

**City of Leawood
Planning Commission Meeting
April 26, 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: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson, Elkins. Absent: Hunter.

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: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: That bring us to the minutes for review.

APPROVAL OF MINUTES: Approval of minutes from the March 22, 2022 Planning Commission meeting and the April 12, 2022 Planning Commission work session.

Chairman Elkins: Are there any revisions to the March 22, 2022 draft minutes? Is there a motion?

A motion to approve the minutes from the March 22, 2022 Planning Commission meeting was made by Coleman; seconded by Block. Motion carried with a unanimous vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: Are there any corrections or revisions to the April 12, 2022 Planning Commission work session minutes?

Comm. Block: On page 2 on the first line, it should be Commissioner Block rather than Commissioner Coleman.

Comm. Hoyt: On page 13 in the first line, the word “you” should be between “when” and “can”.

Comm. Block: On page 5 in the first section where I spoke, the second sentence should be “Even if someone were not making . . .” The sentence before should be, “Is that within

three years of the wastewater line being put in.” On the second-to-last comment, “There is a development that hugs 151st,” it should refer to Prairie Star.

A motion to approve the amended minutes from the April 12, 2022 Planning Commission work session was made by Coleman; seconded by Block. Motion carried with a unanimous vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

CONTINUED TO MAY 23, 2022

CASE 25-22 – 8900 STATE LINE ROAD – JOHNSON COUNTY WASTEWATER PUMPSTATION, PS #10/11 – Request for approval of zoning to SD-O (Planned Office), preliminary plan and special use permit located south of 89th Street and west of State Line Road. **PUBLIC HEARING**

CASE 26-22 – 10346 STATE LINE ROAD – JOHNSON COUNTY WASTEWATER PUMPSTATION, PS #13/13A – Request for approval of a zoning to BP (Planned Business Park), preliminary plan and special use permit located north of 104th Street and west of State Line Road. **PUBLIC HEARING**

CASE 27-22 – 11200 OVERBROOK ROAD – JOHNSON COUNTY WASTEWATER PUMPSTATION, PS #14/16 – Request for approval of a preliminary plan and special use permit located south of College Boulevard and west of State Line Road. **PUBLIC HEARING**

CONSENT AGENDA:

CASE 38-22 – RANCH MART NORTH – NBKC BANK PATIO FURNITURE – Request for approval of a Revised Final Plan, located north of 95th Street and east of Mission Road.

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

NEW BUSINESS:

CASE 41-22 – LEAWOOD CITY PARK – LEAWOOD BIKE-WALK HUB SIGNAGE – Request for approval of a Final Plan, located south of I-435 and east of Lee Boulevard.
CASE 37-22 – PARK PLACE – PLATE (RESTAURANT) – Request for approval of a Revised Final Plan, located north of 117th St. and east of Nall Avenue.

Staff Presentation:

City Planner Catherine Geist made the following presentation:

Ms. Geist: This is Case 41-22 – Leawood Bike-Walk Hub Signage – request for approval of a Final Plan for two wall signs. This project is located south of I435 and east of Lee Boulevard. This location does not have development sign criteria, which is why it is in front of you today. The applicant is proposing two wall signs to be mounted to the stone-clad knee walls at the entrance, near the Leawood Aquatic Center. The proposed signs are

to be pin-mounted, channel-letter wall signs. One will read, “Bike” on one side of the knee wall, and the other side will read, “Walk.” These will be constructed of 1” thick flat-cut aluminum of an iron-ore finish. The signs themselves are approximately 10 inches tall and will be halo illuminated. Other signage onsite includes the previously approved signage for the Leawood Aquatic Center building. This Final Plan meets the regulations of the Leawood Development Ordinance (LDO), and staff recommends approval of Case 41-22 with the stipulations listed in the Staff Report. I’m happy to answer any questions.

Chairman Elkins: Thank you Questions for staff? If not, welcome Ms. Claxton. Do you care to comment with where we are with respect to the Bike-Walk Hub?

Applicant Presentation:

Chris Claxton, Director of Parks and Recreation, appeared before the Planning Commission and made the following comments:

Ms. Claxton: The frame for the Bike Hub itself has been erected. These signs are pending your approval. The application speaks for itself. Since the one sign was longer than the other, there were two submittals. If anyone has questions, I’d be happy to answer them.

Chairman Elkins: Thank you. Does the Parks Department have any concerns about the stipulations?

Ms. Claxton: No.

Chairman Elkins: Questions for Ms. Claxton?

Comm. Block: I just didn’t know if I fully understood the signs. Are they pointing to different directions?

Ms. Claxton: It is just identifying the space as Bike/Walk. There are tables and a restroom. Originally, it was just going to be called Bike Hub, but several members of City Council and the Park Board felt like, since there was more activity going on in that space than just biking, it would be appropriate to add “Walk.” It is just identifying multiple activities.

Comm. Block: Typically, the city does monuments that are lit from the ground. This will have light within it, and it looks like it’s close to the path. With people sitting on the wall, is there opportunity for that to be damaged?

Ms. Claxton: I don’t believe so. There’s a 2” cap that comes out to help protect it. I can’t say that people wouldn’t sit on the wall, but there are going to be other seating opportunities in that space.

Comm. Coleman: Thanks for coming before us. When you refer to it in the case, you talk about the Bike-Walk Hub. Was there any discussion of just putting up a sign that says that? I guess I didn’t understand the purpose of one side being “Bike” and one sign being “Walk” because the whole thing is self-explanatory to me.

Ms. Claxton: There was minimal discussion about that. We felt like some people might not know what “hub” means. There’s also signage that shows the south loop and the north loop.

Comm. Coleman: It doesn’t matter that the bike side and walk side are different?

Ms. Claxton: It doesn’t have any directive to go to one side or the other.

Comm. Coleman: Personally, I don’t think it’s necessary to put a sign that says, “Bike” and “Walk,” but I’ll defer to the expertise of the Parks and Rec Advisory Board.

Ms. Claxton: The coloring of the signage that will match some of the other amenities, which keeps the colorization consistent throughout the project.

Chairman Elkins: Other questions? Ms. Claxton, as long as you’re here, can you update us on the Aquatic Center generally?

Ms. Claxton: We had a meeting today. We are still hoping to get the pool open by the end of May, but like many projects, there are problems with steel and labor. The subs know that their deadline is still the middle of May. We plan to start filling the pool the week of May 7th. The most important piece of the project is the pool building and being able to have the restrooms and the pool in order to get our Temporary Certificate of Occupancy.

Chairman Elkins: Is there an option to open the pool if the pool building or the multiuse building are not complete?

Ms. Claxton: Not the pool building; we have to have restrooms and amenities for the people who come to visit. We have said to our contractor that it is the priority. Concessions, second; event space, third. We are having weekly meetings to stay on top of the project.

Chairman Elkins: Keep the pressure on. Any other questions for Ms. Claxton? Thank you. That brings us to the discussion portion. Comments?

Comm. Coleman: I don’t see a need for the sign, but if they want to put it up, it’s within the guidelines. I just don’t think it’s necessary.

Comm. Hoyt: I think it will be lovely.

Chairman Elkins: Any other thoughts? Is there a motion?

A motion to recommend approval of CASE 41-22 – LEAWOOD CITY PARK – LEAWOOD BIKE-WALK HUB SIGNAGE – Request for approval of a Final Plan, located south of I-435 and east of Lee Boulevard - was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

CASE 37-22 – PARK PLACE – PLATE (RESTAURANT) – Request for approval of a Revised Final Plan, located north of 117th St. and east of Nall Avenue.

Staff Presentation

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 37-22 – Park Place – Plate Restaurant – Request for approval of a Revised Final Plan. The applicant is requesting approval for the following changes: the existing natural stone on the building has been painted to a dark grey. The approved plan shows the existing stone to remain unpainted. A stone-clad knee wall on either side of the main entrance has been removed and replaced with glass. The awning on the west side of the building has been removed. In addition to that, some administrative approvals happened during the process that will be added. A sidewalk connection has been relocated on the south side of the restaurant due to utility easements. A minor change to landscaping was due to additional city requirements. Staff is not supportive of the changes to the elevations of the building after final approval, including the painting of existing natural stone and the removal of the awnings to the west elevation. Staff recommends that the natural stone be restored to the previous condition, either by removing the paint or by replacing it with unpainted stone. Staff also recommends that the awnings on the west side of the building be replaced. The applicant currently has a sign located on the west façade where the three canopies were located. The sign may be able to moved to another location on the building, provided it meets all requirements of the Leawood Development Ordinance and Sign Criteria for Park Place. Staff is recommending denial of Case 37-22, and I'll answer any questions.

Chairman Elkins: Thank you. Questions for staff?

Comm. Coleman: I'm very curious about the timeline. In all my years on the Planning Commission, I don't recall so many changes after a business has opened when the building didn't follow the approved guidelines. How did we find out about this? Did they come to us? Did our building inspector see it?

Mr. Klein: Essentially, you approved the Final Plan. We didn't find out about the natural stone being painted until the building inspector went out. We then noticed that the awning was also removed from the west side and a sign was added. We approved the sign for that location. We would like them to put the awning back, and the sign is of such a scale that it could be used somewhere else on the building. As far as why they are open, they were down to a few final details, at which time we typically allow a Temporary Certificate of Occupancy. We made them aware they wanted the paint removed; they indicated they want to keep it. That brings them back through the process.

Comm. Coleman: When the inspector brought it to our attention and we spoke with the applicant, does the applicant then come through and say they want to make the changes, or do we go to them?

Mr. Klein: They asked me to approve it administratively, and I wouldn't. It's a big change. We don't typically see natural stone painted. If we had seen it in a proposed plan, we would have let them know we were not supportive.

Comm. Hoyt: Are you saying that, when we approved the plan, the awnings weren't on the plan and weren't mentioned as being taken off?

Mr. Klein: Grant included an elevation of the approved plan. The natural stone is not shown as being painted. The awnings are still shown as well.

Comm. Hoyt: I also noticed that A1 North Elevation says, "Existing cultured stone to be painted."

Mr. Klein: When California Pizza Kitchen came in, they originally had cultured stone. That's why you're seeing it on the plans; however, there was a stipulation that it would be natural stone. I talked to the building inspector, who thought it was natural stone as well. I talked with a stone mason to see if it was possible to remove the paint. I was thinking about sandblasting. He said it would work, but soda ash would probably work better because it's gentler.

Comm. Block: You mentioned that it is not typical that the city has allowed natural stone to be painted. I understand they didn't get it approved ahead of time, but what is the concern with it being painted?

Mr. Klein: Leewood has always tended toward more natural materials. We used to allow cultured stone, but we had problems with it aging and deteriorating, so we went back to natural stone. We like the clay-fired brick, which has been painted in a few instances that I can think of, including the bank at Ranch Mart. For the most part, however, we don't like the painting of the brick and stone. We want stucco to be cementitious stucco.

Comm. Block: Do you have a maintenance concern?

Mr. Klein: I'm not aware of any maintenance concerns. It's rough, so I imagine it could wear over time. It is lower on the building to where it would have more contact than materials up higher. I imagine it would have to be repainted to keep it looking nice. If someone else wanted to come into the location and wanted the natural stone, they would have to go through the process of removing it.

Comm. Block: For the awnings, help me understand better why you want them kept.

Mr. Klein: We feel they added more detail to the façade. That is the side that faces Ash Street, and they were a nice feature. There were some on the south side that they got approval to remove. We hoped to keep the awnings on the west side.

Comm. Block: Since this case has come about, have you talked about other options to improve the look of that side if they just don't want the awnings?

Mr. Klein: We have not had a lot of conversations with regard to other features. I'm not sure what else would work there.

Comm. Block: The glass wall and the sidewalk were fine; it's just the issues of the paint and the awnings?

Mr. Klein: Yes, those are the main issues. The sidewalk moved a little bit, and it's perfectly fine. The landscaping was adjusted for the Fire Department.

Comm. Stevens: I noted the applicant has also changed from the May 17th approved plans the amount of the stucco color labeled Type 1 on the elevations. There was a larger area of this on the south and east elevations as well as the southwest corner. Are you aware of those deviations, or are those not a concern?

Mr. Klein: I thought the amount of stucco had stayed the same; the colors were probably changed.

Comm. Stevens: Maybe with the return of the natural stone, part of that Type 1 was a color that was a warmer gray that complemented the natural stone. I'm not sure if that needs to be part of the change.

Mr. Klein: That might help. I know they have cultured stone on the south side that was approved. They left it a lighter material that is almost white. It adds contrast between that and the rest of the building. It used to have contrast with the natural stone because it was lighter; now, it is more of an even shade on the north elevation especially.

Chairman Elkins: Is the natural stone a design element that is featured throughout Park Place? Is this the only building that has this natural stone?

Mr. Klein: I think there are probably other buildings that have it but probably not this type. I wouldn't say this stone was replicated on other areas to make it more cohesive. There are areas that had the natural stone but maybe different styles.

Chairman Elkins: Other questions for staff? If not, we'd invite the applicant to step forward.

Applicant Presentation

Scott Keller, General Manager of Park Place, KBS, 11549 Ash Street, Christian Joseph, owner of Plate, and Jim Warford, architect (appearing via Zoom) appeared before the Planning Commission and made the following comments:

Mr. Warford: I can start by explaining how we got here. Obviously, California Pizza Kitchen has a very strong design theme about their buildings. They use distinct color with pink, salmon, orange, and gold. The paint colors of the stucco are predominant. This stone that was selected for this property had those same colors integrated into it. Christian's

restaurant is Italiano Moderno. Its look, feel and menu are that. We really tried hard. It was a challenge with this building because of it being a completely different palette. We tried our hardest to maintain all of that stone because there was so much. First, it was going to be expensive to replace or do anything with it. We got into construction, and like everybody else, met challenges with materials and labor. Some decisions were made once we started painting the building. We started to realize the stone was creating an aesthetic challenge for us. We made a rash decision, unwittingly, to paint it. We never really thought about the fact that we would need to get it approved. We did a test area on that front half and really liked it. "Contrast" is a word that keeps getting thrown out. We liked the textural contrast that it created. We finished painting the west elevation and thought it was beautiful, so we continued. It was foolish, and somebody should have realized we should have gotten someone involved to see if we needed to come back before the Planning Commission. We were in a hurry to try to get opened, and we had so many delays. When the inspector pointed it out to us, we realized we would have to address this with Grant and Mark and try to come up with a solution. The solution to us was trying to get it excepted because it really did improve the look and feel of the building. We really do feel that there are many contrasting elements within the change from stone to stucco and the cast-stone seal. There is a lot of texture on the building, even if it is the same color. It is a modern look. I don't want there to be this opinion of it that it is something that is abnormal when, in fact, it really has a timeless, classy look and fits perfectly with Christian's menu and what he's trying to provide. Park Place encourages this in their governing documents. They encourage individual building designs to match the product being delivered. This building does that. I understand there will be subjective opinions on look and feel, and maybe some of those go back to whether it is real or cultured stone. At the end of the day, we feel that it was a success and really like the look. As far as the awnings, someone mentioned we could use that sign somewhere else. There is nowhere else to put that sign because all of the landscaping around the building has matured, and it can't be removed per the ordinance. There is only one wall area on the southeast corner for the sign. The idea of the awnings adding character to the building doesn't align with what Christian is providing. Architecturally, keeping more linear, open, and activated interior of space with a lot of glass aligns. There are lighting features that are visible from the outside. Some of these decisions are in conflict with what he is trying to do with his restaurant in order to provide a classy, timeless restaurant for the city.

Mr. Keller: I'd like to add that we appreciate staff's time in working through some of this process. I think it is important to note that, throughout the process when we made these changes, we included the changes in the construction documents. On my part and Christian's part as far as not doing a lot of exterior changes in Park Place, we got the construction drawings stamped through they city. With my lack of knowledge, I thought we had approval on that, similar to the sign documents and getting them approved through the city's process. We understand that we missed a step with not coming through the Planning Commission with changes to the exterior. That's an oversight on our part and not an attempt to do an end run around the city's process. As Jim pointed out, from Park Place's standpoint, we struggled getting a tenant into that building, in large part because we had a hard time getting prospects around the look of the California Pizza Kitchen, even to the point that the interior space had so much back-of-house kitchen that it was hard to get

somebody to be interested since it took such a huge change. As he said, we encourage unique tenants and unique designs in our storefront elevations. We're really excited and are happy about the look. We are excited about having Christian there, and we'd like to leave it with the gray color and the sign in place. We appreciate staff's time in helping working through that. It was an honest oversight, and hopefully, we can get it approved and move on. I'll let Christian talk about the design of his restaurant and how the current color fits in with that.

Mr. Joseph: If you've been to the restaurant, you've noticed that it has a modern feel to it. It is part of our branding palette. We have another restaurant in Brookside that has this exact same color. We are hoping to expand in other areas, and we would keep the same color. To Scott's point, we didn't intend to do something wrong or go against what the Planning Commission approved. I was largely left out of that process, to be honest with you. My role was to share what I wanted to see. I provided those colors. I do like the building. I think it adds to that corner. I think I would point out that there is stone on the south side, and it lends to the natural look on that side, and with the side on Ash Street, it adds to the consistent storefront look that you would see at 801 Chophouse or other restaurants in that area, where they've designed their storefront to be specific to them. I would like to see it stay. Obviously, I'm biased about this. Again, we were not operating under the impression that we were trying to sneak something by. I was shocked about that. With regard to the awning, we decided to take those down because of the mature trees in front of them. Again, we were still operating under the premise that we were going to remove those awnings. We placed a sign in that has significant electrical work, which would be difficult and very cost-prohibitive to relocate. If it has to do with sunlight coming into the building, we have motorized shade to take care of that. We feel that putting awnings up would shelter the view of the restaurant from the public. I would encourage you to drive by at night. You'll see the signage, and you'll understand why those awnings just wouldn't work. My preference would be to keep it the way it is.

Chairman Elkins: Mr. Joseph, the restaurant is currently open?

Mr. Joseph: We are open, yes. Thank you.

Chairman Elkins: Questions for the applicant?

Comm. Peterson: I would like to say that I agree with Mr. Joseph regarding the awnings. I was surprised when I saw the difference between what was approved and what was actually there. From a personal standpoint, I believe it makes the building stand out more. There are no awnings. The colors and the sign that goes in there really do lend themselves to Park Place's encouragement of different architectural styles in their buildings. I do have a little bit of a problem with such changes from the plan that was approved literally one year and one day ago from today. It appears that it was a lack of communication between the applicant and the planning staff. I think a lot of this could have been avoided, but I don't see anything in here that says that we should not approve it. I would basically agree with Mr. Joseph, Mr. Keller, and Mr. Warford. I really wish they had at least communicated better before we got to this point.

Comm. Coleman: Mr. Warford, you're a licensed architect, so you've overseen other projects like this, where cities have approved plans, and you've overseen their implementation, correct?

Mr. Warford: That's correct.

Comm. Coleman: Then, why weren't things adhered to in this case?

Mr. Warford: I'll be honest; I've never done a project in the City of Leawood. I've done projects all over the country. We make decisions a lot of time that we feel are minor changes to a building. The awning was one of those items that I felt was a minor enough item. I read through Park Place's Design Guidelines, and they spoke about the awnings being in selected locations if an owner wanted them. The painting of the stone was in haste and probably should have been considered. It's low to the ground, and I was thinking there was such a minimal amount of it with landscaping in front of it. There were decisions like that, that were minor changes that didn't feel major enough to go back to the Planning Commission on. That was a mistake on my part.

Chairman Elkins: Mr. Warford, you talked fairly eloquently about all of the design elements with the current building as it is and how it ties in with Mr. Joseph's concept of his restaurant. All of those elements existed and all of those reasons for doing this existed back in April, 2021 when this plan was approved, didn't they?

Mr. Warford: They did.

Chairman Elkins: It begs the question of why these design elements weren't included in the application presented a year and a day ago.

Mr. Warford: I think the stone was something that, when the building was painted, would blend in a bit better than it did. It just didn't. It just looked really bad. We did a sample painting on the stone on that west elevation, and everyone thought it looked great. We painted it, and here we are. That was a mistake. We should have gotten with Grant and Mark to go through it. That would have delayed their project even more, but at that point, I think Christian would have been willing to do it.

Chairman Elkins: What you're telling me is the change in circumstances that warranted this change in design was what it looked like after you painted the non-stone part of the building.

Mr. Warford: Absolutely.

Chairman Elkins: Tell us a bit about the durability of the paint on the natural stone. Here in Leawood, we've all had experience with the application or the coating product. It has had a relatively short lifespan, and now there is paint flecking and all that. I'm concerned that Mr. Joseph and Mr. Keller may find themselves having to repaint again.

Mr. Warford: We talked about this with the contractor, too. It was important to put a primer on first. Cultured stone is painted from time to time, and a primer is required. In a lot of cases, there is no primer put on the stone, so it starts to chip and pop off. We feel it's a durable finish, no different than the stucco. When it is time to paint the stucco, it will be time to paint the stone.

Chairman Elkins: How long is that?

Mr. Warford: The recommendation for stucco is to paint it every five years. We'll be painting the stucco before the stone most likely.

Chairman Elkins: I have a question for staff. It was suggested by the applicant that the changes were included in the construction drawings, which confuses me a little bit, Mr. Warford, because it sounds like the change was begun after the construction drawings were done. We'll ignore that for the moment. Did the city approve the construction drawings with the removal of the awning and the changes to the paint and was just missed in the review process with the folks who review construction drawings?

Mr. Klein: The set that was to be provided was the approved set, but there weren't supposed to be any changes.

Chairman Elkins: Are there drawings that go to a department for approval before construction starts? Is there a comparison then between those and what we approved?

Mr. Klein: Typically, after it gets approved, the applicant will submit construction drawings. They come to planning, building, and fire departments. Public works may have a copy as well. We compare what was approved to what they have on the construction drawings. We highlight changes. We indicate that it needs to match what was approved. It goes back to the building department, and they act as the point of contact. A lot of times, we'll notice changes and send back comments. They get revised plans and give them to us. Often, not all of the comments will be addressed, so it goes back. It can go back and forth for a while. It is my understanding that, at the very end of the review process, the applicant provides them with a set of construction drawings to be stamped. That is what happened with this one. They were changed at the very end on a set of plans that everybody thought had already been reviewed.

Chairman Elkins: Just to confirm, the construction plans that were submitted to the building department were stamped as approved and included these changes.

Mr. Klein: I would have to check to make sure, but that is my understanding.

Chairman Elkins: Do you have any reason to believe they weren't included in those construction documents?

Mr. Klein: I believe they were, but it was after all the review had been done.

Comm. Hoyt: To follow up on that, it is your understanding that all of these interim documents that were passed back and forth did not have this series of changes.

Mr. Klein: That is my understanding. Grant is the one who probably reviewed the plans. It wasn't brought to my attention until the building inspector said that the stone was painted. He must have known there was a difference.

Comm. Hoyt: In your experience, what other similar situations have you seen where an applicant got to the point where we are today, and what was the response of the city or the Planning Commission?

Mr. Klein: It's been a number of different responses. I've seen cases where, for instance, on the Pars Building, they were required to remove the cultured stone and put natural stone on. I've also seen cases where the Planning Commission and Governing Body felt fine with the changes but just didn't like how the changes were made without approval. They ended up getting approved, though. I've seen the gamut.

Chairman Elkins: There was at least one instance at Town Center Crossing with the outer façade that was changed after it was approved. In that case, we required them to go back to the original plan.

Comm. Block: There was a reference to the sign or the handling of the sign. Was that approved separate to the final construction drawings?

Mr. Klein: That was. Signage isn't approved with the documents you had, so the previous approval didn't include signage. The applicant submitted a sign permit application. We reviewed it against the Sign Criteria for the development. We needed to go back and look to see the elevations, but the assumption is what was showing was what they approved and met the Sign Criteria. That ended up getting approved through the planning department.

Comm. Belzer: That would include the removal of the awnings? If the sign was approved without the awnings, then technically, it was approved.

Mr. Klein: Well, we approved the sign. We reviewed it against the Sign Criteria. We weren't reviewing the elevations of the building. When the elevations are changed, they need to go back through Planning Commission and City Council. There may be small things I could approve administratively, but nothing that big.

Comm. Hoyt: I just don't want this to be lost in all of what sounds like nit-picky comments. I think I could speak for the Planning Commission. We're very glad to have you in Leawood. I think it's extremely unfortunate that this has come to pass, but it shouldn't cast a pall over the fact that you're here. I hope you're very successful with your restaurant.

Chairman Elkins: Other questions for the applicants? We appreciate your presentation. Before we let them go, there are a whole series of stipulations attached to the case given to

us, including on relating to the change of stone and the awnings and sign. If we were to approve the change, including the design element changes, would you be able to help walk us through what we would want to strike from the stipulations?

Mr. Klein: Yes; what you are seeing before you are the stipulations approved with the original case. Then, No. 2 with A, B, and C are the changes that were made. The way it is written is they would change the stone back to what it was before, replace the awnings, and then address some potted plants that they are already working to do. If the Planning Commission wanted the paint to remain, No. 2A would be stricken.

Chairman Elkins: Mr. Warford, Mr. Keller, and Mr. Joseph, keeping in mind what we're going through here, I want to give you an opportunity to tell us if there are other stipulations you have issues with. Nos. 2A and 2B relate to the natural stone and the canopies. No. 2C talks about all potted landscaping per the current Landscaping Plan. Does anyone from the applicant's team have issues with that requirement?

Mr. Keller: Not at all; the landscaping was planted this morning according to plan.

Chairman Elkins: There are 21 other stipulations, which were in the original plan. This is your time to tell us if there is anything else you have problems with.

Mr. Warford: We have met all the other stipulations. The pots were agreed to when California Pizza Kitchen moved in, and they never provided that quantity as far as we can tell. We have the model and brand, and we're going to replace them.

Chairman Elkins: Mr. Joseph, are you aware of anything else you have concerns with?

Mr. Joseph: No, and this is the third restaurant we've opened. We learn things along the way. The next one, we'll pay closer attention to some of our submittals. There is nothing else that jumps out.

Mr. Keller: Again, I want to apologize for the confusion on our part in the process and assure you that it wasn't an intentional subversion. I'd like to call your attention, more importantly, to the final product of the building. Going back to the natural tan and beige would look very strange and be cost-prohibitive, potentially even destroying the stone. We feel the look and feel of the building is much improved and fits both with Mr. Joseph's design and with Park Place.

Chairman Elkins: Thank you. That may all be the case, but it was also the case a year ago, and we could have avoided a lot of this struggle, had you realized that the gray and stone didn't go together. With that, we'll move on to discussion.

Comm. Hoyt: There is a huge process problem involved, but at the same time, there is the real world that we're living in. It does bother me significantly that these changes were made without any sort of acknowledgement or back-and-forth with the city. One thing I would like to see is maybe something that the shopping center owner could have as far as

additional guidelines to make sure this doesn't come up again. There will be new tenants who want to retrofit buildings. I think this location was in need of the right tenant, and the right tenant seems to have found the location. I don't have a big aesthetic problem with any of these changes; I just have a process problem that I will try to overcome. I do think the expense of moving the signage in particular seems like a financial burden that I'm not sure I would want to saddle someone opening a restaurant with at this moment.

Comm. Block: I concur with a lot of what Commissioner Hoyt said. First of all, the applicant chose that location, excited to have this in Leawood. I'm upset that the process wasn't followed, and the signage shouldn't have been slipped in at the last minute. I appreciate staff trying to make sure the building is aesthetic with the natural stone, canopies, and differentiation. I understand the desire to have a consistent look. As the chairman said, all of that was known a year ago, so it's frustrating. At the same time, while I hate going backwards this way, I think the changes are okay.

Comm. Coleman: We talk about the process, and we have a licensed architect who should know what's going on. He should know, regardless of where it is located, the plans must be adhered to, especially with approvals from Planning Commission and Governing Body. There were several instances of referring to not wanting to delay the opening. My teenagers sometimes beg for forgiveness rather than permission. I get that vibe here. I find it hard to believe, with experienced people, that these changes could be made without realizing it would have to come back before the Planning Commission. In my mind, the process does mean something. I don't want to set precedent and have something like this occur again. It doesn't happen that often. With that said, the restaurant is a great addition to Leawood, but the process should have been adhered to.

Comm. McGurren: I agree with what Commissioner Coleman said. I find it an appalling end run around the timing, the process, and the approvals. It just seems shocking that anybody would go through this process in this manner. I don't think I would submit a complete denial, but I'm torn. I'd be fine with a denial. I'd also be fine with an approval that included the natural stone being restored and a decision being made on a color that complements the stone. That's what should have happened a year and a half ago. Someone should have been smart enough to figure out that the color schemes didn't work. I think the process does matter, and a signal needs to be sent that it matters. I would be supportive of complete denial if others were; I would be supportive of the natural stone being returned to its previous unpainted state with the option of painting the stucco so it blends better. I'm okay with the signage and the canopy removal, based on the confusion that had occurred. In the work that I did, I don't think I would ever be the person who would submit something at the last hour and, in a sense, slip it through because of not anticipating any changes. Yet, there were significant changes that required Planning Commission and Governing Body approval. That seems like a complete end run to me. Those are my thoughts. If the city had the point to ensure that this was not going to happen again or that Mr. Warford wasn't allowed to participate in the City of Leawood for some period of time, I would be in favor of whatever it would need to be to send the correct signal.

Comm. Belzer: I wrote the same thing in my notes, Commissioner Coleman, about asking for forgiveness instead of permission. I, too, am quite conflicted. I don't like to be in this position. I'm a process person, too. I understand and know the process. As Commissioner Hoyt also said, I'm thrilled that Plate is here. That spot needs a place like Plate. I think it's fabulous. I'm thrilled you're here. We have a process, and I don't want to come back to this spot again. I don't like where we are right now. I don't feel great about being put into this position. At the end of the day, for me, I can support the changes. I don't support the way in which they were made, but I don't want to saddle them with this at this point. It's here and done, but I agree that we need to figure out some way to not have ourselves in this position again.

Comm. Stevens: I would be repeating what all the commissioners have said about the concerning part about all the after-the-fact changes. Having said that, I don't think restoring the stone will solve the appearance of this building or even the added-on token canopies. I have to say that the solution that has now been done makes it a much more handsome building. I think it does represent this international brand that the owner talked about. I would be in support of the changes. I have a feeling if this application had come this way to begin with, Commissioner Hoyt mentioned that we would be approving all of these changes with it. It is unfortunate and seems wrong in our process, but I think I would be in favor of the approving the application, with removal of Stipulations 2A and 2B.

Comm. Peterson: I would agree with Commissioner Stevens as far as approving this with the removal of 2A and 2B. One of the things that disturbed me when I first read through all of this was why weren't these changes caught before it came to us? I don't have any problem with the changes. I believe if the changes had been submitted a year ago, we would probably have approved them. I have no problem whatsoever with the painting of the stone; nor, do I have a problem with the removal of the canopies. That's their branding of their product. I have no doubt they will probably be successful. It seems to me that there were failures by the applicant and also the inspectors. If there is a change in signage and there are already canopies there, obviously, they're going to be removed. There are other lessons that can be learned. Overall, I would prefer that we approve this with the elimination of Stipulations 2A and 2B and find solutions to tighten our own process and not just the applicant's process.

Chairman Elkins: I would join the commissioners in the expression of concern and disappointment with the way the process evolved. I would go so far as to say that I don't think Mr. Joseph was well served by either his landlord or his design professionals here. As Commissioner Coleman said, certainly the design professionals have been involved in the planning process in other places, if not in Leawood. Our planning process is not that different than others'. I noted when I talked with Mr. Warford, all of the elements and circumstances that led to the changes were at least available to be known a year and a day ago when this was first brought before us. It is difficult to contemplate what circumstance it was that suddenly caused a change. There are still some issues with the process as well. On one hand, we're told that the building was done and partially painted when it was determined that the stone needed to be painted. On the other hand, we're also told that the construction drawings that were finally submitted to the building codes department

reflected these. There is something that doesn't quite work with the timing. Frankly, I would also concur with Commissioner Peterson that we're only about 2/3 of the process as development and construction is done. There is back and forth with the building and codes department. It sounds like some of these changes were reflected in the final drawings and also in the application for administrative approval of the signs. Certainly, it seems that staff probably should have picked up on those changes at the time that they went through. In fairness to staff, it's hard for me to accept the idea that the painting of the stone was such a minor thing that didn't need to be brought to staff's attention. I would have expected the design professional, when submitting the construction drawings, to point out the change. At that point in time, before interfering too drastically with Mr. Joseph's opening plans, our staff could have said to the design professional and the landlord that this is a substantial change that has to go through the planning process. On the other hand, that's why we have the requirement that the final construction drawings are submitted and approved, in part not only to ensure that codes are followed, but also that the plan approved by not only the Planning Commission and City Council have been complied with. Unfortunately for Mr. Warford, Mr. Joseph, and Mr. Keller, no matter how this goes tonight, you'll still have an appointment with City Council to deal with. I wouldn't attempt to predict how City Council will react to this. There is a process that seems to be a good one on paper but one which has failed us in this situation. The landlord is an important part of our community and is doing good things at Park Place. We hope there is a lesson to be learned here. This is unfortunate, to say the least. With that, are there any other comments? Is there a motion?

A motion to recommend approval of CASE 37-22 – PARK PLACE – PLATE (RESTAURANT) – Request for approval of a Revised Final Plan, located north of 117th St. and east of Nall Avenue – with the removal of Stipulation Nos. 2A and 2B – was made by Block; seconded by Belzer. Motion carried with a vote of 5-2. For: Block, Stevens, Belzer, Hoyt, Peterson. Opposed: McGurren, Coleman.

Chairman Elkins: We now have eight different cases that relate to sewage disposal and septic tanks. To give the commission and staff an idea what my thoughts are to this, because these are all amendments to the Leawood Development Ordinance, they all require a Public Hearing. My intent is to call Case 146-21, which I believe is the amendment to the LDO that contains the substantive provisions staff is trying to achieve with respect to connection to public sanitary sewage systems and septic tanks. I'd like to have staff make the presentation with respect to that change, open a Public Hearing on that case, hear from the public, and proceed to a decision with respect to Case 146-21. Assuming that it is approved, I will then plan on calling all six of the remaining cases at the same time. I'll not ask staff to make a separate presentation but will note for the record that we are incorporating the presentation made by staff on Case 146-21 for the rest of the cases. Then, I'll call for a single Public Hearing relative to all six of those cases. If anyone from the public wishes to be heard on any of the six cases, we'll consider their comments and then move on to a vote with respect to all six at the same time. Does the commission have any objection to moving on in that fashion? With that, we'll move on to Case 146-21.

CASE 146-21 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-2.6, SEWAGE DISPOSAL, SEPTIC TANKS – Request for approval of

an amendment to the Leawood Development Ordinance, pertaining to septic tanks.
PUBLIC HEARING

Staff Presentation

Planning Director Mark Klein made the following presentation:

Mr. Klein: This is an application for a modification to the Leawood Development ordinance with regard to sewage disposal and septic tanks. We talked a bit about this at the Planning Commission work session. This change is to clean up the wording and make an adjustment so the city is in compliance with Johnson County Wastewater, who is typically the body that issues the sanitary sewer permits. Currently, the ordinance states that if there is a house on septic, when the sanitary sewer is extended, if it falls within 200 feet of the property line of the house, the property would need to connect to the sanitary sewer within a period of three years. Johnson County Wastewater has a waiver for a case within 200 feet but has topography or other challenges. This takes that into account and includes the waiver as something that the city would recognize. That is the primary change, especially with Section 16-4-2.6 on Case 146-21. The other cases (44-22 through 50-22) all have to deal with each individual zoning district. They have a statement that they are required to hook up to sanitary sewer. This takes each of those and has an amendment to reference back to Section 16-4-2.6, which does include the waiver. It makes it more consistent and eliminates the contradiction. Staff would be happy to answer any questions.

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

Comm. McGurren: In your paragraph 16-4-2.6, the last portion of the last line refers to acquiring a waiver. Would it help if, “and provided the waiver to the City of Leawood staff” were added? Is it required that the waiver is on file?

Mr. Klein: That is the assumption. We could add that. If there is an existing building and they get a waiver from Johnson County Wastewater, the waiver could be provided to the city. It is more of an administrative thing. If it is new construction or something like that, it would have to go before Governing Body.

Chairman Elkins: I don’t know anything about the waiver process for Johnson County Wastewater, but are their waivers ever time-bound? Do they issue waivers that are good for a time frame, or all they always permanent?

Mr. Klein: I’m really not sure. I believe the waivers are issued based on engineering and topography. Unless the topography or physical condition that would make it impractical to connect to the sanitary sewer changed, it would probably be left in place. Whether they have a time limit similar to a Special Use Permit to see if the situation has changed, I’d have to check.

Chairman Elkins: Does the Johnson County Wastewater District have authority to require hookups?

Mr. Klein: I believe they have the authority to require hookups. We require permits from Johnson County Wastewater before building permits are issued. I know it's a fairly extensive review process, or at least it takes quite a while.

Chairman Elkins: Are the waivers ever a function of the capacity of the sanitary sewer system, or is it always topography and engineering?

Mr. Klein: I'm not sure if Brian could answer better.

Mr. Scovill: I'm not aware of what warrants a waiver and what doesn't with respect to Johnson County's policies.

Ms. Knight: I have seen one waiver from 2021, so it's relatively recent. It talks about an application for an exception to Johnson County's requirement, which also requires them to join in if they're less than 200 feet from a sanitary sewer. In this particular one, they have a cost analysis. I think they needed a new septic tank that was estimated to be \$7,000-\$8,000. To tie into the sanitary sewer was \$72,000. Based on that cost differential, the county approved it for this particular homeowner. They then sent that to the city, and we had 14 days to object. If we did nothing, it would be accepted. That's the one example I have.

Chairman Elkins: In that instance, was it bound by time in any way?

Ms. Knight: I don't see that on here.

Comm. Hoyt: Maybe this is just assumed, but Section 14-6-2.6 says, "acquired a waiver from the Wastewater District." Do you think it should say "Johnson County Wastewater"? That is the only one that would be relevant, but it doesn't say that in your guidelines. It says it in your description numerous times.

Mr. Klein: That would be fine.

Chairman Elkins: Other questions? If not, because this is a Leawood Development Ordinance amendment, a Public Hearing is required.

Public Hearing

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

Chairman Elkins: That takes us to discussion. Are there comments or questions?

Comm. Coleman: Just to clarify, I think the entity is referred to as Johnson County Wastewater and not District.

Chairman Elkins: As a statutory entity, I think it is.

Comm. Coleman: I'll defer, but I haven't seen it.

Mr. Klein: We can make the amendment to include the official name, and we can check it.

A motion to recommend approval of CASE 146-21 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-2.6, SEWAGE DISPOSAL, SEPTIC TANKS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to septic tanks – with the addition of the official name of the entity on the last line – was made by Coleman; seconded by McGurren. Motion carried with a unanimous vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: The commission now calls Case 44-22, 45-22, 46-22, 47-22 48-22, 49-22, 50-22. The comments from staff regarding Case 146-22 will stand on record for the cases.

CASE 44-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.1, AG (Agriculture District) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **Staff**

CASE 45-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.2, RP-A5 (Planned Rural Residential District) (5 Acres per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **PUBLIC HEARING**

CASE 46-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.3, R-1 (Planned Single Family Low Density Residential District) (15,000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **PUBLIC HEARING**

CASE 47-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.4, RP-1 (Planned Single Family Residential District) (12,000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **PUBLIC HEARING**

CASE 48-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.5, RP-2 (Planned Cluster Detached Residential District) (6000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **PUBLIC HEARING**

CASE 49-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.6, RP-3 (Planned Cluster Attached Residential District) (6000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **PUBLIC HEARING**

CASE 50-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.7, RP-4 (Planned Apartment House Residential District) (4000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks. **PUBLIC HEARING**

Staff Presentation

Presentation from Case 146-21 stand on record for Cases 44-22, 45-22, 46-22, 47-22, 48-22, 49-22, 50-22.

Public Hearing

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

A motion to recommend approval of:

CASE 44-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.1, AG (Agriculture District) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

CASE 45-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.2, RP-A5 (Planned Rural Residential District) (5 Acres per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

CASE 46-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.3, R-1 (Planned Single Family Low Density Residential District) (15,000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

CASE 47-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.4, RP-1 (Planned Single Family Residential District) (12,000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

CASE 48-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.5, RP-2 (Planned Cluster Detached Residential District) (6000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

CASE 49-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.6, RP-3 (Planned Cluster Attached Residential District) (6000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

CASE 50-22 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-5.7, RP-4 (Planned Apartment House Residential District) (4000 Sq. Feet per Dwelling) – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to sanitary sewer and septic tanks

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

Chairman Elkins: Is there any other business to come before the commission?

Comm. Coleman: Mr. Klein, in the minutes, I read that you talked about possibly doing a work session the second Tuesday in May. Are you still anticipating that?

Mr. Klein: Yes, we need to have one on May 10th to discuss the CIP, Self-Propelled Leawood, and density, height, and transects along 135th Street.

Chairman Elkins: Will Part 2 of the Comprehensive Plan come up at that time, too?

Mr. Klein: Honestly, we don't have the numbers we were waiting for yet.

Chairman Elkins: Thank you.

MEETING ADJOURNED