Mr. Klein: Correct.

Chairman Elkins: On the aerial, it shows parking spots to the east for 6-10 cars that are outside what I would expect as a corresponding red line on the east side. That, at some point, was deemed to be permissible?

Mr. Klein: We thought that the east side would be maintaining consistency along the street.

Chairman Elkins: Moving north from those 8-10 cars, there is green space in what is something like a median. Farther north is more green space.

Mr. Klein: Correct.

Chairman Elkins: From a strict view of symmetry, it is still asymmetrical in that cars are on the east side, but not on the west side. Presumably, is that because of the aesthetic between Kenneth Road and Overbrook?

Mr. Klein: That is true, and I believe that those cars have already gone into that area.

Chairman Elkins: Thank you. Any further questions for staff? I would invite the applicant to step forward.

Applicant Presentation:

Lance Scott, CSF Engineers, 142 E. 104th Street, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Scott: You guys already figured out the big issues. One is if we're going to reduce the parking or not. We went to the BZA with an exact Site Plan. They were all in agreement. Everybody knows we're way short of parking on the site, so we're parking on the street. They're still hiring, so they need the parking spaces. We meet setbacks. It is fully screened. We have the same BZA approval on the north side. The road sits higher, so some will be visible. With the patio extension, it lines up. They just need parking. We'd therefore ask for you to not include Item 4. Regarding Item 5, there is already a cross-access easement, so I don't think we need it. It's platted. Number 6 is asking that all existing utilities and power lines adjacent to the right-of-way be placed underground. Essentially, the big overhead power lines that run down Kenneth Road stops. The last power pole is almost adjacent to the north face of this building. We'd be talking about moving it back 40-50 feet. Of course, it would still be all the way down Kenneth Road. That's a pretty expensive item to try to save 40-50 feet of overhead line. We agree with the rest of them. On the easement, we are inside the easement, but we're not over the gas line. Basically, my understanding is if the gas company has to tear up improvements for any reason, we have to replace them at our own expense. I'm happy to answer any questions.

Chairman Elkins: Thank you. Commissioner Stevens, did you want to explore your thoughts a bit more?

Comm. Stevens: I think I understand the risk in building over the easement. Part of my questions were related to the plan. Do you understand which lines those are pointing to?

Brain Scovill, City Engineer, appeared and made the following comments:

Mr. Scovill: I just checked into the county documents, and there appear to be two separate easements filed with the county. Both represent 60 feet in width, but they appear to be offset. There are two overlapping easements but not evenly so. I also checked the plats, and they represent the same information.

Comm. Stevens: So, maybe one of the easements really does go to the building setback line.

Mr. Scovill: It's accurately shown. There are two easements. They could have been labeled better.

Comm. Stevens: The one that's more stringent would be the top one. It appears that all those improvements, including the patio and permanent structures would be in it. I understand your comment that you understand that the owner has the risk if excavation occurs. Hopefully, the excavation would occur to the west if necessary.

Chairman Elkins: Thank you. Additional questions for Mr. Scott? Could you comment on how much of a difference two parking spots means?

Mr. Scott: It's an existing business, and they're already short. With 19, they may still be short, so every parking space is one less person parking on the street. They've got plans to hire people. With the patio, it really lines up with it, and it's not going to be visible except from an aerial perspective.

Chairman Elkins: Even with the 19 spots, your client will be short parking?

Mr. Scott: Potentially, yes, and there is overlapping with shifts. That is probably why it looks like there are open spaces. They need as many spaces as they can get.

Chairman Elkins: If you could go over your objection to the stipulation on burying the power lines, it would be helpful. This is a longstanding requirement with Leawood.

Mr. Klein: Staff would be alright with the removal of that. We understand that all the rest of the properties are there as well.

Chairman Elkins: So, staff would be agreeable to striking No. 6?

Mr. Klein: Yes.

Comm. Hoyt: Stipulation No. 5 with the cross-access parking easement, Mr. Scott says is already on file with the development. Is that your understanding, Mr. Klein?

Mr. Klein: We understand that there is a cross-access parking easement; however, parking lots are changing. If it covers the entire parking, we would be fine with it.

Comm. Hoyt: That could theoretically be worked out?

Mr. Klein: Yes, I think we're fine.

Chairman Elkins: It strikes me that if it's already done, having it in as a requirement is checking a box that is already completed.

Mr. Scott: I just didn't know if it meant we had to record a separate document.

Chairman Elkins: I think they're just looking for a recording of the cross-access easement, and it sounds like that is done.

Comm. Stevens: The remaining item is the parking. I had a feeling part of the concern with going over 4 per 1,000 was a reason to pull the parking back, but it sounds like it is only an aesthetic issue of aligning that. Parking ratios don't apply here.

Ms. Geist: It's a bit of a different situation because of the BP district not having a set ratio. In this situation, we refer to the use, so we recommend staying with the proposed ratio.

Comm. Stevens: The two spaces could be acceptable as shown, then.

Chairman Elkins: It does raise a question for me. The current use is office, and I had the impression from other sources that they did more on that site.

Ms. Geist: The architect informed us that it was used as an office. It is possible that one of the buildings to the north is used for something else.

Chairman Elkins: That would still be a conforming use?

Ms. Geist: Within the BP, yes.

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

Public Hearing

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

Chairman Elkins: That brings us to a discussion of the plan and the disagreement regarding the parking.

Comm. Stevens: It sounds like the expanded parking design and patio should all be acceptable. The added two spaces don't seem to be that objectionable. I could make a motion if there is no other discussion.

Chairman Elkins: Other comments? I join with Commissioner Stevens for a couple reasons. It strikes me that one of our planning goals should be to keep the streetways as clear as possible. Certainly, parking is appropriate, but if we could keep parked cars off the street, it reduces the chance of collisions. This proposal may not solve the problem, but it could help. It seems inconsistent that we permit the asymmetry of parking on the southeast corner but not on the southwest corner. The patio is outside that line, so my thought would

be to concur with the applicant in striking No. 4. We already agreed that No. 6 would be stricken.

Comm. Block: I agree. I assume the two buildings to the north are older and the building to the south is oldest.

Ms. Geist: Yes, the building farthest north is the news. The building on the south was built in 1996.

Comm. Block: The ones in the middle go farther west than the building to the south. It wasn't a hard, fast line that all the buildings had to be in line. They encroach to the west, and the parking lot goes farther than they do. The landscaping seems to be sufficient to shield the area. I don't think it will stick out and look odd.

Comm. Hoyt: I'll echo those comments. Essentially, as inconsistencies go, this doesn't seem to be major. It seems that there is a case to be made that the functional gain would outweigh the slight aesthetic inconsistency.

Ms. Geist: I would like to note that, with the removal of any stipulations, we will need to edit No. 28 to reflect the current number.

A motion to recommend approval of CASE 82-21 – COCHERL FAMILY SUBDIVISION – HEARTLAND ESTATES LOT 1 – Request for approval of a Revised Preliminary Plan and Revised Final Plan, located north of 143rd Street and east of Kenneth Road - with the following modifications: removal of Stipulation Nos. 4, 5, and 6; modification of No. 28 to reflect Stipulations 1-25 - was made by Stevens.

Chairman Elkins: I just want to confirm that staff is fine with removing No. 5.

Mr. Klein: I think we're okay with the way it is stated on the plat.

Motion seconded by Hunter. Motion carried with a unanimous vote of 7-0. For: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

CASE 83-21 – TOWN CENTER PLAZA – LOT 12, NORTH RESTAURANT – Request for approval of a Preliminary Plan and Final Plan, located south of 117th Street and east of Nall Avenue. **PUBLIC HEARING**

Staff Presentation:

City Planner Grant Lang made the following presentation:

Mr. Lang: This is Case 83-21 - Town Center Plaza - Lot 12, North Restaurant - Request for approval of a Preliminary Plan and Final Plan. This case was recommended for approval on August 24th. It was considered at the September 21, 2021 and October 18, 2021 Governing Body meetings. The application was remanded back to the Planning Commission for further consideration. This Revised Plan shows a reduction of the

previously approved porte-cochere. It was reduced in size, allowing for the building to be shifted 45 feet to the west. The application meets all requirements of the Leawood Development Ordinance, and staff recommends approval of Case 83-21 with the stipulations. I would like to note that we have a duplicate of Nos. 2 and 24. I would recommend removing No. 2 and adjusting No. 31 to refer to 30 stipulations.

Comm. Block: I know there were concerns about how valet would be handled. I think it was Commissioner Hoyt's recommendation that it shall not permanently restrict parking.

Mr. Lang: Yes, that stipulation stays with this application.

Comm. Block: They can do valet parking; they just can't permanently create an area to park the cars.

Mr. Lang: That is correct.

Comm. Block: What about facade issues that staff had on the south and east sides, including the trash enclosure? I assume, since they were not called out, that they have been corrected.

Mr. Lang: That is correct. The applicant added additional screening material to the trash enclosure as well as adjusting the facade materials to match the rest of the building.

Comm. Block: Regarding the sewer easement, it sounds like there was an issue, which is why it couldn't be moved to the west. Now, the sewer easement is not as much of a concern, but if I read the Governing Body minutes correctly, no one has actually reached out to whoever controls that easement.

Mr. Klein: I believe the applicant is going to work through that.

Comm. Block: Finally, for now, 46 parking spots were saved. Hereford House was concerned about the loss of 100-something spots initially. Do you know what that net number is now of how many spots would be left for Hereford House? I understand there's a cross-access agreement.

Mr. Grant: The reference to 46 spots compares the old plan to the new plan, which saves 46 additional spots.

Comm. Block: How many spots are directly in front of Hereford House? It was hard to follow. They're required to have a certain number based on code. They have since said that they need more based on their banquet space upstairs.

Mr. Lang: They have a private agreement with Town Center Plaza to make up for the deficiencies they had with the LDO at that time. Currently, their site is under-parked, but they have the private agreement in place. It may be modified with this application.

Chairman Elkins: At the end of the day, how many parking spots are being lost through this plan?

Mr. Lang: They are removing 103 parking spaces.

Chairman Elkins: Apparently, for certain zoning districts, there are requirements in the LDO for parking spaces based on the use of the property. We talked about the property being under-parked. We often respond to applicants by saying that what they are asking for is not permitted by the LDO. It seems that there has been a great deal of discussion both here and at Governing Body about whether we should proceed with the plan being under-parked. Can you expand on what our authority is or what the LDO requires and how it is that we can proceed with increasing the under-parking situation?

Mr. Lang: Restaurants within Town Center Plaza or Leawood in general are to have one parking stall for every two permanent seats. Looking at the development as a whole and not just Lot 12, they are deficient with all of the out lots. What is happening over time is the out lots come in and borrow from the main center. There are going to be times of higher increased demand. The LDO allows for a parking study, and if it says they can dip below what is required, it would be allowed. The application has provided a parking study, and it states that they would be adequately parked, especially on the north side.

Chairman Elkins: Is staff satisfied with that parking study?

Mr. Lang: Yes.

Chairman Elkins: Do you have any sort of visual that would help us see the before and after?

Mr. Lang: I don't have one, but the applicant may be able to share one.

Chairman Elkins: In the file given to us referring to changes since Governing Body consideration, it states that the applicant is currently working with neighboring property owners to create an agreeable solution. I wondered what the solution was for and assumed it is the ongoing dispute between Hereford House and the shopping center as to what parking is necessary. Can you expound on staff's view of the status of those discussions?

Mr. Lang: Staff has been in contact with the applicant and adjacent property owners. They have been in communication. There are a few moving pieces as far as getting something documented, but it seems that they are working toward a solution as to the shifting 45 feet to the west. They also needed to adjust where they were borrowing spaces from the parking center and where they would be allowed to park.

Comm. Coleman: I noticed the Staff Report is missing the normal Staff Recommendation section on the top. I wanted to confirm that staff is recommending approval.

Mr. Lang: Yes, it is covered with the Staff Recommendation on page 5.

Comm. Peterson: I have a question regarding the calculations from the parking. On page 3, it is indicated essentially that there is one parking space per two seats. It indicates that 103 spaces will be lost but 46 will be saved. The Town Center Plaza development is currently deficient 156 parking spaces. With the addition of this building, Town Center Plaza will be deficient 430 spaces. If I'm correct, the way staff got to the 430 is from taking the 156 that are currently deficient and adding to that the 103 that are removed, which comes to 259. Then, to get to the 430, I believe, since there will be 341 seats in the restaurant divided by two spaces, it rounds out to 171. Is that how you come to 430?

Mr. Lang: That's correct.

Comm. Peterson: So, even though they are 430 spaces deficient, they are allowed, because of the parking study, to end-run that?

Mr. Lang: That's correct.

Comm. Peterson: As I understand, there is an agreement between all of the tenants within Town Center Plaza. They can use the common parking area.

Mr. Lang: Yes, there is a cross-access parking agreement, and they also have individual private agreements with the tenants. They are allowed to use spaces from the main center.

Comm. Peterson: As I recall from the August meeting, one of the biggest objections was the valet parking. At that meeting, we basically decided to not allow valet parking to the east of the building to offset the concerns of Hereford House. Therefore, the valet parking would be shifted to the west or possibly south of the new building.

Mr. Lang: That is correct. The face of the building is to the west. It is likely that they would park closer to the Macy's side or the AMC side.

Chairman Elkins: Thank you. Are there any other questions for staff? If not, I would invite the applicant forward.

Applicant Presentation:

Curt Petersen, Polsinelli Law Firm, 900 W. 48th Place, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Petersen: Tonight, you've heard that the applicant and shopping center have been working with the adjacent restaurant, both the business and the property owner. I'm happy to report that, as staff accurately indicated, we are very close. We're actually going to ask for a continuance, which hopefully doesn't frustrate everyone. We're doing this because the dialogue is important, and it's down to one other issue. We'd like to see you one month from tonight and get into it all in one discussion. Several of the items that are stipulations will be taken care of on a private basis with the attorneys for both the business owner and the property owner agreeing with the shopping center. It should actually make life a lot

simpler. A lot of the questions you're asking won't even be relevant. With your permission, we would ask to put this off one more time and see you next month.

Chairman Elkins: Thank you. Given that this does call for a Public Hearing, I'm inclined, regardless of what the commission decides to do with your request for a continuance, to proceed with it. I appreciate the request for continuance to try to resolve the concerns. I'll open the Public Hearing to see if there are any other disputes that you need to address. Before we go there, do commissioners have questions for Mr. Petersen?

Comm. Coleman: I have a question for staff. If we do a continuance, do we have a Public Hearing when he comes back?

Mr. Klein: The Planning Commission should have the ability to decide that. I think it is fine to reopen the Public Hearing when it comes back. I also think it's a good idea to open it now to hear other perspectives.

Chairman Elkins: That's what we've done in the past in similar circumstances.

Comm. Coleman: I just wanted to make sure we have a Public Hearing next month as well.

Chairman Elkins: Other comments about the continuance? If not, Mr. Petersen, we appreciate the offer. I'm going to open the Public Hearing to make sure you don't have any other issues you weren't aware of.

Public Hearing

Greg Musil, 5250 W. 116th Place, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Musil: We are working with Mr. Petersen and his client. We hope we can get to a point next month. I would ask that you hold a Public Hearing next month on the chance that we are not completely in agreement. We support Mr. Petersen's request and thank him for it.

I'm here on behalf of Hereford House as a tenant. I also have authority to speak on behalf of Mr. Richard Heard, who is the owner of out lot No. 6. Both parties support a continuance.

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 vote of 7-0. For: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: With that, I would entertain either discussion or a motion to continue.

A motion to continue CASE 83-21 – TOWN CENTER PLAZA – LOT 12, NORTH RESTAURANT – Request for approval of a Preliminary Plan and Final Plan, located south of 117th Street and east of Nall Avenue to the February 22nd Planning

Commission Meeting - was made by Coleman; seconded by Hunter. Motion carried with a unanimous vote of 7-0. For: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: Case 83-21 will be continued. Thank you to Mr. Petersen and Mr. Musil.

CASE 152-21 – MACALLISTER PLACE – Request for approval of a Rezoning, Preliminary Plat and Preliminary Plan, located south of 135th Street and east of Roe Avenue. **PUBLIC HEARING**

Staff Presentation:

City Planner Grant Lang made the following presentation:

Mr. Lang: This is Case 152-21 - Macallister Place - Request for approval of a Rezoning, Preliminary Plat, and Preliminary Plan, located south of 135th Street and east of Roe Avenue. The applicant is requesting Rezoning from SD-CR, SD-O, and RP-3 to RP-2. This would create a new single-family residential development consisting of 63 lots, 7 tracts, on 21.16 acres for a density of 2.5 dwelling units per acre. Currently, the plan does not follow the 135th Street Community Plan or the Comprehensive Plan for the City of Leawood. There are existing properties on this site: a bank on the corner of 135th Street and Fontana and an office along 137th Street. Along 136th Street, which is an internal street, they have an amenity area for a dog park. On the south, near 137th Street, Tracts F and G show two open amenity areas to be landscaped. The application does meet all requirements of the LDO. Staff recommends denial of Case 152-21 with the stipulations listed in the Staff Report. I'll be happy to answer any questions.

Chairman Elkins: Thank you. Questions for staff?

Comm. Block: Mr. Lang, if I remember correctly, we saw a case similar to this with a different developer, which is why we don't have other information.

Mr. Lang: That's correct. It's a different developer and a similar plan on the same tract of land. It doesn't have history as far as this project goes.

Comm. Block: Can you refresh my memory as to what we did and what Governing Body did?

Mr. Lang: I failed to mention that we previously recommended denial on the project. There are setbacks for the zoning districts of SD-CR and SD-O. This project went before the Board of Zoning Appeals and got variances to the required setbacks. At that time, the Planning Commission recommended denial as well. The Preliminary Plan was approved by Governing Body.

Mr. Klein: After that, the approval was rescinded for the Final Plan.

Mr. Lang: Was it rescinded because the developer pulled out?

Mr. Klein: Yes; there was discussion about how the streets would be brought up to public and who would be in charge of constructing them.

Comm. Block: I thought the streets were too narrow, and they were going to be private streets so they wouldn't have to comply with the wider street requirement.

Mr. Klein: It was determined that they would be public streets. They worked with Public Works to determine the standard.

Comm. Block: As long as they meet that requirement, they will be fine?

Mr. Klein: Public Works could better answer, but I believe that they are proposed to be public.

Mr. Scovill: After discussion with the applicant and City Administrator, Public Works provided revised stipulations to pavement thickness and pavement widths. We are satisfied with those stipulations.

Comm. Block: With the last proposal, there was discussion about maybe having to move storm drains and curbs.

Mr. Scovill: The storm drains don't need to be moved back, but because we are raising the road up to provide the additional thickness that is required, the storm drains will need to have new tops installed.

Comm Block: It seems like the Phelps letter dated 11/18/21 ends without information. I don't know if I'm missing a page. It is right after the rendering.

Mr. Scovill: I believe, in this instance, we submitted the cover letter for the existing stormwater study.

Chairman Elkins: Is this the entire letter? There is no signature on it.

Mr. Scovill: I believe this is the entire cover letter. There might be a signature on the last page.

Comm. Coleman: Mr. Lang, on the second page of the Interact Meeting dated 11/10/21, there was a question about communication with and feedback from the city. The answer referred to a work session with City Council members. Was there a work session on this particular project that City Council held?

Mr. Lang: I believe it went to Governing Body meetings once or twice.

Mr. Klein: That would have been the previous case. I don't believe so, but you could ask the applicant.

Comm. Hunter: You said this doesn't meet the 135th Street Community Plan. Did you also say it doesn't meet the LDO?

Mr. Lang: It does meet the LDO; it does not meet the Comprehensive Plan or the 135th Street Community Plan.

Comm. Hoyt: To follow up on that, am I safe in assuming that staff's primary reason for recommending denial is its failure to conform to the Comprehensive Plan and, most particularly, the 135th Street Community Plan?

Mr. Klein: That would be the primary reason. In the 2008-2009 Comprehensive Plan, the Mixed-Use zoning was added. In 2014, the 135th Street Community Plan came into effect. This site was designated for retail and office. Staff has concerns with residential property along a very busy street. Currently, the plan shows a wrought-iron fence.

Comm. Hoyt: We recently found out that there will be a February 7th City Council work session related to the 135th Street Community Plan. That is just a couple weeks from now. I know we can't peer into the future with certainty, but is it your impression that the meeting could potentially change and shed a different light on this application?

Mr. Klein: I don't want to speculate. I know Governing Body has scheduled the work session to talk about the 135th Street Community Plan.

Comm. Hoyt: This might be more for the applicant, but I don't know if the applicant is aware of that and if it would have a bearing on the applicant's interest in waiting to have this case heard.

Comm. Stevens: I see that staff says that the plan does not conform.

Mr. Klein: Just to clarify, there are two commercial properties on this site: a former bank and an office building. Currently, if they rezone the property to residential, those two buildings would no longer meet the residential setbacks. The one along 135th Street is currently zoned SD-CR (Planned General Retail). It requires a minimum of 125' setback to the zoning change. The office building on 137th Street has a minimum residential setback of 75 feet. Rezoning would cause those to not be met; however, the applicant took those two properties to the Board of Zoning Appeals to get a variance to the setback requirements. Technically, they don't meet the requirement, but they did get variances for them.

Chairman Elkins: Are there any single-family residential developments along 135th Street between State Line and Nall?

Mr. Lang: There are a couple multi-family developments.

Chairman Elkins: Cameron's Court, which was recently approved by City Council, does not include single-family residential on 135th Street, does it?

Mr. Klein: No, it has them on 133rd Street.

Chairman Elkins: I'll ask Mr. Petersen that same question. Are there other questions for staff? If not, I'd invite the applicant to step forward.

Applicant Presentation:

John Petersen, 11817 Norwood Drive, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Petersen: I'm actually appearing as a retired lawyer and as part of the Macallister Land Development Company. Travis Schram, President of Grata Development, is a development partner. Tim Tucker with Phelps Engineering has been our civil partner. Tim and I are the only two who were involved one year ago. We've had commentary about what we're looking at tonight. We had this piece of property in front of the Planning Commission a little over a year ago. Tonight, we're essentially bringing back the same plan. We've heard about road conditions and details worked through not only in terms of the roads but also the lot layout, variances, and deviations, all pursuant to the LDO. In essence, we bring you a fully vetted and complete set of brand-new stipulations, referencing the Public Works memo. This is rare for me, but we agree with every stipulation and each element of the Public Works memo. We know what we're getting into. With that background, I'll talk about what happened last time. The existing additions were established in 2005-2007 by the Villaggio developer. It established the current Mixed-Use plan for the site with internal streets, a grid network, and density. The reason we're still talking about this vacant area is because everything there, including the streets, buried power lines, stormwater system, were done through debt laid against the property through assessments. This killed the Villaggio project. Even though it was bad times, we've now seen fabulous times, and the market will not respond to the concept. The property has \$4 million of debt. The new developer had to work with all of this to create a project. There was disagreement about the streets. We would have gotten through that. The financing piece caused a chunk to fall out. We're back with a plan, partners to execute the plan and financing in place. In fact, we will be ready to sign that development agreement even before we get to City Council because there will be no piece of the financing dropped this time. It is critical and essential that we have a use on the property that won't be another chapter in the story of 135th and Roe: nice plan, nice concept, no market. I'll speak about why we think this makes sense, not just from a financial standpoint but from a planning standpoint. In the interim, I'd like to bring Travis up for a minute.

Travis Schram, President of Grata Development, 6300 W. 143rd Street, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Schram: Thanks for having me tonight. We're excited about this project. Grata Development, as you may or may not know, is co-officed with the Burrell Family Office.

We have a very close relationship with John Burrell and his family. They're excited about this project. We have significant experience in single-family residential development. We've got multiple developments in Johnson and Leavenworth Counties. We also have experience working with projects that have, at one time, flourished but have failed to do so over time. We are currently engaged in the Falcon Lakes Golf Course in Basehor, Kansas, which, at one point, went into bankruptcy. We've redeveloped it and are selling houses in that area for over \$1 million. These developments take a lot of cash capital. We think we're uniquely positioned to engage in this project. We've done our research and have lined up our debt financing. We believe we can unstick this thing, get it going, and put together a project that meets the high standards of Leawood but also provides a variety of housing in that range by taking advantage of some of the infrastructure and being a very conscientious developer. It should appeal to younger families and empty-nesters looking to downsize as well.

Mr. Petersen: We went back to a work session with City Council with no voting, just advice. This is a new group with the highest of integrity. Last time, staff said exactly the same thing: it wasn't as pretty because we had to work through a lot of nuances to be sure we complied with the LDO. Sometimes it took variances that would protect the developer. Everybody is excited about this. It doesn't comply with the Comprehensive Plan. I would merely state that it would not be a matter of legality; it would be a matter of philosophy. You've been bombarded with discussions about the corridor and the Master Plan. I will say that it is not going to be a primarily commercial corridor. Bob Regnier paid for studies that talked about absorption and what was available. We stand on the fact that the answer isn't to build more retail right there. Cameron's Court will probably fill the bag about as full as it can be in the appropriate location. The market is not to segregate everyone by reverse frontages, putting everyone north and south of the frontage roads. There are folks who want to live in Leawood who want to be up where it's busy. They want to be where it's a five-minute walk to have dinner across the street. It's a new day, and we think this is just one of those niches that brings interest. We stand on the economics, and we stand strong. We think it speaks to good planning. Our problem is to get this back from an international bank to somewhere we can execute on the plan. We need to move forward.

Comm. Block: You said you're part of the ownership group?

Mr. Petersen: Yes.

Comm. Block: It might have been referenced in the Interact notes, but there were a lot more amenities within the complex: shared spaces, a dog park. It seems like there's less of that in this.

Mr. Petersen: The difference is, because of timing, we're at the Preliminary Plan stage. We have a Final Plan that will bring in more elements. There was a very tall, solid wall if you recall. Some liked that; some didn't like that. Some thought it was a little like a fortress. We're going to have a softer buffer with landscaping and wrought iron. We'll have the same open spaces south of 137th, which were pickleball courts and a very sophisticated

pitch/putt thing. We'll have gathering spaces. There will be an open green space for the residents and also public access along 137th.

Comm. Coleman: You alluded to the work session with City Council members. Was this a work session just to discuss this plan? When did this occur?

Mr. Petersen: I think it was summer with us letting them know something was coming back through. I know City Council voted for this plan once. I have no indication that they will vote for it again. The only thing that has changed is another year of property taxes not collected on it. The meeting was a courtesy.

Comm. Coleman: Just to clarify, it was summer of 2021.

Mr. Petersen: Yes.

Comm. Coleman: Does staff have a date for that work session?

Mr. Klein: Not off the top of my head; it would be either the first or third Monday.

Chairman Elkins: Other questions? I'd like to go into a little more detail of the planning aspect of it. I absolutely agree that the 135th Street Plan is not binding but is rather a guide. I'm having a hard time getting my head wrapped around \$600,000-\$1 million homes backing to 135th Street. I'm anxious to hear your thoughts. Can you expand on that?

Mr. Petersen: The first example I can think of is the townhomes in Hallbrook on State Line. This is a much higher traffic area, and the price range of the homes is probably double to what is proposed here. Meadowbrook is another area with row homes in very close proximity to a public street. Mission Farms is another example. There are people who would rather not be totally segregated. Anecdotally, I think it could sell out with patrons of Church of the Resurrection. I think it brings interest to the corridor. I hear requests for ice cream shops, coffee shops, and bakeries. Projects can't be developed on the backs of those. The next plot over could withstand some shops.

Chairman Elkins: You touched on a concern I had a year ago, which is a fortress-type buffer. Could you explain the buffer that is proposed?

Mr. Petersen: It will have some wrought iron because it has a good visual impact; it will have a berm with some height. We'll use landscaping so it is not soldier-course pine trees. The landscaping will be done by landscape artists to go with the custom-built homes.

Chairman Elkins: We have a vested interest in your success. The last thing we want is Villaggio 2.0 single-family residence version. Other questions?

Comm. Peterson: Mr. Petersen, I take it that you have no objections to the 31 stipulations?

Mr. Petersen: We are in agreement with all stipulations.

Comm. Peterson: When I first looked at the case, I wondered why anyone would want to live on 135th Street. It dawned on me that I basically have done the same thing. We live on Mission and walk over to Camelot Court. There are homes on 119th Street for people who like the convenience. I agree with you and could see where people would love to have access to a residential community on that corner. I'm very pleased that Cameron's Court is going on. I like what they're doing. I can see an actual need for this type of development. It may not be consistent with the 135th Street Plan, but how much longer does this lot need to sit vacant?

Chairman Elkins: Any other questions for Mr. Petersen? We'll open the Public Hearing.

Public Hearing

Elaine Gangle, 4644 W. 137th Terrace, Leawood, appeared before the Planning Commission via Zoom and made the following comments:

Ms. Gangle: I live in the Leawood Meadows subdivision with my husband David. We have lived in Leawood Meadows for a little over 20 years, so we have followed this development/lack of development for 20 years. It's been unfortunate in a lot of ways to see it languish. I think that it is not a good look for Leawood. So many interesting points were raised this evening. I know in the last go-around with this development, there was a lot of concern about expensive homes being built on 135th Street, as there has been tonight. It occurs to me that this is an opportunity for us to step out of our Midwest mindset and think differently about how people live. I would point to the \$1million-plus homes that are built in Overland Park, directly across the street from the Chicken & Pickle parking lot. Those are desirable homes. I can only imagine that those people are there because they are enthused about being in a setting where they can walk to restaurants and entertainment without having to be in an apartment. What I would hope not to see in this development is a Cameron's Court or a Regents Park. We have lots of that type of development that has been empty for years and years, such as the northwest corner of 135th and Roe and the area across from Church of the Resurrection to the north. I feel like this is an opportunity to really correct some of the missteps of the past. I want you to know that, as a resident, I have something to gain by living this close to this proposed development. I think that it could be a very positive step for Leawood to put something there permanently. We've seen things come and go: people walking their dogs, parking semi-trucks, doing all of this stuff over the years in that property. It would really be a feather in Leawood's cap to put all of that behind it. Thank you for your time.

Chairman Elkins: Thank you for your comments. Are there others who wish to be heard?

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 vote of 7-0. For: Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: Mr. Petersen, traditionally we give an opportunity to rebut. I don't know if there is anything to rebut, but if you have additional comments, we would be interested to hear them.

Mr. Petersen: I agree with my neighbor. The work session was on 9/20.

Chairman Elkins: With that, we move into discussion.

Comm. Belzer: I'd like to commend Mr. Petersen on agreeing to all the stipulations. This is a first that we should all be celebrating. I think that precedent has been set for homes like this. We've heard about Hallbrook. I live in Oxford Hills West, which happens to be right on Mission and 119th. I think there are lots of neighborhoods around us that are on busier streets. I'm not concerned about that. I think this is a great addition to Leawood. In light of recent projects that we've heard and the response from neighboring communities, this really seems like something the surrounding neighborhoods are going to welcome. I see it as a positive.

Comm. Hoyt: I would basically agree. In my opinion, planning is a dynamic process. Frankly, after being through the whole Cameron's Court situation, which is bringing incredible density and numbers into 130 acres roughly in the same part of town, I think this is great. I don't think we need another extremely dense development there. We're talking 25 acres, which is a drop in the bucket compared to the 132 acres at Cameron's Court. We think about Mixed Use in its purest form as being within a single parcel of land, but honestly, there is some logic to thinking about this as being at least somewhat consistent with a Mixed-Use concept in that we're putting this pretty darned close to where there is significant commercial activity. I'm in favor of it.

Comm. Peterson: I would love to thank Commissioners Belzer and Hoyt for their comments. I totally agree. I think this will be a valuable addition. It does blend, in many respects, with the concept of Mixed Use. Granted, it's not within one specific plot of land, but it does provide convenience to residents in the area. I'm very much in favor of this.

Comm. Block: I appreciate that there is a desire to fill the open land that continues to be open along 135th Street. There is a developer who is able to pay the back taxes. With all that said, I have been pretty consistent as far as I can recall in that the 135th Street Community Plan and Comprehensive Plan, while not legally binding, are a precedent that we should follow. A lot of effort went into those. I understand that was a while ago and that a lot has changed since then, but a lot of work went into them. At this point, it has not been undone. That might happen in the future, but with what is in place today, I'll be voting against the proposal.

Comm. Coleman: Having maintenance-provided villa lots in this scenario is definitely what Leawood needs for empty-nesters. With that said, I have several reservations with it. The first echoes Commissioner Block's concerns about the 135th Street Community Plan and the Comprehensive Plan. Secondly, 135th Street is a commercial road. Everything up to the edge of that road is commercial in nature. I can't think of any residential from State

Line going east past Switzer. With that, I think if we do put single-family homes on 135th Street, it doesn't blend in; it will stick out like a sore thumb. My main concern is the backs of the homes will go out to 135th Street. The appearance does not blend well. My third point is that this can't be compared to 119th Street or other major thoroughfares because the commercial drops off on 119th Street at Tomahawk Creek Parkway. Everything east of that is no commercial with all residential. It doesn't intertwine with commercial. There's a housing subdivision and commercial on the other side. There is a clear and solid break between the commercial and residential. If we put this on 135th Street, there is no solid break. It will be commercial, single-family homes, and commercial again. It just doesn't blend in well. I want to thank Elaine Gangle for the great point about those homes. I think that is part of Lionsgate at the southern tip. They are on the outside of the golf course, so they are not directly on 135th Street. There is commercial development between those homes and 135th. With that, I'm in Commissioner Block's camp. I don't think this is the perfect project for that. I like the idea and the style; I just don't like the homes going straight up to 135th Street.

Comm. Stevens: I'm kind of torn here; although, with the last commissioner's comments, this feels inappropriate to suggest the single-family development on 135th. Also, there are issues with not being in conformance with the Comprehensive Plan and the zoning changes that are part of that. It's almost sad. I'm looking at the diagram in the plan where 136th cuts through. Will it have the commercial development of the bank, a couple houses, and then seven houses within the panhandle of the dog park? It could have a transition area of something that becomes a buffer for the single-family development to the south, whether it's a buffer of different housing or of commercial spaces with the energy that Mr. Peterson described with having neighborhood shops. Where I'm torn is this is a small patch of property surrounded by all the mix of uses. I can see that it has walkability to the neighboring areas. In the end, I also think it's not appropriate that the single-family homes face 135th and Roe. Based on that, I would also vote in denial.

Comm. Coleman: Commissioner Stevens just hit on something that I think is very appropriate to talk about, which is transition of housing. We had that in Cameron's Court, and we hit upon that time and time again to go from single-family homes, transitioning to Mixed Use over to the apartment complexes. This would be perfect to put some of those things from Cameron's Court onto 135th Street. It wouldn't be single-family homes, but you mentioned 136th Street. Between that could have some kind of transition housing. I don't know if we're talking row houses or small multifamily. It would serve as a segue as the homes go farther south. I think that's what this plan is missing. If transition housing were in the area between 136th and 135th street, it would be a more attractive option.

Chairman Elkins: Other comments?

A motion to recommend approval of CASE 152-21 – MACALLISTER PLACE – Request for approval of a Rezoning, Preliminary Plat and Preliminary Plan, located south of 135th Street and east of Roe Avenue - with 31 stipulations - was made by Hunter; seconded by Hoyt. Motion carried with a roll-call vote of 4-3. For: Hunter, Belzer, Hoyt, Peterson. Opposed: Coleman, Block, Stevens.

Chairman Elkins: Thank you for a great discussion. Is there other business to come before the commission?

Comm. Coleman: I wanted to thank Councilmember Cain for recommending to get a work session together to discuss the 135th Street Community Plan. I know over the last three years, we have asked for this to be on the agenda, and I'm glad they're doing that.

Chairman Elkins: Just to clarify, this is not a joint work session; it is a work session for City Council only that is open to the public, the commission being a part of the public it is open to.

Mr. Klein: Yes, it is a work session for Governing Body. The public would not speak at this; however, public can view it.

Comm. Coleman: I have a question for staff. I was looking through the Action Agenda for the Council meeting on January 18th, and I wanted to get some more information on the greenhouses. We spent so much time in the last meeting, and then the City Administrator didn't think we should do the change, and the motion failed to push forward. Could you give a little insight?

Mr. Klein: There was interest from a few residents to have greenhouses. City Council was divided about the larger detached structures. There are some people who would also like to see sheds. Originally, when they directed staff to look at the issue, there was split as far as being in favor. When it went to Governing Body, it was still a split vote that decided they really didn't want to go down that road with a detached structure. The concern was sheds could follow. They are looking to reaffirm the LDO as it is.

Chairman Elkins: That was my perception as well; it could be a slippery slope. I got a sense that there's a desire to have a work session on detached structures in general, to include both sheds and greenhouses. It wasn't heated, but it was a detailed discussion.

Mr. Klein: They gave it a lot of consideration and a lot of discussion.

Chairman Elkins: Any other business? If not, thank you all.

MEETING ADJOURNED