If you require any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend this meeting, please notify this office at 913.339.6700 or Email at CityClerk@Leawood.org no later than 96 hours prior to the scheduled commencement of the meeting.

*AMENDED AGENDA*

(This agenda is subject to changes, additions or deletions at the discretion of the City Council)

<table>
<thead>
<tr>
<th>Mayor Peggy Dunn</th>
<th>Councilmembers</th>
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<td>Ward One</td>
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<tr>
<td>Debra Filla</td>
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<td>Andrew Osman</td>
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<td>Chuck Sipple</td>
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<td>Lisa Harrison</td>
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<td>Julie Cain</td>
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<td>James Azeltine</td>
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</table>

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. CITY CLERK STATEMENT

To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Governing Body is being conducted remotely using the Zoom media format and some of the members of the Governing Body are appearing remotely. The meeting is being livestreamed on [YouTube] and the public can access the livestream by going to www.leawood.org/.

Public comments on non-agenda items will not be accepted during this meeting. Public comment on agenda items not requiring a public hearing may not be accepted. As always, public comment on any agenda item can be submitted in advance. Written public comments received at least 24 hours prior to the meeting have been distributed to members of the Governing Body prior to the meeting. Public comments should be directed to LeawoodPublicCommentGB@leawood.org.

5. PROCLAMATIONS

6. PRESENTATIONS/RECOGNITIONS

7. SPECIAL BUSINESS

8. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.
A. Accept Appropriation Ordinance Nos. 2020-38 and 2020-39
B. Accept minutes of the October 5, 2020 Governing Body meeting
C. Accept minutes of the September 21, 2020 Governing Body Work Session
D. Accept minutes of the September 15, 2020 Parks and Recreation Advisory Board
E. Resolution calling for a Public Hearing to be heard on Monday, November 16, 2020 at 7:00 P.M., or as soon thereafter as may be heard regarding amendments to the 2020 Fiscal Budget for the City of Leawood, Kansas (F)
F. Resolution approving the 2021 Human Service Fund Recommendation from United Community Services of Johnson County [UCS] and the City of Leawood's participation for an amount of $16,500.00 (F)
G. Resolution approving a Final Plan for Parkway Plaza – Weber Carpet, located north of 135th Street and east of Briar. (PC Case 80-20) (PC)
H. Resolution approving and authorizing the Mayor to execute a Construction Services Agreement between the City and MegaKC in the amount of $130,940.60, pertaining to trail maintenance from City Park to College Boulevard Bridge (PR)
I. Resolution approving and authorizing the Mayor to execute a Construction Agreement between the City and Realm Construction, Inc. in the amount of $224,729.00 pertaining to the 2020 135th Street Concrete Repair Program (PW)
J. Resolution accepting a Temporary Construction Easement from Grantors Kristen Baehr and Justin Baehr, for property located at 12706 Cherokee Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
K. Resolution accepting a Temporary Construction Easement from Grantor Randy L. Brooks, Trustee of the Randy L. Brooks Trust for property located at 12719 Sagamore Road, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
L. Resolution accepting a Temporary Construction Easement from Grantor Stephan K. Matthews for property located at 12602 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
M. Resolution accepting a Permanent Drainage Easement from Grantor Stephan K. Matthews for property located at 12602 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
N. Resolution accepting a Temporary Construction Easement from Grantors Robert O. Schock and Carla J. Schock for property located at 12703 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
O. Resolution accepting a Temporary Construction Easement from Grantors Ryan J. Gildea and Courtney C. Gildea for property located at 12704 Wenonga Lane, pertaining to the Leawood South Stormwater Project [Project #80256] (PW)
P. Resolution approving and authorizing the Mayor to execute Change Order No. 2 in the amount of $69,000.00 between the City and J.M. Fahey Construction Company, pertaining to the Mission Road Improvement Project from 119th Street to 127th Street [Project #72065] (PW)
Q. Police Department Monthly Report
R. Fire Department Monthly Report
S. Municipal Court Monthly Report

9. MAYOR’S REPORT
10. COUNCILMEMBERS’ REPORT

*A. Councilmember Cain  Discussion of Leawood's 135th Street Community Plan

*B. Councilmember Cain  Discussion of Villa de Fontana

11. CITY ADMINISTRATOR REPORT

12. STAFF REPORT

Holly York, Cultural Arts: Report on City of Leawood Banners

13. COMMITTEE RECOMMENDATIONS

PLANNING COMMISSION

[From the September 22, 2020 Planning Commission meeting]

A. Ordinance approving a Special Use Permit, Preliminary Plan, and Final Plan for Plaza Pointe – Guidepost Montessori, located south of 135th Street and west of Roe Avenue (PC Case 68-20)

B. Ordinance amending Section 16-2-6.3, of the Leawood Development Ordinance [LDO] entitled “SD-CR (Planned General Retail)” and repealing existing sections 16-2-6.3 and other sections in conflict herewith (PC 75-20)

C. Ordinance approving a Preliminary Plan for Town Center Plaza – First Ascent (Climbing/Health Club), located north of 119th Street and west of Roe Avenue. (PC 64-20)

14. OLD BUSINESS

15. OTHER BUSINESS

16. NEW BUSINESS

A. Schedule Work Session for Monday, November 2, 2020, at 6:00 P.M.

B. Schedule Governing Body meeting Monday, November 2, 2020, at 7:30 P.M.

ADJOURN
Leawood operates under a Council-Mayor form of government, with a separately elected mayor and 8 council persons. Council members are elected on a non-partisan basis from 4 wards. The Council develops policies and provides direction for the professional city administration. Regular meetings of the Leawood City Council are held the first and third Mondays of each month. Copies of the agenda are available at the Office of the City Clerk on the Friday prior to the meeting.

Number of Votes Required:
Non-zoning Ordinances: Majority of the members-elect of the City Council [5]
Zoning Ordinances and other Planning Commission Recommendations:
• Passage of Ordinances Subject to Protest Petition: ¾ majority of members of Governing Body [7]
• Approving Planning Commission Recommendation: Majority of the members-elect of the City Council [5]
• Remanding to Planning Commission: Majority of the members-elect of the City Council [5]
• Approving, Overriding, Amending or Revising Recommendation after Remand: Majority of the members-elect of the City Council [5]
• Overriding, Amending or Revising Recommendation: 2/3 majority of membership of Governing Body [6]
Note: Mayor may cast deciding vote when vote is one less than required.
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<td>Monday, Nov. 2, 2020</td>
<td>6:00 P.M.</td>
<td>Work Session - Review proposed design of the new Fire Station No. 1</td>
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Grand Total All Checks: 965,523.96
Minutes

Councilmembers present: Julie Cain, James Azeltine, Chuck Sipple and Mary Larson

Councilmembers present via Zoom: Lisa Harrison, Andrew Osman, Debra Filla and Jim Rawlings

Councilmembers Absent: None

Staff present: Scott Lambers, City Administrator
Dawn Long, Finance Director
Chief Troy Rettig, Police Department
Mark Tepesch, Info. Services Specialist III
Mike Pelger, Information Services Specialist
Holly York, Cultural Arts Coordinator

Patty Bennett, City Attorney
Nic Sanders, HR Director
Chris Claxton, Parks and Rec Director
Kelly Varner, City Clerk
Stacie Stromberg, Assistant City Clerk

Staff present via Zoom: Mark Klein, Planning Official

Others present via Zoom: None

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

Mayor Dunn stated at the request of the developer, Item 13 is being remanded to the Planning Commission. She stated there will be no developer’s presentation, no staff presentation, and no presentation from the public. Mayor Dunn noted this modification of the agenda will take place under Special Business, Item 7A.

A motion to approve the agenda as amended was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

Councilmember Cain asked how and when the public was notified of Item 13 being pulled from the agenda. Patty Bennett, City Attorney, stated that Mark Klein, Planning Official, notified each of the residents who asked to address the Council. She stated Ross Kurz, Information Services Director, also added a flag to the front page and YouTube link on the City’s website to notify the public that there was a remand request and that the developer would not be making a presentation at this meeting.

Councilmember Larson asked if there is a date in which it will be remanded to the Planning Commission. Mr. Klein stated it would be at the October 27, 2020 Planning Commission meeting to make it eligible for the November 2nd City Council meeting. Mayor Dunn reminded the Council that the Planning Commission is a different body and the date in which it is scheduled can be subject to change.
4. CITY CLERK STATEMENT
To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Governing Body is being conducted remotely using the Zoom media format and some of the members of the Governing Body are appearing remotely. The meeting is being livestreamed on YouTube and the public can access the livestream by going to www.leawood.org. Public comments on non-agenda items will not be accepted during this meeting. Public comment on agenda items not requiring a public hearing may not be accepted. As always, public comment on any agenda item can be submitted in advance. Written public comments received at least 24 hours prior to the meeting have been distributed to members of the Governing Body prior to the meeting. Public comments should be directed to LeawoodPublicCommentGB@leawood.org.

5. PROCLAMATIONS

National Arts & Humanities Month, October, 2020
Mayor Dunn read the proclamation into record. Holly York, Cultural Arts Coordinator, accepted the proclamation on behalf of the Parks and Rec Department. Mayor Dunn thanked Ms. York for all her work for the City. She mentioned she noticed the preparation for the two new sculptures that will be installed soon. Ms. York stated the goal is have them installed by the end of the year.

Councilmember Cain stated she has worked with Ms. York on several projects and how thrilled she is for Ms. York’s enthusiasm and energy as the new Cultural Arts Coordinator. Ms. York thanked Councilmember Cain and the Governing Body for their support.

Double Ten Day, October 10, 2020
Mayor Dunn read the proclamation into record. She stated the proclamation will be sent to Director General Jerry Chang of the Taipei Economic and Cultural Office in Denver. Mayor Dunn stated this celebration will be held virtually for the first time. Director General Chang invited Mayor Dunn to prepare a video that she was able to make with the help of Ross Kurz and then sent to them last week. Mayor Dunn congratulated them on their holiday.

6. PRESENTATIONS/RECOGNITIONS - None

7. SPECIAL BUSINESS
A. Approval to remand Item 13 to the October 27, 2020 Planning Commission meeting.

A motion to remand 7A was made by Councilmember Sipple, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.

Ms. Bennett recommended to the Mayor that the Planning Commission will need instruction from the Council to cover the changes and completion of the plan. Mayor Dunn stated the plan has changed since it was denied by the Planning Commission and still needs to be completed. The staff has yet to review it and make their comments. She stated for those reasons the Developer has requested it be remanded. Mayor Dunn stated she is unsure if the Planning Commission will have another public hearing. Ms. Bennett stated if the changes are not substantial it would not warrant a new INTERACT meeting or public hearing. Mayor Dunn stated the Council has been provided all the written citizen comments. The public will have the opportunity to speak at a City Council meeting, if they choose.
Councilmember Cain asked if the plan is not complete will the Planning Commission still hear it. Mayor Dunn replied that they typically do not hear incomplete plans.

B. Resolution Amending Resolution 5405 and providing for a Special Call for a Special Governing Body meeting for October 12, 2020, for the purpose of considering Planning Case Nos. 70-20 and 81-20, pertaining to the Villa De Fontana Development and request for public financing.

A motion to approve Item 7B was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

8. CONSENT AGENDA
Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

A. Accept Appropriation Ordinance Nos. 2020-36 and 2020-37
B. Accept minutes of the September 21, 2020 Governing Body meeting
C. Accept minutes of the July 14, 2020 Historic Commission Meeting
D. Accept minutes of the May 26, 2020 Leawood Arts Council Meeting
E. Resolution approving and authorizing the Mayor to execute 2021 Employee Benefit Plan documents (HR)
F. Resolution designating holidays for the year 2021, in accordance with the personnel rules and regulations of the City of Leawood, Kansas (HR)
G. Resolution approving and authorizing the Mayor to execute a Professional Services Agreement with Plaid Collaborative in an amount not to exceed $23,300.00 pertaining to a Master Plan for Public Art (PR)
H. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and KC Banner in the amount of $29,249.98 pertaining to the replacement of street banners in various locations throughout the City (PR)
I. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of $34,430.00 between the City and Warren Moore Painting, LLC, pertaining to the painting and repair improvements of Leawood Fire Stations No. 2, located at 12701 Mission Road, and No. 3, located at 14701 Mission Road (PW)

Councilmember Sipple pulled Item 8E.

Councilmember Larson and Councilmember Harrison pulled Item 8H.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Cain, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

Item 8E Discussion:
Councilmember Sipple commented about the City decreasing its contribution for health insurance for the employee plus spouse plan to 65%. He asked how it compares to other cities in Johnson County and by what recent percent is it decreasing.

Nic Sanders, HR Director, addressed the Governing Body. He stated the contribution rate for employee plus spouse on the base plan was 83%. Part of the reason of the decrease is managing costs for a spouse.
It is approximately 50% of the City’s cost on claims. The decrease allowed the City to stay within budget. Councilmember Sipple asked if that 65% includes family. Mr. Sanders stated the family is at 75%. Councilmember Sipple asked how many employees does this affect. Mr. Sanders stated it is 38 employees, including retirees if they pay 100% of the cost for themselves. He stated he expects approximately 10 employees to move from that plan to single coverage and about the same amount of employees to move from single coverage to family.

Mr. Sanders pointed out that other municipalities in Johnson County pay a little more but have been discussing spousal surcharges, meaning there will be additional fees to an organization if spouses have health coverage elsewhere. He stated it is becoming the trend in the market. Councilmember Sipple asked if it has been a high benefit year for insurance companies. Mr. Sanders stated he is unsure at this time, but through negotiations and long-standing agreements with Blue Cross Blue Shield the City was able to negotiate an 11.8% increase with no plan design changes.

A motion to approve Item 8E was made by Councilmember Sipple, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 7-1. Councilmember Osman voted nay.

Councilmember Osman stated he had concerns last year and again at this time with Blue Cross Blue Shield targeting large companies, making it difficult for sole proprietors and small business owners to obtain affordable health insurance in the open market.

Mayor Dunn complimented Mr. Sanders on his work in getting the fee lowered from the initial projections. Mr. Sanders pointed out they did due diligence to shop the open market and found the rate increase was competitive.

Councilmember Cain thanked Mr. Sanders for the care package. He thanked his staff and stated the packages could not have been done without the support of the Council and the City Administrator.

Item 8H Discussion:
Councilmember Larson thanked staff and Councilmember Cain on their work with the new, replacement banners around the City. She asked if the City will receive a refund on the original banners. Holly York replied that instead of a refund the City did not make the final payment of $3,719.89 to the company because they did not provide what was promised. Councilmember Harrison asked if there is still an opportunity to make edits to the new banner design to make them easier to read. Ms. York stated that changes can be made and she would ask the company for samples before mass production is started.

A motion to approve Item 8H was made by Councilmember Larson, seconded by Councilmember Cain. Motion was approved with a unanimous roll-call vote of 8-0.

9. MAYOR’S REPORT
   A. I recently participated in the Kansas Legislative Affairs virtual discussion presented by Kansas Secretary of Commerce David Toland. Highlights included:
      1. Johnson County’s unemployment rate is 6.1%
      2. 7,000 applications were submitted across the State of Kansas for $1.25 billion of CARES ACT money. $110M will go to Johnson County for distribution.
      3. The KS/MO “Border War” truce is working well.
      4. The Kansas Advantage, the Nation’s first comprehensive Economic Development Strategic Plan that reflects the Pandemic is coming this November.
5. Areas of growth are E-Commerce, up 146% from 2019; Capital Expenditures are fewer in projects, but higher in dollar amounts.

6. Areas of decline are in total spending, health care, restaurants and hotels.

B. I had the pleasure of touring the new PT Solutions Physical Therapy Center located in Market Square at 135th and Mission Road. We thank them for being Leawood Chamber of Commerce members and we wish them much success.

C. Congratulations are in order to the City of Leawood as being named as one of the Top 50 Best Places to Live by Money.com. Leawood was the only city in Kansas to place in the top 50. The rankings were derived from 115 separate types of data, with categories including economy and income, housing market, cost of living, diversity, public education, health and safety, weather and lifestyle, and quality of life amenities.

D. Thank you to HR Director Nic Sanders and his team for the care boxes recently delivered to all Leawood employees. The sentiments on the enclosed card were most thoughtful and demonstrated a true appreciation to one and all for the selfless service to our community during these trying times. My sincere appreciation to all as well!

10. COUNCILMEMBERS' REPORT - None

11. CITY ADMINISTRATOR REPORT - None

12. STAFF REPORT

A. Scott Lambers, City Administrator: Discussion Report on the 2020 Holiday Lighting Ceremony

Mr. Lambers addressed the Governing Body. He requested a recommendation to cancel the lighting ceremony due to the issue of social distancing and the disparity in ages of the participants. Councilmember Cain asked if there will still be lights on the building, in which Mr. Lambers stated yes. Councilmember Azeltine asked what the lead time would be if the Council decided to postpone a decision tonight. Mayor Dunn pointed out there are schools who participate in the ceremony and Mr. Lambers added the decision should be made at this time. Councilmember Larson asked if the date of the lighting could still be announced to the public. Mr. Lambers stated the night to turn on the lights will be the same as normal. Mayor Dunn stated a message should be on the City’s website to notify residents of a change. Councilmember Filla asked if the lighting could be aired on the City’s YouTube channel. Mayor Dunn suggested that Mr. Lambers and Mr. Kurz work on providing a link to allow the public to watch via YouTube of the Mayor flipping the switch.


Ms. Long addressed the Governing Body. She briefly reviewed the updated report provided to the Council in their packets. The updates to the report were the sales tax information received for the month of September that were for the July sales. She pointed out amounts shown in the Sales and Use Tax Combined table were up slightly in June but fell in July. Ms. Long stated she will continue to bring monthly updates to the Council.

Councilmember Sipple asked about the utility amounts on the report and why the figures fluctuate greatly. Ms. Long stated the utilities always fluctuate month to month, but it could be because of usage. She added that the Finance Department did look for any anomalies and did not find anything unusual. Ms. Long stated she would do more research into the utilities and will email the Council on what she finds.
13. COMMITTEE RECOMMENDATIONS

[From the August 25, 2020 and September 9, 2020 Planning Commission meeting]

Ordinance approving Planning Commission’s recommendation of denial of a rezoning from AG (Agricultural) and SD-O (Planned Office) to RP-2 (Planned Cluster Residential Detached) and MXD (Mixed Use Development District), Preliminary Plan and Preliminary Plat for Cameron’s Court, located south of 133rd Street and west of State Line Road. (PC Case 49-20) ROLL CALL VOTE

14. OLD BUSINESS - None

15. OTHER BUSINESS - None

16. NEW BUSINESS

A. Schedule Work Session Monday, October 19, 2020, at 6:00 P.M.

A motion to approve Item 16A was made by Councilmember Rawlings, seconded by Councilmember Filla. Motion was approved with a unanimous roll-call vote of 8-0.

Councilmember Azeltine asked for clarification on the subject matter of the October 19th meeting. Mayor Dunn stated it is the continuation of the EDC’s (Economic Development Council) tools.

B. Schedule Governing Body meeting Monday, October 19, at 7:30 P.M.

A motion to approve Item 16B was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

The Mayor confirmed the Governing Body Special Call meeting on Monday, October 12, 2020 will start at 6:00 P.M.

ADJOURN

Meeting was adjourned at 8:20 P.M.
Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting, 4800 Town Center Drive, at 6:00 P.M. on Monday, September 21, 2020. Mayor Peggy Dunn presided.

Councilmembers Present: Lisa Harrison, Julie Cain, Jim Rawlings, James Azeltine, Debra Filla, Chuck Sipple and Mary Larson

Councilmembers Present via Zoom: Andrew Osman

Councilmembers Absent: none

Staff Present: Scott Lambers, City Administrator; Patty Bennett, City Attorney; Ross Kurz, Information Services Director; Mark Tepesch, IS Senior Specialist; and Stacie Stromberg, Assistant City Clerk

Staff Present via Zoom: none

Review the City’s Economic Development Policies

Mayor Dunn opened the work session.

City Administrator Scott Lambers presented a review of the Transportation Development District (TDD) policy. He stated the current policy is very brief because the application is narrow on what it can support for private development. He explained the City would not issue debt under this policy but with one exception. Debt would be funded under sales tax or a special assessment property tax, but that the exception would be the burying of utility lines. He stated since the utility company requires an upfront payment, it could be eligible for debt service.

He stated under Length of Debt, Section 17 of the policy, taxing is to remain in effect for 10 years, however it can go up to 22 years. He suggested the statement “...debt may be extended up to a maximum of 22 years...” needs to be revised to clearly define debt or tax. He stated the length of the 22 years is allowed by Kansas State Statute but the City can do less, although it has never been formally incorporated into the document. Mr. Lambers suggested if the Council agreed 22 years is too long for debt, it will need to define a maximum length of time.

Councilmember Rawlings asked who makes the determination of the debt length of time. Mr. Lambers stated the City has the ultimate decision, but the policy invites the applicant to request up to 22 years.
Work Session

Councilmember Harrison commented that the name of the policy to her would indicate the building of roads, parking lots or transportation. Mr. Lambers stated it is very liberal in its interpretation, which is the reason there is a statement stating anything that is eligible under the Statute a developer may make a request for. He suggested if this policy were to be revised, the City’s Administrative staff would provide the Kansas State Statute to the Council to help make a decision on what can or cannot be financed with this financial tool.

Mayor Dunn stated this policy was used in the past for the parking structure at Park Place. Councilmember Harrison asked what other projects has this been used for recently. Mr. Lambers stated undergrounding power lines and the parking lot retaining wall at Town Center Crossing. Mr. Lambers stated it was the intention of the Council to have the cost incurred being “extraordinary”, although it is not listed in the policy, he suggested it should be included since it was not a basic, surface parking garage.

Councilmember Sipple asked how the Council determines what is a reasonable amount of cost in a TDD on an applicant’s request. Mr. Lambers stated it is typically paid for by sales tax, so the City uses a sales tax calculation as to what type of revenue will be generated, and based on that it is determined what kind of debt it can service.

Councilmember Azeltine stated the reason the Council originally decided on a 22-year maximum is because the bonds are the responsibility of the developer, and not the City. Mr. Lambers stated the City’s name is on the bonds. He also pointed out the developer must provide a revenue stream to show they can reasonably make the debt service payment.

Mayor Dunn stated it has been discussed before to place a ceiling on a maximum sales tax. She felt 1% should be the maximum and has served the City well.

Councilmember Azeltine stated he appreciates the review of the policies the City already has in place, but he reiterated that he wants to pursue other instruments that the City does not currently have, such as Industrial Revenue Bonds (IRBs) and tax abatements.

Mayor Dunn stated IRBs were reviewed at an earlier work session, but not tax abatements.

Mr. Lambers stated tax abatements are the only generally used economic development policy that the City does not currently have. He stated his goal is to finish the review of the current policies, ask the Council to identify which ones are most important or, if the tax abatement is one that the Council would like to review next, then he would present that for discussion. Councilmember Azeltine stated the City’s current IRB ordinance was codified in 1982, so he would like Mr. Lambers and City Attorney Patty Bennett to update the wording.

Councilmember Filla asked which entities do not receive taxes from an IRB with a tax exemption. Mr. Lambers stated all the jurisdictions. He stated the City has the sole authority to abate all the property taxes to the state, county, and school districts. Mayor Dunn clarified that on an IRB the sales tax on construction equipment is for all the same jurisdictions. Mr. Lambers stated the school districts are entitled to a statutory obligation where they can participate in the tax amounts being given out, but to date have not participated.
Councilmember Filla commented that there is only so much tax burden that can be asked of citizens. Mr. Lambers agreed that many jurisdictions have approached or passed the 10% sales tax threshold in the special districts, yet Leawood is just below it.

Councilmember Sipple asked what is the collateral behind the bond on a TDD. Mr. Lambers stated there is no collateral and that the bond holder takes total risk because they rely on the sales tax being generated, collected and paid back. He stated for TDDs, most are pay-as-you-go sales tax and the developer is responsible to make up any differences.

Councilmember Harrison asked to clarify that if the sales tax pays back the TDD, yet there is no sales tax in the development, does the City not get any of it back. Mr. Lambers explained that the developer does not get it back because the City reimburses the developer’s expenses. Mayor Dunn added that the developer’s completed projects must be validated before any money is given back. Mr. Lambers further explained that the money is paid upfront by the developer then they are paid back through the sales tax revenue stream. Councilmember Harrison asked if the IRBs are different than CIDDs (Community Improvement District) and TDDs. Mr. Lambers stated IRBs are private arrangements between a developer and their financial institution.

Councilmember Osman suggested that the Council compartmentalize each finance policy, to distinguish if there is taxation, and what that amount would be, as in an IRB. Mr. Lambers stated if the Council wished to provide a sales tax exemption, solely for development as a financial tool, it would be different than issuing an IRB and tax abatements over a certain number of years. He also stated that sales tax can be generated by other means, such as on utilities.

Councilmember Filla pointed out that developing agricultural areas within the City seems to be more desirable than redeveloping existing infrastructure. She expressed her concern that financing vehicles offered by the City make it more competitive to do this. Mr. Lambers stated that cities who have large, urban areas in decline, it makes much more sense to offer incentives to developers. Mayor Dunn replied that Leawood would never be an opportunity zone and is very fortunate and affluent to have development occur without giving tax benefits away.

Councilmember Rawlings asked when the City would start collecting property taxes after a new construction project is finished with a tax abatement. Mr. Lambers stated it would be the following year.

Mr. Lambers concluded his review of this policy. He stated that the City’s CID policy, being the most recent, might not need a detailed review unless recommended by the Council. Mayor Dunn stated there have only been 2 CIDs issued in the City of Leawood, both of which were capped monetarily at approximately 25%. She pointed out that the cap is not stated in the policy but feels that would be valuable to make it clear to developers. Mr. Lambers stated the Council could review and revise the CID policy at the same time. Councilmember Azehtine asked if a cap is included in a development agreement. Mr. Lambers stated a development agreement sets out the amounts of money the developer requests to be reimbursed to them.

Councilmember Sipple asked if the City of Leawood’s language in the CID policy is more or less generous or if it was dictated more by the State. Mr. Lambers stated the State statute is intended to be for urban redevelopment, and the City of Leawood’s language is geared toward infrastructure.
Councilmember Filla summarized that there are some minor updates needed to the policies as recommended by Mr. Lambers, but feels that the tax abatement opportunities need to be explored. Mr. Lambers stated if the Council is interested in learning more about a tax abatement through an IRB, he can provide information and include it on the next work session. He stated he would also include on the agenda the section to amend the IRB policy to request only sales tax redemptions and the cap on the CID policy.

Councilmember Azeltine commented he would like to have several financial policy options available for developers, whether or not the Council chooses to use them.

Councilmember Cain stated it is impossible to know what will happen with commercial, retail and industry during the time of the pandemic and is feeling grateful for the Council being cautious and conservative with incentives.

Mayor Dunn cautioned the Council to be prepared for developers to request special incentives once they are offered.

There was a brief discussion regarding scheduling future work sessions, topics and priorities.

The meeting adjourned at 7:19 p.m.

/s/ Stacie Stromberg
Assistant City Clerk
ADVISORY BOARD
Meeting Minutes – September 15, 2020 - 5:30 p.m.

To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Parks and Recreation Advisory Board was conducted remotely using the Zoom media format. The meeting was livestreamed on [YouTube] and the public could access the livestream by going to www.leawood.org/.

Board members in attendance: Chair Karen Ward-Reimer, Kim Galbraith, Greg Williams, Gary Swanson, Bob Wright, JoLynn Hobbs, and Amy Vlastic.

Council liaisons present: Chuck Sipple and Julie Cain.

Staff members present: Holly York, Chris Claxton, Kim Curran, Brian Anderson, and Camille Sumrall.

Chair Karen Ward-Reimer called the meeting to order at 5:40 p.m.

Bob Wright made a motion to approve the minutes from July 14th, 2020 meeting. JoLynn Hobbs seconded the motion. A roll call vote was taken to approve the minutes. The minutes were approved unanimously.

I. Old Business

A. Update on 2020 Pool Season
   Kim stated that the pool season went very well. There were about 15,600 visitors throughout the season. In recent, normal years it is about 50,000 visitors. Revenue was down considerably for a total of $65,000.

   JoLynn Hobbs asked what revenue is like in a typical year.

   Kim responded that it is typically around $340,000. That figure includes swim team, swim lessons, season passes and daily visits.

B. Update on Footings for Art Pieces
   Chris stated that the bid went out for the footings, and they received a good price from Mega KC. There will be a pre-construction meeting on Thursday, September 17th. They will begin work the following week and the work should be completed in three weeks. She added they are awaiting the return of “Women of The World”, which should be arriving in the next week or so.

   Council Liaison Sipple asked if they company who constructs the footings will be installing the pieces on to the footings.

   Brian responded that Cox Air will be assisting in the setting of the pieces.

   Council Liaison Sipple asked if the pieces will be in before Thanksgiving
Brian responded that he believed they would be in before Thanksgiving.

C. Update on Trail Design from City Hall to Parkway
Brian stated that per the request at the last Parks and Recreation Advisory Board Meeting, he has been working to find security cameras for the tunnel under Roe. He is working with the City’s IT Director to find cameras that integrate in to our system. Brian stated he submitted a federal recreational trails grant for the tail extension.

Council Liaison Sipple asked how much money is at stake in the grant application.

Brian replied that it is a reimbursement grant for up to 80% of the total cost of the project. Brian stated he put the full amount of the project, $800,000, however; he believes that they will likely receive less than 80% of the total. Brian added that he informed the grant facilitator that we would be grateful for any amount.

Council Liaison Cain asked when we will find out if we received any funds.

Brian replied that we will be notified in February 2021.

D. Update on Design of Pool House Replacement
Brian stated that Leawood staff and SFS Architecture have had several meetings regarding the pool house design. SFS has presented several material panels and an estimate of the floor plan. The preliminary design would incorporate three smaller buildings with two connected by a breezeway. This design would incorporate natural light and feel open. One of the buildings would have an external public restroom that would be great for trail users, park users, and bike loop users.

Chris added that the design includes additional rooms that can be used for swim team meets, party rooms for birthdays, recreational classes, or general use like HOA meetings. The room would have an external lock with a code, so staff would not be needed in order for patrons to use it.

Council Liaison Sipple asked if the new building will have any impact on the amount of parking available.

Chris responded that it will not affect parking.

JoLynn added that she liked the idea of multi-use rooms and exterior restroom access. JoLynn asked what the timeline is for the project to be completed.

Chris responded that they would like to have the building completed by the end of the 2021 season. They would like to have the construction bid out in Mid-April of 2021. Chris added that they are looking into including some kind of glass artwork into the building. They will include the Art in Public Place Committee on selecting the artwork.

E. Update on Design of New Parks Maintenance Facility
Brian stated that the architecture agreement with PGAV was approved at the last city council meeting. They have two kick-off meetings scheduled next week with the architects and members of the parks maintenance staff. The architects will be
interviewing members of the Parks Maintenance crews and the Public Works employees for input on the design process.

F. Discuss on Park at 89th and Sagamore
Chris stated the City Administrator expressed concerns about using the name “Old Leawood Crossing” as it further divides the city into north and south. City Council decided to change the name to “Leawood Crossing” from “Old Leawood Crossing”.

Brian stated that they have cleared quite a bit of brush from the area. After they cleaned the brush, it created a clear space down to the creek. They have added “No Trespassing” signs to property lines of the homeowners. Brian added that they have received positive comments from the area homeowners.

Chris stated they will be adding some donated concrete benches to the area for people to sit and enjoy the peaceful and quiet area. Chris added she would eventually like to pursue the possibility of an easement to continue the trail to Lee Boulevard. More people would likely use the trail/park who at this point may not know it is there.

JoLynn asked if a patron can donate or purchase a bench.

Chris stated that someone can memorialize one of the concrete benches for a separate fee. Chris added she will send photos of the benches to the Advisory Board.

II. New Business

A. Discuss Options for Possible MLK Walk Trail
Chris stated that the Mayor was approached by a Leawood resident who is involved with the NAACP who would like to see the city do something to honor Dr. Martin Luther King. Chris added that she was speaking with the Public Works Director, David Ley who shared a MLK walk in San Diego, which might be appropriate along the trail behind City Hall.

Chris stated perhaps we could create something similar that might include lighted plaques along the trail with quotes from Dr. Martin Luther King’s various speeches. Chris added that she is open to ideas from the Parks Advisory Board Committee Members for the MLK memorial. Chris added that she will be reaching out to Plaid Collaborative, who is may be working with the City soon on a Public Art Masterplan. They may have some interesting concepts.

Kim Galbraith suggested incorporating the bridge on the trail behind City Hall because Dr. King was known for building bridges and it would be great symbolism.

Brian added that the trail would need to be ADA compliant if we add a feature that people will need to get to.

B. Discuss Trail Replacement – College Blvd. to City Park
Brian stated that he is still gathering proposals for the trail replacement. The project would include milling the asphalt and then pouring a larger concrete trail over it.
Council Liaison Sipple asked about the progress of installing a solar powered light under the underpass at College Boulevard.

Brian responded that he will look into procuring a light for the area.

C. Discuss Trail Realignment – TC Trail
Brian stated that they have about 40 yards of erosion near the creek. The trail will need to be moved for safety. They are under contract with George Butler and Associates (GBA) to develop the plan to move the trail. When the move is complete, the trail will now be 6 inch concrete, which will be more resistant to tree roots.

D. Staff Reports

Holly
- We are partnering with the Kansas City Symphony and Kansas City Chamber Orchestra for several free, outdoor concerts at various Leawood locations. Concert dates are September 20th, 30th and October 7th.
- “Into The Night” fall festival will take place on October 9th at Ironwoods Park from 5:30-8:30 pm. Advance registration required with a limit of 400.
- Hoping to work with Plaid Collaborative design team on creating a Public Art Master Plan.

Kim
- Soccer was supposed to begin this weekend but was rained out. There are 1,300 enrolled for this season. Typically there are about 1,600 participants.
- Breakfast with Santa is now “Sidewalk Santa” where kids can write a letter to Santa and greet Santa and Mrs. Claus from their cars here at City Hall. Staff will be responding to letters from Santa. Participants will receive a goodie bag with crafts and a sweet treat.
- Ironwoods Amphitheatre rentals have been steady because it is beautiful, outdoors, and affordable.
- Working on virtual programming including paid virtual yoga and virtual kid’s classes including coding and chess club.

Camille
- New and improved email newsletter will be going out on September 18th.
- Designing banners for city events.
- Working on implementing email marketing for our fall events.
- Working on social media, especially contests to boost engagement.
- Working on a new Camp guide to be released in January.

Brian
- New dog park playground equipment donated by the Leawood Foundation will be arriving soon.
- Tennis and Pickle ball courts have been repaired and repainted.
- Oxford Schoolhouse front porch has been refinished.
- Planting trees in the Leawood Rotary Grove at Ironwoods Park.
III. Miscellaneous

The next meeting will be held October 13, via Zoom format.

Kim Galbraith made a motion adjourn the meeting. JoLynn Hobbs seconded the motion. The motion was approved unanimously via roll call vote.

The meeting adjourned at 7:30 pm.

Respectfully submitted,

Chris Claxton, Parks and Recreation Director
Memo

To: Mayor Dunn & Governing Body
    Scott Lambers, City Administrator

From: Dawn Long, Finance Director

Date: October 19, 2020

Re: 2020 Budget Amendment – Public Hearing

As authorized by K.S.A. 79-2929a, municipalities are required to amend the current year budget to authorize expenditures which were not included in the original budget or to account for other changes. A public hearing is required and notice of the hearing must be published at least 10 days prior to the hearing date. The public hearing is proposed for November 16th along with the adoption of the resolution to amend the 2020 Budget. The attached resolution calls for the public hearing. The amendment involves three funds: the Special Parks & Recreation Fund; the 1/8-Cent Sales Tax fund; and the Park Impact Fee Fund.

- The Special Parks and Recreation fund was established to account for one-third of the alcohol tax funds that are remitted to the City quarterly. These are to be used for the purchase, establishment, maintenance or expansion of services, programs and facilities, all park related. This amendment will allow the 2020 original budget of $702,300 to increase to $998,900. These funds will provide for continuation of the projects, the largest being the Pool House Renovations. Not all of the 2019 budget for Citywide Park Improvements in the Special Parks/Recreation fund budget was used, and therefore was carried forward to 2020.

- The 1/8 Cent Sales Tax fund was established to fund an accelerated residential and thoroughfare street improvement program, and to fund storm water improvement projects which are not otherwise eligible for funding from other governmental sources. The 2020 original budget of $1,108,300 will increase to $4,087,600 to provide funds for three projects, the Prairie Village storm project (Cloisters), and the Waterford Area and Patrician Woods storm projects, all of which were not complete in 2019.

- The Park Impact Fee fund is a capital fund established to account for impact fees imposed on all new development in South Leawood and all fees collected shall be used solely and exclusively for the purpose of acquisition and development of park land and open space made necessary by and serving such new development. The balance in this fund will be used towards the Pool House Renovations included in the Citywide Park Improvements project. The 2020 original budget of $4,100 will be increased to $205,000 by using the fund balance within this fund.

Please contact me if you have any questions or need further information.
RESOLUTION NO. __________

RESOLUTION CALLING FOR A PUBLIC HEARING TO BE HEARD ON MONDAY, NOVEMBER 16, 2020 AT 7:00 P.M., OR AS SOON THEREAFTER AS MAY BE HEARD, REGARDING AMENDMENTS TO THE 2020 FISCAL BUDGET FOR THE CITY OF LEAWOOD, KANSAS

WHEREAS, the City of Leawood, Kansas desires to conduct a Public Hearing to consider amendments to the 2020 Fiscal Budget for the City of Leawood, Kansas; and

WHEREAS, the City directs a public hearing to be held on Monday, November 16, 2020 at 7:00 P.M., or as soon thereafter as may be heard, and publish notice of same in the official city newspaper.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That a public hearing is hereby ordered to be held by the Governing Body of the City of Leawood, Kansas, on Monday, November 16, 2020, at 7:00 P.M., or as soon thereafter as may be heard, at the Leawood City Hall, 4800 Town Center Drive, Leawood, Johnson County, Kansas, for the purpose of considering amendments to the 2020 Fiscal Budget.

SECTION TWO: That the City Clerk of Leawood, Kansas, shall give notice of the aforesaid public hearing by publication in the official City newspaper, in accordance with K.S.A. § 75-2929, et seq., attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly L. Varner, CMC, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

K:\Clerks\Resolutions\Budget Hearings\budgetamend2020.docx
Notice of Budget Hearing for Amending the 2020 Budget

The governing body of City of Leawood, Kansas will meet on the day of November 16, 2020 at 7:00 PM at Leawood City Hall for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at Finance Department at City Hall and will be available at this hearing.

<table>
<thead>
<tr>
<th>Fund</th>
<th>2020 Adopted Budget</th>
<th>2020 Proposed Amended Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual Tax Rate</td>
<td>Amount of Tax that was Levied</td>
</tr>
<tr>
<td>Special Parks &amp; Recreation</td>
<td>702,300</td>
<td></td>
</tr>
<tr>
<td>1/8-Cent Sales Tax</td>
<td>1,108,300</td>
<td></td>
</tr>
<tr>
<td>Park Impact</td>
<td>4,100</td>
<td></td>
</tr>
</tbody>
</table>

City of Leawood, KS

Official Title:
The City has received the recommended distribution of the Human Service Fund (United Community Services-UCS) of Johnson County. The City has included the amount of $16,500 in the 2021 budget in general operations account 11110.11210.618100. The City has participated in this program for a number of years.

It is requested that the Governing Body take the appropriate action to approve the attached allocation of funds.

Please contact me if you have any questions.
RESOLUTION NO. __________

RESOLUTION APPROVING THE 2021 HUMAN SERVICE FUND RECOMMENDATION FROM UNITED COMMUNITY SERVICES OF JOHNSON COUNTY [UCS] AND THE CITY OF LEAWOOD'S PARTICIPATION FOR AN AMOUNT OF $16,500.00

WHEREAS, the City wishes to approve the 2020 Human Service Fund Recommendation from United Community Services of Johnson County and the City's participation therein, for an amount not to exceed $16,500.00.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby approves the recommendation and participation of the City.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
October 2, 2020

To: Scott Lambers, City Manager

From: Julie Brewer, Executive Director

RE: 2021 Human Service Fund Recommendation Report

The United Community Services Board of Directors has prepared its 2021 Human Service Fund allocation recommendations. The enclosed report is submitted for Leawood’s approval. UCS is sincerely grateful for the funding from the participating jurisdictions which resulted in total funding of approximately $395,376. During 2021, allocations will benefit Johnson County residents who will be served through 14 programs recommended for grants. Thanks to your support, in 2019, programs receiving Human Service Fund grants served approximately 60,000 Johnson County residents. An electronic version of the report will also be sent to you by Christina Ashie Guidry, christinag@ucsjoco.org.

The Human Service Fund agreement gives participating jurisdictions the authority and responsibility for approving or modifying UCS’ recommendations for Human Service Fund grants. The governing body is requested to approve the recommendations and notify UCS no later than December 22, 2020. After that date, the recommendations will stand as presented.

If you would like a representative from UCS to attend a Council meeting, or if you have any questions about the recommendations or process, please contact me at (913) 438-4764. We appreciate your support of this county-wide partnership. Thank you.

Enclosure: 2021 Human Service Fund Recommendations Report
Human service programs are vital to addressing the well-being, safety, and stability of Johnson County residents. United Community Services (UCS) commends city and County government leaders for recognizing the important role of local government in supporting human service programs. Thank you for your support of the Human Service Fund in 2021.

Together, Johnson County Government and 14 cities have budgeted $395,376 for the Human Service Fund in 2021. (See appendix A for list of participating jurisdictions.) These contributions directly benefit Johnson County residents who will be served through 14 programs recommended for 2021 Human Service Fund grants.

The Human Service Fund (HSF) offers local governments a cost-efficient, accountable mechanism to support an array of services that help residents of every city and township who are facing difficult circumstances. Funding is awarded to local nonprofit agencies which provide vital programs that meet the needs of Johnson County residents who live with income at or near the federal poverty level. Priority is given to programs that address childcare, job training, emergency aid and shelter, child/adult abuse, child welfare, and health care. (See appendix B for all funding priorities.) Agencies recommended for grants demonstrate positive outcomes and are working collaboratively with other organizations in the community. Funding recommendations represent the maximum HSF award for the calendar year, and UCS is not responsible for reductions in grant awards that may occur due to reduction in allocated funds by participating jurisdictions.

Thanks to your support, in 2019 programs receiving Human Service Fund grants served approximately 60,000 Johnson County residents. But these programs benefit more than just the individual and their family; the entire community, including local government, benefits. Without a strong human service infrastructure to address issues such as unemployment, lack of child care, homelessness, child abuse and neglect, domestic violence, and untreated medical conditions, our community will experience higher crime rates and lower tax revenue, a decline in the standard of living, and weakened economic health.

Jurisdictions are asked to accept the funding recommendations by December 22, 2020.
<table>
<thead>
<tr>
<th>Applicant</th>
<th>2019 Grant</th>
<th>2020 Grant</th>
<th>2021 Recommendation</th>
<th>Program Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASA of Johnson &amp; Wyandotte Counties</td>
<td>$43,500</td>
<td>$48,000</td>
<td>$48,000</td>
<td>Court-ordered intervention by trained volunteers for children determined by a judge to be a &quot;Child in Need of Care&quot; due to abuse or neglect, or as high concern for safety and placement.</td>
</tr>
<tr>
<td>Catholic Charities of NE Kansas</td>
<td>$70,000</td>
<td>$70,000</td>
<td>$70,000</td>
<td>Emergency assistance and supportive housing, including case management to meet basic needs of low-income families and help them work towards self-sufficiency.</td>
</tr>
<tr>
<td>Cultivate Kansas City</td>
<td>No request</td>
<td>$0</td>
<td>No request</td>
<td>Nutrition Incentives Program: Matching funds for SNAP participants and for seniors in KS Senior Market Nutrition Program.</td>
</tr>
<tr>
<td>El Centro</td>
<td>$22,736</td>
<td>$22,800</td>
<td>$22,800</td>
<td>Safety net services for low-income, under/uninsured individuals and families: economic empowerment (emergency assistance, financial literacy, assistance filing taxes), and access to healthcare (health navigation and health promotion).</td>
</tr>
<tr>
<td>FosterAdopt Connect</td>
<td>No request</td>
<td>$5,000</td>
<td>$5,000</td>
<td>Family Advocacy Program: Peer-to-peer support connecting foster and adoptive families with advocates to navigate and resolve issues related to interaction with child welfare system.</td>
</tr>
<tr>
<td>NCircle, replacing Goodwill of Western Missouri and Eastern Kansas</td>
<td>No request</td>
<td>$15,696</td>
<td>$19,696</td>
<td>Training and Employment Services: skills training, certification instruction, financial education, mentorship &amp; job placement for clients in Adult Residential Center (ARC) and Therapeutic Community, Juvenile Detention Center and adults on probation upon release from the ARC.</td>
</tr>
<tr>
<td>Growing Futures Early Education Center</td>
<td>$9,265</td>
<td>$9,000</td>
<td>$9,000</td>
<td>Scholarships for wraparound childcare fees for enrolled low-income families during financial hardship; allows parents to maintain full-time education/employment. Crisis assistance for enrolled families who need help with housing costs.</td>
</tr>
<tr>
<td>Harvesters</td>
<td>$15,000</td>
<td>$15,000</td>
<td>$15,000</td>
<td>BackSnack and Kids Café programs provide a backpack of food for low-income school children to take home over the weekend and meals in afterschool locations and summer sites.</td>
</tr>
<tr>
<td>Health Partnership Clinic</td>
<td>$42,000</td>
<td>$45,000</td>
<td>$49,500</td>
<td>Health and dental care, through a medical home model, for uninsured low-income Johnson County residents.</td>
</tr>
<tr>
<td>Hillcrest Ministries of MidAmerica</td>
<td>$9,500</td>
<td>$10,000</td>
<td>No request</td>
<td>Transitional housing for youth, single adults and families experiencing homelessness; case management, budget counseling, and supportive services.</td>
</tr>
<tr>
<td>Jo. Co. Interfaith Hospitality Network</td>
<td>$9,000</td>
<td>$9,000</td>
<td>$9,000</td>
<td>Case management, including shelter, meals, and transportation for single women and families with children experiencing homelessness.</td>
</tr>
<tr>
<td>Kansas Children’s Service League</td>
<td>$19,800</td>
<td>$20,280</td>
<td>$20,280</td>
<td>Home-based education and family support for new parents whose children are at-risk for child abuse and neglect.</td>
</tr>
<tr>
<td>KidsTLC</td>
<td>$17,500</td>
<td>$18,500</td>
<td>$17,500</td>
<td>Thriving Families: Crisis counseling, parent education, help for families navigating health care, housing, and community resources.</td>
</tr>
<tr>
<td>SAFEHOME</td>
<td>$21,000</td>
<td>$21,000</td>
<td>$21,000</td>
<td>Economic Empowerment Program promotes economic self-reliance for domestic violence survivors.</td>
</tr>
<tr>
<td>Salvation Army Family Lodge (Olathe)</td>
<td>$18,000</td>
<td>$20,000</td>
<td>$23,000</td>
<td>Temporary and transitional housing for families in Johnson County experiencing homelessness, including related services and case management.</td>
</tr>
<tr>
<td>Sunflower House</td>
<td>$37,500</td>
<td>$42,500</td>
<td>$42,500</td>
<td>Personal safety and prevention programs for children and youth. Prevention and education programs for childcare professionals and caregivers, including mandated reporters.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$335,930</strong></td>
<td><strong>$371,776</strong></td>
<td><strong>$372,376</strong></td>
<td>The 2020 federal poverty level for a family of three is $21,720.</td>
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Funding is recommended for the Child Advocacy Program, a court-ordered program that serves children from birth to age 18. Most children in the program are those whom a Juvenile Court Judge has determined to be a “Child in Need of Care” due to abuse or neglect by parent or caretaker (commonly placed in foster care). Children may also be referred by a Family Court Judge when child safety and placement are of great concern in a high conflict divorce or separation. In these cases, the judge is determining if the child can reside in a safe placement without having to be placed in state custody (foster care). A trained CASA volunteer advocate regularly meets with the child and focuses on the child’s situation (safety, mental health, education needs, etc.). The volunteer also gathers information from the parents, foster parents, social workers, attorneys, and teachers, then with the CASA supervisor, identifies service needs. CASA submits a report to the judge which includes information about the child’s statements, behavior, and interaction with parents. Court reports support the judge’s critical decisions about where the child should live and what services should be court-ordered.

2021 Results Projected: Children are safe from additional abuse or neglect. Children have a stable adult presence in their lives, and when eligible will complete high school or earn a GED. CASA anticipates serving 470 Johnson County children during 2021.

2020 COVID-19 Disaster Response: CASA experienced disruption in the delivery of some services due to the shutdown of courts and the fingerprinting and background check processes for intake of new clients; however, service providers were able to pivot to online services for some clients.

Outcomes achieved during 2019: During 2019, 412 Johnson County children were served. The presence of a stable adult is a key factor in building resilience from a history of trauma. 96% of children served by CASA had a stable adult presence in their CASA volunteer during their court involvement. While assigned to a CASA advocate, 99% of the children served did not have an additional affirmed or substantiated report of abuse to Kansas Department for Children and Families (DCF). Of the CASA-served youth eligible for graduation, 83% graduated.

Funding is recommended for the Emergency Assistance and Supportive Housing program which operates within two centers in Johnson County. The program provides assistance and strengths-based case management, without regard to religious affiliation, to families living at or below 150% of federal poverty guidelines. Emergency Assistance services include those that meet residents’ basic needs such as food, clothing and shelter, as well as financial assistance with prescription medication and medical supplies, utilities, childcare, and transportation. The case management delivery model emphasizes practices to achieve self-sufficiency, including asset development/financial literacy, workforce development and job-seeking assistance, life skills, and referrals to other available community resources.

2021 Results Projected: During 2021, the agency anticipates serving 25,110 Johnson County residents with assistance that includes food and/or financial support to maintain housing and utilities. Every client who receives financial assistance will engage in budget coaching and a financial review with their case manager. 75% of clients will attend financial
literacy education classes and receive one-on-one coaching according to assessed need and capability.

**2020 COVID-19 Disaster Response:** Catholic Charities experienced a reduction in the delivery of some services during the emergency shutdowns but anticipates meeting or exceeding its anticipated 2020 service statistic projections due to a significant increase in demand.

**Outcomes achieved during 2019:** During 2019, 24,859 Johnson County residents were served and visits to Catholic Charities for food assistance totaled 41,049. This included assistance with applications for SNAP (Supplemental Nutrition Assistance Program) and food from the agency’s pantry. Direct financial assistance enabled 736 individuals to maintain safe housing for at least 30 days. 1,164 individuals benefited from utility service assistance which enabled them to sustain utility services for 30 days. All individuals who received direct financial assistance completed a financial assessment with their case manager. 91% of individuals who received financial assistance also attended financial literacy education which included Money Smart, Your Money-Your Goals, and one-on-one budget coaching.

**El Centro, Inc.**

Funding is recommended for the Johnson County Family Services Center located in Olathe where a set of safety-net services are provided to low-income and/or under-/uninsured Johnson County individuals and families. Services promote self-sufficiency, well-being, and personal safety. Services include economic empowerment (emergency assistance, financial literacy classes, assistance filing taxes), access to healthcare (health navigation and promotion) and policy education.

**2021 Results Projected:** During 2021, El Centro expects to serve 2,500 Johnson County residents at the Olathe office. Results include meeting clients’ basic needs (sustain housing and utility services, completion of financial classes), assisting clients with work and income supports (filing taxes, obtaining an Individual Tax Identification Number if needed) and clients leading healthier lives (successful access of community healthcare resources and increased knowledge of chronic disease prevention and healthy consumer behaviors).

**2020 COVID-19 Disaster Response:** In 2020, El Centro is on track to serve anticipated number of clients in 2020 despite the COVID-19 shutdown. El Centro had to limit its provision of tax filing services and class and group education. However, El Centro pivoted and provided new programming to assist in the filing of unemployment applications and began hosting weekly drive-thru food distribution events, serving nearly 4,300 individuals (not unduplicated) in Johnson County.

**Outcomes achieved during 2019:** During 2019, approximately 2,890 Johnson County residents were served. Clients’ basic needs were met: 47 households received utility assistance and were able to maintain utilities for minimum of 30 days. 86 individuals completed financial empowerment classes. 84 people were assisted with the process that enabled them to receive an Individual Tax Identification Number and thus file income taxes. 123 individuals were assisted with applying for the Supplemental Nutrition Assistance
Program (SNAP) and received benefits; 484 enrolled in KanCare with assistance; 1,350 were assisted in filing income taxes.

**FosterAdopt Connect**

In its second year of application to HSF, funding is recommended for FosterAdopt Connect’s Family Advocacy Program. Through this program peer-to-peer support connects foster and adoptive families with trained advocates (experienced foster parents) who help families navigate and resolve issues related to interaction with the child welfare system. Examples of challenges include delays in reimbursement, problems accessing school-based services, as well as mental health services. The program forms the foundation of the agency which offers multiple programs/services in the Kansas City area. Founded in 1998, the agency operates five resource centers, including one in Lenexa.

**2021 Results Projected:** In 2021, FosterAdopt anticipates serving 228 Johnson County residents in providing Family Advocacy services. Outcomes include increasing the retention rate of families (assisting in developing and pursuing an action plan), increasing access to resources and knowledge (resolution of needs), and decreased traumatic moves for children (retaining placement).

**2020 COVID-19 Disaster Response:** Due to the pandemic, FosterAdopt responded to the shift in need of its clients toward basic necessities by transitioning its clothing closet and food pantry into a delivery service for clients. Child placements dropped off during shutdowns; however, FosterAdopt anticipates a greater need for services in 2020 and 2021.

**Outcomes achieved during 2019:** During 2019, FosterAdopt Connect’s Lenexa office served 73 households through its Family Advocacy services. 58% of families developed and maintained an action plan within 30 days of initial contact; 73% of families demonstrated increased access to resources and knowledge through having indirect advocacy needs met within 3 business days; 100% of families maintained placement of children - decreasing traumatic moves for children.

**NCircle DBA Cultivate, Inc.,**

NCircle, subcontractor to Goodwill of Western Missouri and Eastern Kansas for a 2020 HSF grant, is replacing Goodwill in 2021 and expanding the Digital Literacy and College of Trades programs through a recommended $4000 increase in funding. These programs provide skills training, certification instruction, financial education, job placement, and mentorship for individuals in Johnson County Department of Corrections Adult Residential Center (ARC) and Therapeutic Community, as well as adults on probation upon release from the ARC. In an expansion of this program, NCircle is working with partners and Johnson County Department of Corrections to set up the first learning lab at the Juvenile Detention Center (JDC); residents will be provided digital literacy training and STEM-based projects. Through these programs, new life skills, employment training, and case management resources will be provided to clients (most of whom return to Johnson County upon completion of sentence/probation period). Founded in 2012, NCircle has multiple programs that currently work with clients from the ARC and JDC. Participants in this program demonstrate increased rate of employment, increased income, decreased recidivism and decreased new charges.

**2021 Results Projected:** In 2021, NCircle plans to serve 110 Johnson County residents through this program with 70 residents of ARC and the Therapeutic Community completing the College of Trades and/or Digital Literacy Program and 40 residents of JDC completing
the Digital Literacy Program. Participants will increase their workplace skills and digital skills, increase the number of persons with in-demand workforce credentials in Johnson County, and demonstrate a reduction in recidivism and costs to the County.

**2020 Results Projected:** In 2020, Goodwill and Cultivate are on track to serve 75 Johnson County residents through this program. Clients will increase their knowledge of essential skills in the workplace and digital skills needed in the workplace. There will be an increase in the number of persons with in-demand workforce credentials, and a reduction in recidivism.

**Growing Futures Early Education Center**

Funding is recommended for Growing Futures’ Scholarship Assistance for Wrap Around Care (WAC) Program. 99% of the families served by Growing Futures are living at or below federal poverty guidelines. Through the Human Service Fund grant, childcare scholarships help low-income families experiencing financial hardships who are unable to pay their share of childcare fees. Families who meet Head Start income guidelines pay for seven hours of the 10.5 hour-day (7am-5:30pm) at rate of $135/week. Scholarships allow for continuity of early childhood care and education while parents are working or attending school. Emergency assistance is provided to families in need of short-term help, particularly with housing (those in jeopardy of losing Section 8 eligibility because of inability to pay rent on time), and food.

**2021 Results Projected:** Children demonstrate kindergarten readiness and maintain enrollment in the program even though families face financial hardship. Families attain at least one family goal based upon family determined strengths and needs. During 2020, Growing Futures projects serving 40 Johnson County residents.

**2020 COVID-19 Disaster Response:** Growing Futures will be serving more children and families through the WAC Program and HSF scholarship subsidization than anticipated in 2020 due to an increase in demand because of increased unemployment and/or partial loss of employment; they anticipate serving 48 Johnson County residents in 2020.

**Outcomes achieved during 2019:** During 2018, 37 Johnson County residents were served through families receiving short term help or fee subsidies which allowed parents to remain working or in school while facing financial challenges. No children left the program due to inability to pay fees and all assisted families took steps toward completion of a large family goal. 89% of children achieved kindergarten readiness.

**Harvesters**

Funding is recommended to support Harvesters BackSnack program which is provided within Johnson County schools, and Kids Café which is provided in after-school locations and summer sites in Johnson County. Through the BackSnack program a backpack filled with food is provided to low-income children who take it home for the weekend. Harvesters’ purchases food for the backpacks and links schools to a community partner and transports the food kits to the partner. Community partners clean backpacks, place food kits in backpacks and distribute backpacks to schools each week. School staff identify children in greatest need of food assistance. Harvesters delivers meals directly to Kids Café sites and provides meals there at no cost to children and youth. Free and reduced lunch school statistics help determine location of Kids Café sites. During the 2020 school year there will be 21 Kids Café sites in Johnson County, and Harvesters will continue to
encourage families to transition to the new School Pantry program. The School Pantry program provides BackSnack families the option of receiving food from a School Pantry instead of a weekly BackSnack (in order to feed everyone in the household, not just the student).

2021 Results Projected: In 2021, through the BackSnack program, the agency anticipates serving 1,800 Johnson County children and distributing 55,100 backpacks; and, providing 21,000 meals to 5,190 children through Kids Café sites. Harvesters anticipates addressing the basic needs of 26% of the food insecure children in Johnson County through these programs; results include positive effects on children’s grades, behavior and health.

2020 COVID-19 Disaster Response: Harvesters continued to operate the BackSnack and Kids Café during the COVID crisis by utilizing State waivers to allow children to pick up Kids Café meals to go from schools and through community partners. During school closure, BackSnacks were delivered through a variety of new methods: school bus drivers making home deliveries, school staff distributing at school sites, and community partners hosting pick-up locations.


<table>
<thead>
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<th>Health Partnership Clinic (HPC)</th>
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<td>$49,500 Recommendation</td>
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Funding is recommended for primary and preventative medical care, which are provided at Health Partnership Clinic’s office in Olathe, a pediatric clinic in Shawnee Mission, and a school-based clinic in Merriam. A $4,500 increase in funding in 2021 will support a Nurse Practitioner providing care to uninsured patients at the Olathe Clinic. HPC’s patients are primarily low income with majority being uninsured or publicly-insured. Health Partnership Clinic, Johnson County’s largest safety-net clinic and only Federally Qualified Health Center, utilizes a medical home model which emphasizes prevention and health maintenance while providing a broad scope of services including care for patients with chronic diseases. HPC also provides dental and behavioral health services, and works in partnership with homeless shelters, delivering onsite health care services and case management. Specialty care is provided through a network of providers.

2021 Results Projected: Anticipated program results include access to a medical and dental home for low-income and uninsured residents, patients achieve better health outcomes and are satisfied with services they receive, thereby continuing to utilize HPC as their health home. During 2021, HPC anticipates serving 9,300 Johnson County residents through 25,000 patient office visits or encounters.

2020 COVID-19 Disaster Response: During the stay-at-home order, HPC was required to close its dental clinics and its school-based clinics. Like other medical providers, it saw a significant drop in patients attending preventive care and well visits as residents complied with the stay-at-home orders. The dental clinics have reopened and school-based clinics are anticipated to reopen in the fall; however, HPC anticipates that it will be at 50% capacity for 2020 and returning to full capacity in 2021.
Outcomes achieved during 2019: During 2019, 9,235 Johnson County residents were served through 24,881 patient office visits and/or clinical encounters. Approximately 91% of patients surveyed indicated they were either satisfied or very satisfied with overall care they received as a patient. Patients achieved positive health outcomes as indicated by 66% of hypertensive patients who had their blood pressure under control with readings below 140/90, and 69% of diabetic patients who achieved HgA1c (blood glucose) level of 9.0 or below during the last half of the year (compared to 59% before the clinic opened).

Johnson County Interfaith Hospitality Network (JCIHN)

JCIHN provides shelter, meals, transportation and case management for families and single unaccompanied females experiencing homelessness. Area congregations provide shelter and meals on a rotating schedule while JCIHN staff helps families regain self-sufficiency and independence. Human Service Funds are used to provide strengths-based case management which includes assistance with transportation, referrals to other community resources, assistance with budgeting, money management, and job and housing searches. Services are provided by 3,500 volunteers through partnerships with 40 faith congregations.

2021 Results Projected: During 2020, the agency expects to serve 40 Johnson County residents with 2,500 days of shelter and case management. Clients completing the program will increase their economic resources, and approximately 50% will move into homes of their own within four months of entering the network. Volunteers will increase their awareness of human service needs in Johnson County.

2020 COVID-19 Disaster Response: As a safety measure, JCIHN was closed to new admissions between March 23 and June 15, 2020, which will reduce their overall service statistics for 2020. JCIHN has begun serving new admissions and anticipates that need for their services will increase over the next year.

Outcomes achieved during 2019: During 2019, 50 Johnson County residents were served. Of those completing the program, 95% reported increasing their income by 25% or more while in the program, and 43% moved into homes of their own within three months of entering the network. Johnson County residents received 1,941 cumulative days of shelter and strength-based case management.

Kansas Children’s Service League (KCSL)

Funding is recommended for Healthy Families Johnson County, a child abuse prevention program which provides intensive home-based education and family support services to parents who are experiencing extreme stress and are “at-risk” for abuse and neglect. Eligibility is based upon risk factors, not income, however, most of the families are low-income. Participants receive routine at-home visits, case management, referrals to community resources and services, child development and parent education, and linkage to health care services. Parent engagement includes Parent Cafés, parent support groups, and a parent advisory group. Funding is also recommended for the $480 annual cost of webhosting the Johnson County Early Learning Collaborative, a collaborative of organizations (including KCSL) which serve young children. The website is used to connect caregivers and providers with programs that serve children, and as link to My Resource Connection when other services are needed.

2021 Results Projected: During 2021, 250 Johnson County individuals are expected to be served. Anticipated results are that families will not have any substantiated child abuse and
neglect; children have health insurance and are current on immunizations; and, children have a developmental screen in the last six months (or are already receiving services for developmental delays).

**2020 COVID-19 Disaster Response:** KC SL staff pivoted to providing virtual and phone visits and are beginning to implement porch visits to engage families. KC SL anticipates an increase in need in 2020 and 2021 as families are experiencing multiple and increased stressors, especially loss of income, during the COVID-19 disaster.

**Outcomes achieved during 2019:** During 2019, 316 Johnson County residents were served. 98% of the families served remained free from substantiated abuse and neglect while in the program. 99% of children enrolled for at least six months had health insurance and 94% had a developmental screening.

**KidsTLC**

Funding is recommended for KidsTLC Thriving Families program which offers resource referral, parent support groups, and health care navigation to families who struggle with behavioral and mental health issues with their children. The program serves families in the community and families who have children in one of KidsTLC’s programs. Eligibility is not based upon income, however, most of the families are low-income (58% of KidsTLC’s clients are living below 200% of the Federal Poverty Level). The program serves as the navigation arm for the agency, helping families find mental health/health care, housing and community resources/support. It also provides education and support to Spanish-speaking families. The program is a health navigation resource for schools and participates in Olathe and Shawnee Mission School Districts’ IMPACT Olathe and Project Home programs which serve youth and families who are at-risk for homelessness. The goal of Thriving Families is to educate families about health issues, trauma, and raising healthy children; and, to provide health navigation resources so parents can raise healthy children.

**2021 Results Projected:** During 2021, the organization estimates serving 375 Johnson County residents through this program. Program results include that people’s life sustaining basic needs are met through crisis intervention or referral to direct assistance, clients experience increased access to services, barriers to services are reduced, and clients express increased awareness of resources.

**2020 COVID-19 Disaster Response:** KidsTLC was able to quickly pivot to online education services and online engagement with clients and had an increase in attendance in virtual meetings and in completion of training through Facebook.

**Outcomes achieved during 2019:** Through crisis intervention, housing support, and health navigation, the Thriving Families program served 294 individuals. KidsTLC supported 27 households through crisis intervention services, 11 through assistance with rent, deposits, or mortgage payments, and 17 through food or hygiene direct assistance. KidsTLC referred 46 clients to KidsTLC services, such as Que Onda Families, Lotus Clinics, Trellis, or Intensive Outpatient services), whilst 25 other clients and households were referred to benefits assistance, employment opportunities, mental health services, and/or shelter and transitional living programs. 88% of clients reported an increase knowledge of available in resources in an exit survey.
Safehome provides shelter and other assistance to survivors of domestic violence. Funding is recommended to support Safehome’s Economic Empowerment Program. Through education, support, and referrals, this program helps clients become employed and self-sufficient. All shelter clients take an assessment and are recommended to one of three tracks: budget, job seeker or job training. Basic and advanced financial literacy classes are offered in English and Spanish. Specialized workshops are tailored to clients’ needs. Funds are provided for clients to attend GED and ESL classes off-site.

2021 Results Projected: Program participants complete a budget and career assessment inventory, enroll in job training or education programs, and/or have job interviews and secure employment. The agency projects this program will serve 120 Johnson County residents during 2021.

2020 COVID-19 Disaster Response: Safehome responded to shift in client needs for urgent employment, as compared to job training and career changes, and additional life stressors by providing different job training/employment services. Safehome is examining online training options for financial literacy courses.

Outcomes achieved during 2019: During 2019, 93 Johnson County residents were served. After five weeks of participation in the Job Search track, 41% completed a career assessment inventory with 97% attending at least two job interviews. After 90 days in shelter, 36 clients secured employment. 67% of clients on the Budget track completed a household budget.

Salvation Army Olathe

Funding is recommended to assist low and very-low income homeless families in Johnson County with food and shelter at the Johnson County Family Lodge in Olathe. A $3,000 increase will be utilized to provide direct financial assistance toward payment of back rent and back utilities to support residential clients in obtaining new housing. In most cases, the Lodge provides up to 90 days of shelter (temporary housing – maximum stay of 180 days). Residents meet weekly with a case manager who utilizes the strengths-based case management model. Classes and/or skill building opportunities include parenting, financial literacy, maintaining employment, housing searches, daily living/life skills, developing a support system, and navigating mainstream resources.

2021 Results Projected: In addition to providing safe shelter, results will include families increasing their skills or income, applying for mainstream services (SNAP, TANF, Medicaid, etc.), moving into transitional or permanent housing, and children begin or continue to receive daycare services as a work support for guardians. The Family Lodge anticipates serving 125 Johnson County residents during 2021 with more intensive services and longer stays than in 2019 due to loss of employment and housing during COVID-19.

2020 COVID-19 Disaster Response: Room turnover between March and June was significantly reduced as all residents lost employment due to shutdowns. New families are being admitted to the Lodge, allowing for social distancing and quarantine.
Outcomes achieved during 2019: The Family Lodge provided 33,398 units of service which it defines as “one bed night and/or one meal provided” to 126 Johnson County residents. 88% of families exiting the program moved into transitional or permanent housing. 97% of eligible families applied for and received mainstream services (medical assistance, childcare subsidy, WIC, and SNAP). 97% of participants who successfully completed the program increased their skills or income.

Sunflower House

Funding is recommended to support the Personal Safety Education Program, a child abuse prevention education program. The program includes: 1) Happy Bear, an interactive drama in Spanish and English for children ages four to seven enrolled in public and private early childhood centers and elementary schools; 2) Think First and Stay Safe, a curriculum for grades PreK-5 that reinforces personal and digital boundaries and emphasizes that bullying and sexual abuse are against the law; 3) E-Safety, provides middle school students with information about how to protect themselves from online predators, and includes safety topics such as sexting, bullying, child exploitation, and social networking; 4) Keeping Kids Safe Online, a workshop for parents and caregivers provided in partnership with the FBI Cyber Crimes Unit; 5) Stewards of Children, a child sexual abuse prevention and education training for adults; 6) Mandated Reporter Training which teaches attendees to recognize signs of sexual abuse, correct procedures/laws for reporting, and how to handle a child’s disclosure; and, 7) Child Protection Project, a presentation designed to raise the awareness of child sexual abuse among parents and caregivers, and give them tools needed to be proactive in protecting children.

2021 Results Projected: Age-appropriate person safety/abuse education will be provided to children; adults will be educated on child abuse indicators and reporting abuse; youth and adults will increase their knowledge of online crimes against children, including online safety steps and proper reporting. The agency anticipates reaching 19,000 Johnson County residents during 2021.

2020 COVID-19 Disaster Response: Due to school closures, Sunflower House was not able to provide as many trainings in spring of 2020 as planned. It has prepared plans for alternate delivery of trainings, through smaller groups and online platforms, for the fall.

Outcomes achieved during 2019: During 2019, 17,665 Johnson County residents were served. In post-program surveys, 98% of children indicated they would report unwanted contact, including physical touches and electronic communications. 98% of adults, including those within the special needs community, who were educated on child abuse indicators and reporting abuse, indicated they gained new information and 97% said they would monitor the electronic communications of children more closely.
APPENDIX A

2021 HUMAN SERVICE FUND PARTICIPATING JURISDICTIONS

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2021 HUMAN SERVICE FUND GRANT REVIEW COMMITTEE

UCS Board Members
- Robin Harrold, *Committee Chair*, AdventHealth
- Kate Allen, Johnson County Community College
- Tara S. Eberline, Foulston Siefkin, LLP
- Tom Herzog, Netsmart
- Roxann Kerr Lindsey, CBIZ
- Justin Nichols, Kutak Rock LLP
- Beccy Yocham, City of Lenexa

Staff support: Christina Ashie Guidry, UCS Director of Resource Allocation
APPENDIX B

2021 HUMAN SERVICE FUND GUIDELINES

The Human Service Fund is a competitive process that awards grants to nonprofit organizations for operating health and human service programs that promote self-sufficiency, well-being and/or personal safety of Johnson County residents who live with income at or near the federal poverty level. Funded programs provide pathways and opportunities for building a healthy community where every resident is empowered to reach their full potential. Components of the safety net investment that are supported by the HSF are: 1) basic needs, 2) work and income supports, and 3) health, wellness and personal safety.

FUNDING PRIORITIES 2021

Health and human service programs funded by the Human Service Fund must:

- promote self-sufficiency, well-being and/or personal safety of Johnson County residents and fit within safety net investment components of basic needs, work and income supports, or health.
- offer county-wide services or fill a gap which results in county-wide benefit
- offer equal access to all clients and prospective clients who could benefit from the program.
- deliver measurable outcomes which benefit county residents and, in the long-term, benefit local governments by avoiding, deferring or preventing costs that otherwise might be incurred by local government.

Priority is given to programs that:

- address emergency aid and shelter, child/adult abuse, child welfare, health, work support services such as childcare and early childhood development, and job training.
- serve individuals and/or families with income below or near the federal poverty level.
- demonstrate innovation and/or collaboration in program delivery.
- are consistent with an evidence-based program, best practices or promising practices, or replicate a successful model.

ELIGIBILITY

- Applicants must deliver direct services to Johnson County residents, be recognized by the IRS under section §501(c)(3), provide health and human services programming as their primary mission, and be in good standing in Kansas or Missouri as a nonprofit corporation, i.e. may not be an entity of city or county government.
- Agency must provide most recent IRS form 990 and an independent certified audit of the previous year’s financial records; or, if total agency revenues were less than $250,000, an independent review of financial statements prepared by a Certified Public Accountant. The audit or review must have been completed within nine (9) months of the close of the fiscal year. Upon request, the agency may need to provide additional financial information.
- The applicant complies with Agency Standards.
- Applicant affirms compliance with any applicable nondiscrimination ordinances and/or policies of the municipalities that provide resources to the Human Service Fund.
- Funded program must:
  - promote self-sufficiency, well-being and/or personal safety of Johnson County residents and fit within safety net investment components of basic needs, work and income supports, or health.
o primarily serve Johnson County, Kansas residents who live with income at or near federal poverty level. However, programs that do not meet this criterion may still be eligible if the program addresses child/adult abuse, and/or leads to the prevention of poverty, and primarily serves Johnson County residents.
o clearly define and measure outcomes for participants.
o benefit local governments by avoiding, deferring, or preventing costs that otherwise might be incurred by local government.
o offer county-wide services or fill a gap which results in county-wide benefit.
o offer equal access to all clients and prospective clients who could benefit from the program.
• Only one HSF application may be submitted by an agency. Applications will not be accepted for both the HSF and Alcohol Tax Fund (ATF, managed by Drug and Alcoholism Council, a program of UCS) for the same program during the same funding cycle. However, applications may be submitted for both funds by the same agency or department for discrete programs during the same funding cycle. Criteria of discrete programs include, but are not limited to, programs for which expenses are recorded separately for purposes of functional accounting, programs that, if serving a population targeted by another program, serve a distinct need of that population, and/or employ distinct strategies and projected outcomes.
• Applications for substance abuse programs are not accepted and should be directed to the ATF.
City of Lewood Governing Body Staff Report

MEETING DATE: October 19, 2020
REPORT WRITTEN: September 23, 2020

PARKWAY PLAZA – WEBER CARPET – REQUEST FOR APPROVAL OF A FINAL PLAN – Located north of 135th Street and east of Briar Street – Case 80-20

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission recommends approval unanimously (6-0) of Case 80-20, Parkway Plaza – Weber Carpet – request for approval of a Final Plan with the following stipulations:

1. This approval is limited to the construction of a 12,000 sq. ft., single story retail building on Lot 11 of the Parkway Plaza development with an F.A.R. of 0.25.

2. The applicant shall be responsible for:
   - A park impact fee in the amount of $.15/square foot of finished floor area is required prior to issuance of a building permit, estimated at current date to be $1,800.00 ($.15 x 12,000). This amount is subject to change by Ordinance.
   - 135th Street Impact fee in the amount of $1.95/square foot for retail is due prior to issuance of a building permit, estimated at current date to be $23,400 ($1.95 x 12,000). This amount is subject to change by Ordinance.
   - A public art impact fee or a piece of public art shall be required. Approval of the design and location of the art will need to go before the Arts Council, Planning Commission, and be approved by the Governing Body at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.15/square foot of finished floor area prior to issuance of a building permit, estimated at current date to be $1,800.00 ($.15 X 12,000). This amount is subject to change by Ordinance.

3. The applicant shall obtain all approvals from the City of Lewood Public Works Department, per the City Engineer’s memo, on file with the City of Lewood Planning and Development Department, prior to issuance of a building permit.

4. The applicant shall obtain all approvals from the City of Lewood Fire Department, per the Fire Marshal’s memo, on file with the City of Lewood Planning and Development Department, prior to issuance of a building permit.

5. All landscaped areas shall be irrigated.

6. Per the Lewood Development Ordinance, at the time of planting, plant material screening the ground mounted utilities shall be a minimum of 6" taller than the utility it is to screen, with lower shrubs in the foreground to eliminate any gaps in screening.

7. The approved final landscape plan shall contain the following statements:
   - All trees shall be calipered and undersized trees shall be rejected.
   - All parking lot islands shall be bermed to discourage foot traffic.
   - All hedges shall be trimmed to maintain a solid hedge appearance.
   - All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   - Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Lewood, prior to installation.
• All landscaped open space shall consist of a minimum of 60% living materials.

8. Per the Leawood Development Ordinance, all medium and large deciduous trees (including street trees), shall be a 2 ½” caliper as measured 6” above the ground, all small deciduous and ornamental trees shall be a minimum of 1 ½” caliper as measured 6” above the ground, conifers and evergreen trees shall be a minimum of 6’ in height, and shrubs shall be 24” in height at the time of planting.

9. The applicant shall comply with all landscaping requirements relating to the screening of service areas, including trash enclosures, and shall comply with 60% living material requirement for any landscaping beds.

10. A letter, signed and sealed by a Kansas Registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

11. All stone and stucco shall be natural materials.

12. The applicant shall construct all stucco exterior with a three coat system.

13. Pedestrian crosswalks shall be demarcated from the adjacent street pavement with pavers to match the existing crosswalks within the Parkway Plaza development.

14. All downspouts shall be enclosed.

15. All materials, including roof tiles, will match those approved with the design guidelines of Parkway Plaza development.

16. All power lines, utility lines, etc. (both existing and proposed, including utilities and power lines adjacent to and within abutting right-of-way) are required to be placed underground. This must be done prior to final occupancy of any building within the project.

17. All utility boxes, not otherwise approved with the final development plan, with a height of less than 56 inches, a footprint of 15 sq.ft. in area or less, or a pad footprint of 15 sq.ft. in area or less, shall be installed only with the prior approval of the Director of Community Development as being in compliance with the Leawood Development Ordinance.

18. All utility boxes, not otherwise approved with the final development plan, with a height of 56 inches or greater, a footprint greater than 15 sq.ft. in area, or a pad footprint greater than 15 sq.ft. in area, shall be installed only with the prior recommendation of the Planning Commission as being in compliance with the Leawood Development Ordinance based on the review of a site plan containing such final development plan information as may be required by the City, and approved by the Governing Body. The City may impose conditions on approval, including but not limited to duration or renewal requirements, where the circumstances are sufficiently unusual to warrant the conditions.

19. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities, meter banks and air conditioning units, shall be painted to blend with the building and screened from public view with landscaping or with an architectural treatment compatible with the building structure.

20. All rooftop equipment shall be screened from the public view with an architectural treatment, which is compatible with the building architecture. The height of the screen shall be at least as tall as the utility being screened.

21. A cross access/parking easement for the entire development, shall be recorded with the Johnson County Registrar of Deeds, shall be maintained for this application.
22. No construction shall be allowed between the hours of 9:00 p.m. to 7:00 a.m. and not on Sundays.
23. Development rights under this approval shall vest in accordance with K.S.A. 12-764.
24. Per the Leawood Development Ordinance the source of illumination shall not be visible. Prior to Governing Body consideration, the applicant/owner shall provide revised plans meeting this requirement, including the carriage light fixtures on the building.
25. A sign permit from the Planning Department shall be obtained prior to installation of any signs.
26. The conditions and stipulations of the preliminary plan approval remain in full force and effect except to the extent expressly modified herein.
27. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through twenty-seven.

**PLANNING COMMISSION CHANGES TO THE STIPULATIONS:**
- None

**APPLICANT:**
- The applicant and engineer is Matt Schlicht with Engineering Solutions
- The developer is Bob Bales with Weber Flooring
- The property is owned by the Palo Verde Group L.P.
- The architect is Skyler Phelps with Mantel Teter Architects

**REQUEST:**
- The applicant is requesting approval of a Final Plan for a 12,000 sq.ft. retail building for Weber Carpet with a site F.A.R. of 0.25.
- The overall Parkway Plaza development, at final build out, will be made up of 319,385 sq.ft. of retail/office use and 308,646 sq.ft. of residential use on 60.79 acres, for an F.A.R. of 0.21, with a discount of 25% of residential space per the Leawood Development Ordinance.

**ZONING:**
- The property is currently zoned MXD (Mixed Use District).

**COMPREHENSIVE PLAN:**
- The Comprehensive Plan designates this property as Mixed Use.

**SURROUNDING ZONING:**
- North: To the north, beyond Parkway Plaza, is the single family residential subdivision of Bridgewood, zoned RP-1 (Planned Single Family Residential District) and single family residential within the City of Overland Park.
- South: South of the subject property is 135th Street. Beyond 135th Street is the Plaza Pointe development, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).
- East: Directly to the east is Roe Avenue. Across Roe Avenue is unplatted and undeveloped property zoned SD-O (Planned Office) and SD-CR (Planned General Retail).
West  To the west is a continuation of Parkway Plaza, zoned MXD (Mixed Use). Beyond Parkway Plaza is a multifamily residential development in Overland Park, KS.

LOCATION:

SITE PLAN COMMENTS:
- The subject site is located on Lot 11 of the Parkway Plaza development, which is located along the north side of 135th Street and east of Briar Street.
- An existing one story multi-tenant building is adjacent to the east, and a vacant lot located at the northwest corner of 135th Street and Briar is adjacent to the west.
- An existing parking lot, partially located on Lot 11 is directly north of the proposed building site. Four (4) parallel parking spaces are located along the drive aisle that runs in front of the proposed building. Thirty-one (31) parking spaces are within the bounds of the property lines. There is a shared parking easement agreement within Parkway Plaza allowing for parking across all the lots.
- The applicant is proposing a 12,000 sq.ft., one story building along 135th Street. The front of the building is oriented to the north, with the back of the building facing 135th Street.
- The main entrance is centrally located along the north elevation. Per the design guidelines of the Parkway Plaza development a front porch colonnade extends across the front of the building.
- A 5’ sidewalk is proposed along the south side of the existing parking lot to the north of the pad site. This sidewalk is proposed to connect with the existing sidewalk to the east, and to a future sidewalk to be constructed with the building to the west.
- A 10’ landscaped area is shown between the porch sidewalk and the 5’ sidewalk along the south side of the existing parking lot.
- Sidewalks to the east and west were approved with the overall Parkway Plaza development to extend between the buildings along 135th Street. These sidewalks formed circular elements along 135th Street between the buildings. The sidewalk to the east is existing, with the exception of a portion of the circular element that will be located on this site. The sidewalk on the west side of the
building will be constructed with this project along with portions of the circular elements that are located on Lot 11.

- Per the Leawood Development Ordinance, a sidewalk connection to the perimeter sidewalk of 135th Street is proposed.
- Bike racks have been proposed for the north side of the building. There will be one set of “Inverse U” racks, which will hold approximately 5 bikes at one time. The dimensions for this setup are 36” tall by 36” from one ground-mounted post to the other.
- There is one existing ADA compliant crosswalk from the parking lot to the primary entrance of the building. The crosswalk is existing, and made of stamped concrete. The sidewalk from the curb cut to the front of the building will also be ADA compliant.
- A trash enclosure will be attached to the northeast corner of the building. This will be constructed of the same type of cast stone used on the main building. The gate frame is fabricated steel tubes with a metal face. The gates of the trash enclosure will be painted to match the cast stone of the building.
- A 2’ retaining wall is proposed to the south of the building. The wall will be constructed of natural rock material, similar to that which will be used on the façade of the building.

**BULK REGULATIONS:**

- The following table outlines the required and provided regulations for the Weber Carpet project:

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<tr>
<td>Height Limit</td>
<td>90’</td>
<td>27’-3”</td>
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**PARKING:**

- The parking provided for Parkway Plaza is 974 parking spaces, a parking ratio of 3.05 per 1,000 sq.ft. which meets the Leawood Development Ordinance requirement for MXD zoned developments of 3.0 – 3.5 parking spaces per 1,000 sq.ft.
- Lot 11 has a total of thirty-one (31) parking spaces within the lot. Four of the spaces are parallel parking spaces located directly in front of the proposed building. The Development has recorded with Johnson County a cross parking access agreement granting perpetual, non-exclusive rights and easements to use parking and access drives for the purpose of parking and pedestrian access.

**ELEVATIONS:**

- The applicant is proposing a single story (27’-3”), 12,000 sq.ft. retail building with the front facing to the north (interior of the development).
- The building will be constructed primarily of stucco with stone veneer facades for a centrally located tower element over the entrance, and building projections. The proposed color for this stone material is called Mosaic Heritage.
- The stucco used on the façade of the building will be a light beige color (Mortar). The applicant is proposing a small area of stucco in a slightly darker beige (Pulp) on the tower element.
• The roof of the building is sloped and will be covered in brown (New Bark) concrete tile. This color was originally Charcoal Brown Blend. This was changed due to a discontinuation of the product in the original color that was proposed. The New Bark concrete tile was chosen as it matched the roof tile no longer available.
• The pitched roof of the tower element over the entrance will be covered in the same material as the rest of the roof.
• No windows are proposed on the east or west elevations of the building.
• The south elevation of the building proposes five windows, and the north side proposes the same. The north elevation has aluminum-framed glass doors as the main ingress to the building, and the south elevation has five continuous windows with an egress door to the east side of the final window.
• One (1) decorative metal finial will be located on top of the tower element (color: Black Matte).
• There will be fabric awnings above two of the windows on the south side of the building (color: Jockey Red).
• The color of the trim for this structure is “off white”.

SIGNAGE:
• Signage is not reviewed or approved with this application.
• The Parkway Plaza development has approved sign criteria on file with the City, and signage shall be administratively approved by the Department of Community Development.

LANDSCAPING:
• Per the Leawood Development Ordinance, street trees are shown at 40’ on center along 135th Street.
• Two shade trees are proposed within each of the parking lot islands (7 trees proposed, 2 are existing).
• Buffering around perimeter of lot is adequate as required by the Leawood Development Ordinance. The required numbers of ornamental trees (10), shade trees (14), and shrubs (57) are provided.
• The proposed landscaping meets the requirements as provided by the Leawood Development Ordinance and the Parkway Plaza Design Guidelines.
• Six (6) landscaping beds containing ornamental trees and shrubs are shown on the north side of the building. There are to be two (2) shrubs and one (1) ornamental tree per landscaping bed, and will be surrounded by mulch bedding.

LIGHTING:
• Per the Leawood Development Ordinance, the foot-candles at the property line are not greater than 0.5.
• The two carriage light sconces are located on the north side of the building and four on the south side. The sconces are made of aluminum and will be a “Rubbed Bronze” color. The glass in the fixtures will be a frosted finish to shield the source of illumination.
• Fourteen (14) downward facing lighting sources are provided for the south, east, and west sides of the building; these conform to the Leawood Development Ordinance requirements and shield the source of illumination.
MEMO

DATE: September 17, 2020

TO: Richard Coleman, Director of Community Development

FROM: Brian Scovill, P.E., City Engineer
Department of Public Works

SUBJECT: Parkway Plaza – Weber Carpet – Final Plan
Case Number: 80-20

The Department of Public Works has reviewed the aforementioned project. The recommended stipulations are listed below.

1) Traffic Impact Analysis: Traffic impacts are in line with the traffic study that was approved for the larger development.

2) Storm Water Study:
   a) The proposed stormwater plan is in line with the stormwater plan that was approved with the larger development and no additional detention is required.
   b) The BMPs include an underground infiltration trench. The trench detail as presented is not acceptable and will need to be revised and resubmitted with the site construction plans.

3) The parking lot pavement shall be constructed in accordance to the Leawood Development Ordinance.

4) Permanent structures, including monument signs, shall not be placed within the Right-of-Way and Public Easements.

5) All public improvements shall be designed and constructed in accordance with the City of Leawood Public Improvement Construction Standards as developed by the Department of Public Works (latest revision).

6) The developer shall obtain and submit to the Department of Public Works and the Building Official a copy of the NPDES Land Disturbance Permit issued by the Kansas Department of Health and Environment prior to any grading work at the site.

7) Construction vehicles, including vehicles of construction personnel, shall not be parked within the Right-of-Way. All staging and storage of equipment and/or materials for private improvements shall be contained on the proposed

Sister City to I-Lan, Taiwan, R.O.C. • Sister City to Regional Council Gezer, Israel
development unless an Access Easement has been granted by the adjacent property owner.

8) The Developer shall repair and restore all damaged areas between the back of curb and the Right-of-Way abutting this lot including any existing damage. This shall include but is not limited to street lighting equipment, traffic signal equipment, sidewalk, storm sewers, grass, etc.

9) The Developer shall provide documentation by a licensed professional engineer certifying on City forms the BMPs have been constructed in accordance with City standards and the approved plans.

10) The developer shall provide as-built storm sewer information in accordance with City standards. This includes, but is not limited to, vertical and horizontal coordinates of all structures constructed or modified, flow line information at each structure, pipe size information, downstream structure numbers and type of structure. This information shall be provided to us on the Johnson County AIMS coordinate system. The spreadsheet for the data will be provided to the developer after the storm sewer improvements have been completed.

11) Certificates of Occupancy shall not be issued for any building until all public improvements, including payments to escrow accounts if any, have been completed.

If you have any questions, please call me at (913) 339-6700, extension 134.

Copy: Project File
FIRE PLAN REVIEW RECORD

Date: 09/16/20
Project Number: NC 80-20
Business/Project: Weber Carpet
Address/Vicinity: 4900 W 135th ST
Project Description: Final Development Plan for Weber Carpet – First Review

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<td>9/16/20</td>
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Plans were reviewed to the 2018 International Fire Code as adopted and amended by the City of Leawood.

FDP Plans received by Engineering & Surveying Solutions. No project number listed. Proposed new commercial building for Weber Carpet.

Comments:

No planning comments at this time.

Approval of any plans or specifications shall in no way be construed to be an approval of a violation of adopted building codes or of other ordinances of the City of Leawood.

Status: Approved as Submitted
Reviewed by: Justin Ducey – Fire Marshal
PROJECT SCHEDULE
West Site (West of Briar Street)
Office / Retail
Land Area = 10.46 Acres
Office / Retail Building Area = 17,300 s.f.
F.A.R. = 12
Required Parking = 231 cars
Parking Provided = 200 cars
Accessible Parking = 7 cars
Building Coverage = 10%
Open Space = 42%

Total West Site
Land Area = 16.63
Building Area = 237,710 s.f.
Percentage of Proposed Uses:
Office/Retail = 63.3%
Retail = 16.7%
F.A.R. = 30
Required Parking = 327
Parking Provided = 327
Building Coverage = 16%
Open Space = 51%

NOTE: ORIGINAL MASTER PLAN BY SUTTLE MINDLIN. SITE DATA FOR RETAIL/OFFICE ON WEST SIDE REMAINS UNCHANGED.
MATERIALS

CONCRETE ROOF TILE
MATCH BORAL, SAXONY SLATE
COLOR: NEW BARK

FABRIC AWNING
SUNBRELLA
COLOR: JOCKEY RED
SKU 4603-0000

DECORATIVE METAL FINIAL
MATCH DALVENTO MODEL:
SMALL ROMAN
COLOR: BLACK MATTE

P.F, MTL
MATCH KAWNEER
COLOR: DARK BRONZE

STUCCO COLOR 'A'
MATCH STO MEDIUM' TEXTURE
COLOR: MORTAR' #31437

STUCCO COLOR 'B'
MATCH STO MEDIUM' TEXTURE
COLOR: PULP' #31434

CAST STONE TRIM
CONTINENTAL CAST STONE
COLOR: #1102

STONE VENEER
MATCH FON DU LAC
COLOR: MOSAIC HERITAGE
### Luminaire Schedule

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### Calculation Summary

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Courtyard™ 3 Light Wall Light Rubbed Bronze™
9034RZ (Rubbed Bronze)

Per staff stipulation #24, the glass on the provided carriage lighting will be frosted to completely shield the source of illumination from view.
MEMO

To: Mayor Peggy Dunn and City Council

From: Ricky Sanchez, Planner II

cc: Scott Lambers, City Administrator
    Richard Coleman, Director of Community Development
    Mark Klein, Planning Official

Date of Meeting: October 19, 2020
Date of Memo: October 9, 2020
Re: Planning Commission Minutes

Due to this item being on the Planning Commission Consent Agenda, there is no Planning Commission minutes available for this case.
RESOLUTION NO. ______________

RESOLUTION APPROVING A FINAL PLAT AND FINAL PLAN FOR PARKWAY PLAZA – WEBER CARPET, LOCATED NORTH OF 135TH STREET AND EAST OF BRIAR. (PC CASE 80-20)

WHEREAS, the applicant submitted a request for approval of a Final Plat and Final Plan for a single story retail building;

WHEREAS, such request for approval was presented to the Planning Commission on September 22, 2020; and

WHEREAS, the Planning Commission reviewed the application and recommended approval with certain stipulations.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body hereby approves the applicant’s request and the Planning Commission’s recommendation of approval for said Final Plat and Final Plan, subject to the following stipulations:

1. This approval is limited to the construction of a 12,000 sq. ft., single story retail building on Lot 11 of the Parkway Plaza development with an F.A.R. of 0.25.

2. The applicant shall be responsible for:
   a. A park impact fee in the amount of $.15/square foot of finished floor area is required prior to issuance of a building permit, estimated at current date to be $1,800.00 ($0.15 x 12,000). This amount is subject to change by Ordinance.
   b. 135th Street Impact fee in the amount of $1.95/square foot for retail is due prior to issuance of a building permit, estimated at current date to be $23,400 ($1.95 x 12,000). This amount is subject to change by Ordinance.
   c. A public art impact fee or a piece of public art shall be required. Approval of the design and location of the art will need to go before the Arts Council, Planning Commission, and be approved by the Governing Body at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.15/square foot of finished floor area prior to issuance of a building permit, estimated at current date to be $1,800.00 ($0.15 X 12,000). This amount is subject to change by Ordinance.

3. The applicant shall obtain all approvals from the City of Leawood Public Works Department, per the City Engineer’s memo, on file with the City of Leawood Planning and Development Department, prior to issuance of a building permit.

4. The applicant shall obtain all approvals from the City of Leawood Fire Department, per the Fire Marshal’s memo, on file with the City of Leawood Planning and Development Department, prior to issuance of a building permit.

5. All landscaped areas shall be irrigated.
6. Per the Leawood Development Ordinance, at the time of planting, plant material screening the ground mounted utilities shall be a minimum of 6" taller than the utility it is to screen, with lower shrubs in the foreground to eliminate any gaps in screening.

7. The approved final landscape plan shall contain the following statements:
   a. All trees shall be calipered and undersized trees shall be rejected.
   b. All parking lot islands shall be bermed to discourage foot traffic.
   c. All hedges shall be trimmed to maintain a solid hedge appearance.
   d. All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   e. Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   f. All landscaped open space shall consist of a minimum of 60% living materials.

8. Per the Leawood Development Ordinance, all medium and large deciduous trees (including street trees), shall be a 2 1/2” caliper as measured 6” above the ground, all small deciduous and ornamental trees shall be a minimum of 1 1/2” caliper as measured 6” above the ground, conifers and evergreen trees shall be a minimum of 6’ in height, and shrubs shall be 24” in height at the time of planting.

9. The applicant shall comply with all landscaping requirements relating to the screening of service areas, including trash enclosures, and shall comply with 60% living material requirement for any landscaping beds.

10. A letter, signed and sealed by a Kansas Registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

11. All stone and stucco shall be natural materials.

12. The applicant shall construct all stucco exterior with a three coat system.

13. Pedestrian crosswalks shall be demarcated from the adjacent street pavement with pavers to match the existing crosswalks within the Parkway Plaza development.

14. All downspouts shall be enclosed.

15. All materials, including roof tiles, will match those approved with the design guidelines of Parkway Plaza development.

16. All power lines, utility lines, etc. (both existing and proposed, including utilities and power lines adjacent to and within abutting right-of-way) are required to be placed underground. This must be done prior to final occupancy of any building within the project.

17. All utility boxes, not otherwise approved with the final development plan, with a height of less than 56 inches, a footprint of 15 sq.ft. in area or less, or a pad footprint of 15 sq.ft. in area or less, shall be installed only with the prior approval of the Director of Community Development as being in compliance with the Leawood Development Ordinance.

18. All utility boxes, not otherwise approved with the final development plan, with a height of 56 inches or greater, a footprint greater than 15 sq.ft. in area, or a pad footprint greater than 15 sq.ft. in area, shall be installed only with the prior
recommendation of the Planning Commission as being in compliance with the Leawood Development Ordinance based on the review of a site plan containing such final development plan information as may be required by the City, and approved by the Governing Body. The City may impose conditions on approval, including but not limited to duration or renewal requirements, where the circumstances are sufficiently unusual to warrant the conditions.

19. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities, meter banks and air conditioning units, shall be painted to blend with the building and screened from public view with landscaping or with an architectural treatment compatible with the building structure.

20. All rooftop equipment shall be screened from the public view with an architectural treatment, which is compatible with the building architecture. The height of the screen shall be at least as tall as the utility being screened.

21. A cross access/parking casement for the entire development, shall be recorded with the Johnson County Registrar of Deeds, shall be maintained for this application.

22. No construction shall be allowed between the hours of 9:00 p.m. to 7:00 a.m. and not on Sundays.

23. Development rights under this approval shall vest in accordance with K.S.A. 12-764.

24. Per the Leawood Development Ordinance the source of illumination shall not be visible. Prior to Governing Body consideration, the applicant/owner shall provide revised plans meeting this requirement, including the carriage light fixtures on the building.

25. A sign permit from the Planning Department shall be obtained prior to installation of any signs.

26. The conditions and stipulations of the preliminary plan approval remain in full force and effect except to the extent expressly modified herein.

27. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through twenty-seven.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor
ATTEST:

______________________________
Kelly Varner, City Clerk

APPROVED AS TO FORM:

______________________________
Marcia L. Knight, City Attorney
SUBJECT: APPROVE CONSTRUCTION SERVICES AGREEMENT FOR TRAIL IMPROVEMENTS - CITY PARK TO COLLEGE PEDESTRIAN BRIDGE
MegaKC
October 19, 2020

DISCUSSION

Staff worked with Continental Consulting Engineers to create construction plans for much needed trail improvements between City Park and the trail bridge just south of College Blvd.

The work will mill the existing trail and use them for the compacted base and construct a 10 foot wide concrete trail. The work will include two 12" HDPE storm drain pipes to convey water from the uphill side of the trail to the creek side.

Staff contacted three construction contractors for proposals with September 30th deadline to submit.

- Dondlinger Construction: $182,992.50
- Kissick Construction: No submittal
- MegaKC: $130,940.60

Staff held a site review with MegaKC to insure understanding of the project and the scope of work and proposal are all correct.

The fund source for this project will be from the trail maintenance line items in the park maintenance and public works trail maintenance operating budgets. Staff has determined that this project is the highest priority for improvements in the trail system.

It is anticipated the project will take approximately one month to complete, barring weather delays.

Staff requests approval of the agreement so the project can begin.

Brian Anderson, CPRP
Superintendent of Parks

SPONSOR
Parks & Recreation Department

COUNCIL ACTION TO BE TAKEN
Approve Construction Agreement

STAFF RECOMMENDATION
☑ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION
☐ For
☐ Against
☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE
☐ No
☐ Yes

OPERATIONAL IMPACT
Will greatly improve this section of the trail.

COSTS
$130,940.60

FUND SOURCES
Operating Budget: 11110.44500.725000 (Park Maintenance)
RESOLUTION NO. __________

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION SERVICES AGREEMENT BETWEEN THE CITY AND MEGAKC IN THE AMOUNT OF $130,940.60 PERTAINING TO TRAIL MAINTENANCE FROM CITY PARK TO COLLEGE BOULEVARD BRIDGE

WHEREAS, the City is in need of services pertaining to trail maintenance;

WHEREAS, MegaKC provides such services; and

WHEREAS, the parties desire to execute a Construction Services Agreement regarding such services.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby authorizes the Mayor to execute a Construction Services Agreement between the City and MegaKC, in the amount of $130,940.60, attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
SERVICES AGREEMENT

This Agreement is made this _____ day of ____________, 20___, in Johnson County, Kansas, by and between the City of Leawood, Kansas (“City”), and MegaKC Corporation “Contractor”.

SECTION 1 – CONTRACTOR’S DUTIES

Contractor shall provide the following services: **Pulverize current asphalt trail in place and compact the millings to serve as a base for 6” thick 10’ wide concrete trail to be placed over the base. From the College Street Bridge to the pedestrian bridge south, the trail will be removed and 4” base rock and 6” concrete trail placed. 12” HDPE storm pipe will be installed at 2 locations per the construction plans. Trail shall be backfilled and finish graded with topsoil for the city to seed as listed on the attached “Exhibit A”**.

Contractor understands that time is of the essence in this work and shall submit such reports in a timely fashion and shall, at a minimum, abide by the following schedule:

Contractor shall complete the project within 60 working days after a Notice to Proceed has been issued. Inclement weather delays shall not be counted as a working day.

SECTION II – COMPENSATION

City shall pay Contractor **ONE HUNDRED THIRTY THOUSAND, NINE HUNDRED FORTY DOLLARS AND SIXTY CENTS ($130,940.60)** on the basis and on the terms shown in Exhibit A attached hereto and incorporated herein by reference. City agrees to remit such payment to Contractor within 30 days of receipt of a Contractor’s invoice.

☐ Check if tax exemption is requested. Tax exemption is applicable in State of Kansas for goods only on this project.

SECTION III – TERM OF AGREEMENT

The term of this Agreement shall commencing on the 20th day of October, 2020, and shall be completed on or before December 28th, 2020.

SECTION IV - CONTRACTOR’S DUTIES AND DOCUMENTS INCORPORATED

That the Contractor will furnish at its own cost and expense all labor, tools, equipment and materials required and shall be solely answerable for the same and for the safe, proper, and lawful construction, maintenance, and use thereof. Contractor shall construct and complete in good first-class and workmanlike manner the work as designated, described and required by the Plans, Specifications and Proposal as being included in, and covered by, the following items of the said Proposal, to wit:
# Staff Review

## Fact Sheet

**SUBJECT:**  **APPROVE RESOLUTION AND CONSTRUCTION AGREEMENT WITH REALM CONSTRUCTION, INC. FOR THE 135TH STREET CONCRETE REPAIRS**  
**OCTOBER 19, 2020**

**DISCUSSION**

Attached, is the resolution to approve a Construction Agreement between the City of Leawood and Realm Construction, Inc. for the 135th Street Concrete Repairs Project.

The City opened bids on Thursday, September 24th, 2020, receiving four (4) bids. Realm Construction, Inc. provided the lowest bid of $224,729.00. The second lowest bid was from MegaKC at $286,834.00.

This project is for the replacement of concrete panels in the roadway on 135th Street from Mission Rd to Chadwick.

Realm Construction, Inc. last worked as a prime contractor in Leawood in 2016 and did satisfactory work on a similar concrete pavement project (Mission Rd).

It is the recommendation of the Public Works Department that the City Council approves the contract with Realm Construction, Inc. in the amount of $224,729.00 and authorizes the Mayor to sign.

David Ley, P.E.  
Director of Public Works

<table>
<thead>
<tr>
<th>COUNCIL ACTION TO BE TAKEN</th>
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<td>Approve Resolution and Construction Agreement</td>
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<tr>
<th>STAFF RECOMMENDATION</th>
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<td>☑ For</td>
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<td>☐ Against</td>
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<th>OPERATIONAL IMPACT</th>
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<td>33200.713500</td>
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RESOLUTION NO. __________

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION AGREEMENT BETWEEN THE CITY AND REALM CONSTRUCTION, INC. IN THE AMOUNT OF $224,729.00 PERTAINING TO THE 2020 135TH STREET CONCRETE REPAIR PROGRAM

WHEREAS, the City requires services pertaining to the 135th Street Concrete Repair Program;

WHEREAS, Realm Construction, Inc. provides such services; and

WHEREAS, the parties desire to execute a Construction Agreement regarding such services.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby authorizes the Mayor to execute a Construction Agreement between the City and Realm Construction, Inc. in the amount of $224,729.00, attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]  

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
Bid Tab For: 2020 135th Street Concrete Repairs

BID OPENING DATE: Sept 24, 2020

CITY OF LEAWOOD KANSAS
BID TABULATION
4800 Town Center Drive
Leawood, Kansas 66211
(913) 339-6700
(913) 339-9374 fax  (913)339-6225 TDD

<table>
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<th>CONTRACTOR</th>
<th>Two (2) Addendums Acknowledged</th>
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<tr>
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<tr>
<td>MegaKC</td>
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<td>$286,834.00</td>
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<tr>
<td>JM Fahey Construction</td>
<td>x</td>
<td>$336,553.00</td>
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<tr>
<td>Gunter Construction</td>
<td>x</td>
<td>$339,064.00</td>
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Engineer's Estimate:
(Staff Engineer Sherry)

$254,890.00

The City of Leawood, Kansas reserves the right to reject any and all bids.

This bid tabulation form is offered as information only on public read and received bids.

Bids received are reviewed for accuracies and review of meeting document and specifications as required with the Bid Notice. The "award" of the bid is determined by the City's purchasing policy.

Vendors awarded contracts with the City of Leawood are expected to comply with the City of Leawood Standard Contract forms and procedures and obtain all licenses and permits associated with the job.
## 135th St Concrete Repairs (#7297129)

**Owner:** Leawood KS, City of - Provider  
**Solicitor:** Leawood KS, City of - Provider  
**Date:** 09/24/2020 02:00 PM CDT

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<th>J.M. Fahey</th>
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**Total:**  
$254,690.00 | $224,729.00 | $286,834.00 | $336,553.00 | $339,064.00
# Staff Review

Fact Sheet

**SUBJECT:**

**ACCEPTANCE OF EASEMENT**
LEAWOOD SOUTH STORMWATER IMPROVEMENT PROJECT
12706 Cherokee Lane
October 19, 2020

## DISCUSSION

The Public Works Department is requesting the acceptance of a Temporary Construction Easement required for the improvements of the Leawood South Stormwater Project-TM-04-008.

This project was delayed due to the Covid-19 Pandemic and the previously approved temporary easements are set to expire prior to beginning construction. Staff has worked with property owners to acquire a new temporary easement which will expire in June of 2023. The property owner has agreed with this offer and has signed the easement.

A Resolution has been prepared to accept the easement from and for the following:

**Grantor/s:**
Kristen Baehr and Justin Baehr
12706 Cherokee Lane, Leawood, KS 66209

**Temporary Construction Easement**
Located in a portion of Lot 5, Block 29, LEAWOOD SOUTH SIXTH PLAT, a subdivision in Leawood, Kansas, containing 63 square feet more or less-$131.00.

The Public Works Department requests the approval of the offer of $150.00 to Kristen Baehr and Justin Baehr and acceptance of the easement for the project.

David Ley, P.E.
Director of Public Works

## COUNCIL ACTION TO BE TAKEN

Accept easement and Approve Resolution

## STAFF RECOMMENDATION

☐ For
☐ Against
☐ No position

## COMMITTEE RECOMMENDATION

☐ For
☐ Against
☐ No position ☑ No Assignment

## POLICY OR PROGRAM CHANGE

☑ No
☐ Yes

## OPERATIONAL IMPACT

## COSTS

$150.00

## FUND SOURCES

Capital Improvement Project 80256.100.823000
Temporary Easement $131.00
Rounding $19.00
RESOLUTION NO. __________

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM GRANTORS KRISTEN BAEHR AND JUSTIN BAEHR, FOR PROPERTY LOCATED AT 12706 CHEROKEE LANE, PERTAINING TO THE LEAWOOD SOUTH STORMWATER PROJECT [PROJECT #80256]

WHEREAS, Kristen Baehr and Justin Baehr have executed a Temporary Construction Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Temporary Construction Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Temporary Construction Easement, a copy of which is attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Kristen Baehr and Justin Baehr ["Grantors"], for the sum of Ten Dollars ($10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, do grant to the City of Leawood, Kansas, a Kansas municipal corporation ["Grantee"], with an address of 4800 Town Center Dr., Leawood, KS 66211, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

SEE ATTACHMENT ‘A’ (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting Leawood South Storm Sewer Improvements as shown by the plans of the proposed improvement dated 8-20-2019, prepared by McClure. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

This Temporary Construction Easement shall commence upon the date listed below and shall expire Six (6) months after the completion and acceptance of construction, but in no event later than June 1, 2023.

Grantors do hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.
This temporary construction easement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor.

GRANTORS:

[Signature]
Kristen Baehr

[Signature]
Justin Baehr

STATE OF KANSAS

) SS.
COUNTY OF JOHNSON

BE IT REMEMBERED that on this 25th day of September, 2023, before me, the undersigned, a Notary Public in and for the County and State, came Kristen Baehr and Justin Baehr who are personally known to me to be the same persons who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

[Signature]
Nancy C. Kohn
NOTARY PUBLIC

My Appointment Expires:
5/10/22
August 28th, 2019

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LEAWOOD SOUTH STORMWATER PROJECT – TRACT 44

LOT 5, BLOCK 29, LEAWOOD SOUTH SIXTH PLAT
CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

A temporary construction easement being a part of Lot 5 of Block 29 in Leawood South Sixth plat, City of Leawood, Johnson County, Kansas being more particularly described as follows:

Commencing from the Southeast corner of said Lot 5; thence along the east line of said Lot 5 N06°25'02"E, 3.36 feet to the Point of Beginning; thence continuing along said east line N06°25'02"E, 31.64 feet; thence departing said east line N83°34'59"W, 2.00 feet; thence S06°25'02"W, 31.71 feet thence S85°31'16"E, 2.00 feet to the Point of Beginning.

The above tract of land contains 63 square feet, more or less.
Staff Review
Fact Sheet

SUBJECT:

ACCEPTANCE OF EASEMENT
LEAWOOD SOUTH STORMWATER IMPROVEMENT PROJECT
12719 Sagamore Road
October 19, 2020

DISCUSSION

The Public Works Department is requesting the acceptance of a Temporary Construction Easement required for the improvements of the Leawood South Stormwater Project-TM-04-008.

This project was delayed due to the Covid-19 Pandemic and the previously approved temporary easements are set to expire prior to beginning construction. Staff has worked with property owners to acquire a new temporary easement which will expire in June of 2023. The property owner has agreed with this offer and has signed the easement.

A Resolution has been prepared to accept the easement from and for the following:

Grantor/s:
Randy L. Brooks, Trustee of the Randy L. Brooks Trust
12719 Sagamore Road, Leawood, KS 66209

Temporary Construction Easement
Located in a portion of Lot 4, Block 2, LEAWOOD SOUTH FIFTH PLAT, a subdivision in Leawood, Kansas, containing 16 square feet more or less-$34.00.

The Public Works Department requests the approval of the offer of $50.00 to Randy L. Brooks and acceptance of the easement for the project.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN
Accept easement and Approve Resolution

STAFF RECOMMENDATION
☐ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION
☐ For
☐ Against
☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE
☐ No
☐ Yes

OPERATIONAL IMPACT

COSTS

$50.00

FUND SOURCES
Capital Improvement Project 80256.100.823000
Temporary Easement = $34.00
Rounding = $16.00
RESOLUTION NO. __________

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM GRANTOR RANDY L. BROOKS, TRUSTEE OF THE RANDY L. BROOKS TRUST, FOR PROPERTY LOCATED AT 12719 SAGAMORE ROAD, PERTAINING TO THE LEAWOOD SOUTH STORMWATER PROJECT [PROJECT #80256]

WHEREAS, Randy L. Brooks, trustee of the Randy L. Brooks Trust has executed a Temporary Construction Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Temporary Construction Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Temporary Construction Easement, a copy of which is attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

_____________________________________________________
Peggy J. Dunn, Mayor

ATTEST:

_____________________________________________________
Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

_____________________________________________________
Patricia A. Bennett, City Attorney
TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Randy L Brooks, Trustee of the Randy L Brooks Trust ["Grantor"], for the sum of Ten Dollars ($10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the City of Leawood, Kansas, a Kansas municipal corporation ["Grantee"], with an address of 4800 Town Center Dr., Leawood, KS 66211, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

SEE ATTACHMENT ‘A’ (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting Leawood South Storm Sewer Improvements as shown by the plans of the proposed improvement dated 8-22-2019, prepared by McClure. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

This Temporary Construction Easement shall commence upon the date listed below and shall expire Six (6) months after the completion and acceptance of construction, but in no event later than June 1, 2023.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.
This temporary construction easement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor.

Grantor:

Randy L Brooks, Trustee of the Randy L Brooks Trust

TRUSTEE ACKNOWLEDGMENT

STATE OF Kansas )
) SS.
COUNTY OF Johnson )

The foregoing instrument was acknowledged before me by Randy L Brooks, Trustee, to me personally known or produced Drivers License, as identification and who acknowledged the foregoing instrument for the purposes therein contained, and acknowledged that he was authorized under the trust to execute said instrument on behalf of the beneficiaries of the trust.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

[Signature]

Notary Public

My Appointment Expires:

12/04/2022
August 28th, 2019

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LEAWOOD SOUTH STORMWATER PROJECT – TRACT 59

LOT 4, BLOCK 2, LEAWOOD SOUTH FIFTH PLAT
CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

A temporary construction easement being a part of Lot 4 of Block 2 in Leawood South Fifth plat, City of Leawood, Johnson County, Kansas being more particularly described as follows:

Beginning at the Southeast corner of said Lot 4; thence along the south line of said Lot 4, S87°35'01"W, 4.00 feet; thence departing said south line N02°24'52"W, 4.00 feet; thence N87°35'01"E, 4.00 feet to a point on the east line of said Lot 4; thence along said east line S02°24'52"E, 4.00 feet to the Point of Beginning.

The above tract of land contains 16 square feet, more or less.
Staff Review
Fact Sheet
SUBJECT: ACCEPTANCE OF EASEMENTS
LEAWOOD SOUTH STORMWATER IMPROVEMENT PROJECT
12602 Wenonga Lane
October 19, 2020

DISCUSSION
The Public Works Department is requesting the acceptance of Easements required with the improvements of the Leawood South Stormwater Project-TM-04-008. Real estate review appraisals were completed in making the cost-to-cure and measurement of damage offer. Resolutions have been prepared to accept the easements from and for the following:

Grantor/s:
Stephan K. Matthews
12602 Wenonga Lane, Leawood, KS 66209

Temporary Construction Easement
Located in a portion of Lot 15, Block 29, LEAWOOD SOUTH SIXTH PLAT, a subdivision in Leawood, Kansas, containing 634 square feet more or less – $1,374.00

Permanent Drainage Easement
Located in a portion of Lot 15, Block 29, LEAWOOD SOUTH SIXTH PLAT, a subdivision in Leawood, Kansas, containing 38 square feet more or less – $342.00

Itemized Damages and/or Cost to Cure: $1,250.00 plus $34 rounding = $1,284.00
TOTAL: $3,000.00

The Right-of-Way Agent working for the City has reviewed the property and has recommended the acquisition for the Temporary Construction Easement and Permanent Drainage Easement, along with Cost to Cure/rounding offer of the property for a total amount of $3,000.00. The property owner is in agreement with this offer and has signed the above mentioned easements.

The Public Works Department requests the approval of the offer of $3,000.00 to Stephan K. Matthews and acceptance of the easements for the project.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN
Accept easements and Approve Resolutions

STAFF RECOMMENDATION
☑ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION
☐ For
☐ Against
☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE
☑ No
☐ Yes

OPERATIONAL IMPACT

COSTS
$3,000.00

FUND SOURCES
Capital Improvement Project 80256.100.823000

Temporary Easement = $1,374.00
Permanent Drainage Easement = $342.00
Cost to Cure/rounded itemized damages = $1,284.00

Subtotal = $3,000.00
RESOLUTION NO. ____________

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM GRANTORS STEPHAN K. MATTHEWS FOR PROPERTY LOCATED AT 12602 WENONGA LANE, PERTAINING TO THE LEAWOOD SOUTH STORMWATER PROJECT [PROJECT #80256]

WHEREAS, Stephan K. Matthews has executed a Temporary Construction Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Temporary Construction Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Temporary Construction Easement, a copy of which is attached hereto as Exhibit "A," and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

______________________________
Peggy J. Dunn, Mayor

ATTEST:

______________________________
Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

______________________________
Patricia A. Bennett, City Attorney
RESOLUTION NO. __________

RESOLUTION ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM GRANTORS STEPHAN K. MATTHEWS FOR PROPERTY LOCATED AT 12602 WENONGA LANE, PERTAINING TO THE LEAWOOD SOUTH STORMWATER PROJECT [PROJECT #80256]

WHEREAS, Stephan K. Matthews has executed a Permanent Drainage Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Permanent Drainage Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Permanent Drainage Easement, a copy of which is attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

______________________________
Peggy J. Dunn, Mayor

ATTEST:

______________________________
Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

______________________________
Patricia A. Bennett, City Attorney
PERMANENT DRAINAGE EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS: That this Permanent Drainage Easement is made on this 25 day of September, 2020, by Stephan K. Matthews ["Grantor"], in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and of the benefits to be derived from the construction and maintenance of a storm drainage facility, do hereby GRANT to the CITY OF LEAWOOD, KANSAS, ["Grantee"], a Municipal Corporation of the State of Kansas, its successors and assigns forever a perpetual easement over, under, and through the following described real estate for the purpose of providing for drainage facilities, including, but not limited to, constructing, using, replacing, and maintaining a culvert, storm sewer (either an underground enclosed system, or an open channel, in accordance with Leawood’s Construction Standards), tributary connections, drainage ditches and appurtenant work [collectively referred to as Drainage Facilities"] in any part of said easement, including the right to maintain, clean, repair, and/or replace for said facilities, together with the right of access to said easement and over and under said easement for said purposes, in the following described premises:

SEE ATTACHED EXHIBIT ‘A’ (the “Easement Property”)

THIS EASEMENT is executed and delivered and is granted upon the following conditions, to wit:

1. The Grantors, for themselves and for their heirs, executors, administrators, successors and assigns, hereby release the Grantee its agents and employees, assigns and successors from any and all liability for damage to the remaining lands resulting from this conveyance, and construction and maintenance of this easement and the Drainage Facilities, provided that Grantee shall, as soon as practicable after construction or other work on the Easement Property and all subsequent alterations and repairs thereto or maintenance thereof, restore the property of Grantors to a neat and presentable condition. Provided further, that this release does not include claims for damage occurring due to the willful misconduct or gross negligence of the Grantee or its contractors.

2. It is understood by the Grantors that any Drainage Facilities, sewer or other drainage improvements, sewer or other drainage area constructed or created hereunder shall, in every respect be a public drainage facility as if laid in one of the dedicated streets of the CITY OF LEAWOOD, KANSAS, and all the property abutting thereon shall have the right to connect therewith under the same conditions as if the sewer were in a public street; and the
August 28th, 2019

EXHIBIT A

PERMANENT DRAINAGE EASEMENT
LEAWOOD SOUTH STORMWATER PROJECT – TRACT 54

LOT 15, BLOCK 29, LEAWOOD SOUTH SIXTH PLAT
CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

A permanent drainage easement being a part of Lot 15 of Block 29 in Leawood South Sixth plat, City of Leawood, Johnson County, Kansas being more particularly described as follows:

Commencing from the southwest corner of said Lot 15; thence along the west line of said Lot 15 N01°32'23"E, 12.35 feet; thence departing said west line S83°31'57"E, 64.82 feet; thence N29°17'52"E, 6.88 feet to the Point of Beginning; thence N60°42'08"W, 2.52 feet; thence N29°17'52"E, 15.00 feet; thence S60°42'08"E, 2.52 feet; thence S29°17'52"W, 15.00 feet to the Point of Beginning.

The above tract of land contains 38 square feet, more or less.
CITY OF LEAWOOD, KANSAS, or any abutting property owners, upon permit from the Grantee herein, shall have the right at all times to enter upon the described premises for the purpose of making any necessary repairs, renewals or replacements of said drainage improvements.

3. The rights granted herein shall not be construed to interfere with or restrict the Grantors, or their heirs, executors, administrators, successors and assigns from the use of the premises as long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of drainage or other drainage improvements.

THIS EASEMENT shall run with the land and shall apply to all interests now owned or hereafter acquired to the above described property. This easement shall be filed of record with the Register of Deeds, Johnson County, Kansas.

DATED this 25th day of September, 2020.

GRANTORS:

[Signature]
Stephan K. Matthews

STATE OF KANSAS )
) SS.
COUNTY OF JOHNSON )

BE IT REMEMBERED that on this 25th day of September, 2020, before me, the undersigned, a Notary Public in and for the County and State, came, who are personally known to me to be the same person who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal; the day and year last above written.

[Signature]
NOTARY PUBLIC

My appointment expires: 12-15-2020
TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Stephan K. Matthews ["Grantor"], for the sum of Ten Dollars ($10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, do grant to the City of Leawood, Kansas, a Kansas municipal corporation ["Grantee"], with an address of 4800 Town Center Dr., Leawood, KS 66211, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

SEE ATTACHMENT ‘A’ (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting Leawood South Storm Sewer Improvements as shown by the plans of the proposed improvement dated 11-22-2019, prepared by McClure. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

This Temporary Construction Easement shall commence upon the date listed below and shall expire Six (6) months after the completion and acceptance of construction, but in no event later than June 1, 2023.

Grantors do hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.
November 22, 2019

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LEAWOOD SOUTH STORMWATER PROJECT – TRACT 54

LOT 15, BLOCK 29, LEAWOOD SOUTH SIXTH PLAT
CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

A temporary construction easement being a part of Lot 15 of Block 29 in Leawood South Sixth plat, City of Leawood, Johnson County, Kansas being more particularly described as follows:

Commencing from the Southwest corner of said Lot 15; thence along the west line of said Lot 15 N01°32’23”E, 12.35 feet; thence departing said west line S83°31’57”E, 43.12 feet to the Point of Beginning; thence S83°31’57”E, 21.70 feet; thence N29°17’52”E, 6.88 feet; thence N60°42’08”W, 2.52 feet; thence N29°17’52”E, 15.00 feet; thence S60°42’08”E, 2.52 feet; thence N29°17’52”E, 19.99 feet; thence N66°34’52”W, 8.04 feet; thence S29°17’52”W, 19.10 feet; thence N66°34’52”W, 12.06 feet; thence S29°17’52”W, 29.13 feet to the Point of Beginning.

The above tract of land contains 634 square feet, more or less.
This temporary construction easement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor.

GRANTORS:

[Signature]
Stephan K. Matthews

STATE OF KANSAS   
)  
) SS.
COUNTY OF JOHNSON   
)

BE IT REMEMBERED that on this 25 day of Sept, 2029, before me, the undersigned, a Notary Public in and for the County and State, came Stephan Matthews are personally known to me to be the same person who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal; the day and year last above written.

[Signature]
LINDA SUTHERLAND
Notary Public, State of Kansas
My Appointment Expires
12-15-3020
Staff Review
Fact Sheet

SUBJECT:
ACCEPTANCE OF EASEMENT
LEAWOOD SOUTH STORMWATER IMPROVEMENT PROJECT
12703 Wenonga Lane
October 19, 2020

DISCUSSION
The Public Works Department is requesting the acceptance of a Temporary Construction Easement required for the improvements of the Leawood South Stormwater Project-TM-04-008.

This project was delayed due to the Covid-19 Pandemic and the previously approved temporary easements are set to expire prior to beginning construction. Staff has worked with property owners to acquire a new temporary easement which will expire in June of 2023. The property owner has agreed with this offer and has signed the easement.

A Resolution has been prepared to accept the easement from and for the following:

Grantor/s:
Robert O. Schock and Carla J. Schock
12703 Wenonga Lane, Leawood, KS 66209

Temporary Construction Easement
Located in a portion of Lot 3, Block 21, LEAWOOD SOUTH SIXTH PLAT, a subdivision in Leawood, Kansas, containing 626 square feet more or less-$1,300.00.

The Public Works Department requests the approval of the offer of $1,300.00 to Robert O. Schock and Carla J. Schock and acceptance of the easement for the project.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN
Accept easement and Approve Resolution

STAFF RECOMMENDATION
☐ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION
☐ For
☐ Against
☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE
☐ No
☐ Yes

OPERATIONAL IMPACT

COSTS
$1,300.00

FUND SOURCES
Capital Improvement Project 80256.100.823000
Temporary Easement = $1300.00
RESOLUTION NO. __________

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM GRANTORS ROBERT O. SCHOCK AND CARLA J. SCHOCK, FOR PROPERTY LOCATED AT 12703 WENONGA LANE, PERTAINING TO THE LEAWOOD SOUTH STORMWATER PROJECT [PROJECT #80256]

WHEREAS, Robert O. Schock and Carla J. Schock have executed a Temporary Construction Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Temporary Construction Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Temporary Construction Easement, a copy of which is attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Robert O. Schock and Carla J. Schock, ("Grantors"), for the sum of Ten Dollars ($10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, do grant to the City of Leawood, Kansas, a Kansas municipal corporation ("Grantee"), with an address of 4800 Town Center Dr., Leawood, KS 66211, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

SEE ATTACHMENT ‘A’ (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting Leawood South Storm Sewer Improvements as shown by the plans of the proposed improvement dated 8-20-2019, prepared by McClure. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

This Temporary Construction Easement shall commence upon the date listed below and shall expire Six (6) months after the completion and acceptance of construction, but in no event later than June 1, 2023.

Grantors do hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.
This temporary construction easement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor.

GRANTORS:

Robert O. Schock

Carla J. Schock

STATE OF KANSAS  )
) SS.
COUNTY OF JOHNSON  )

BE IT REMEMBERED that on this 15th day of September, 2020, before me, the undersigned, a Notary Public in and for the County and State, came Robert O. Schock and Carla J. Schock who are personally known to me to be the same persons who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal; the day and year last above written.

Dallas James Anderson
NOTARY PUBLIC

My Appointment Expires: March 29, 2021
August 27th, 2019

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LEAWOOD SOUTH STORMWATER PROJECT -- TRACT 20

LOT 3, BLOCK 21, LEAWOOD SOUTH SIXTH PLAT
CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

A temporary construction easement being a part of Lot 3 in Block 21 of Leawood South Sixth Plat, City of
Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing from the most westerly corner of said Lot 3; thence along the southerly line on a curve to
the left, the tangent which bears S47°47′37″E, radius of said curve being 125.00 feet, with a central
angle of 04°35′20″, an arc length of 10.01 feet to the Point of Beginning; thence departing said southerly
line N42°17′23″E, 70.02 feet; thence S47°42′37″E, 9.00 feet; thence S42°17′23″W, 68.95 feet to a point
on said southerly line; thence along said southerly line on a curve to the right, the tangent which bears
N56°32′15″W, radius of said curve being 125.00 feet, with a central angle of 04°09′18″, an arc length of
9.06 feet to the Point of Beginning.

Described tract of land contains 626 square feet, more or less.
Staff Review

Fact Sheet

SUBJECT: ACCEPTANCE OF EASEMENT
LEAWOOD SOUTH STORMWATER IMPROVEMENT PROJECT
12704 Wenonga Lane
October 19, 2020

DISCUSSION
The Public Works Department is requesting the acceptance of a Temporary Construction Easement required for the improvements of the Leawood South Stormwater Project-TM-04-008.

This project was delayed due to the Covid-19 Pandemic and the previously approved temporary easements are set to expire prior to beginning construction. Staff has worked with property owners to acquire a new temporary easement which will expire in June of 2023. The property owner has agreed with this offer and has signed the easement.

A Resolution has been prepared to accept the easement from and for the following:

Grantor/s:
Ryan J. Gildea and Courtney C. Gildea
12704 Wenonga Lane, Leawood, KS 66209

Temporary Construction Easement
Located in a portion of Lot 3, Block 20, LEAWOOD SOUTH SIXTH, a subdivision in Leawood, Kansas, containing 296 square feet more or less-$561.00.

The Public Works Department requests the approval of the offer of $561.00 to Ryan J. Gildea and Courtney C. Gildea and acceptance of the easement for the project.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN
Accept easement and Approve Resolution

STAFF RECOMMENDATION
☑ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION
☐ For
☐ Against
☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE
☐ No
☐ Yes

OPERATIONAL IMPACT

COSTS
$561.00

FUND SOURCES
Capital Improvement Project 80256.100.823000
Temporary Easement = $561.00
RESOLUTION NO. __________

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM GRANTORS RYAN J. GILDEA AND COURTNEY C. GILDEA, FOR PROPERTY LOCATED AT 12704 WENONGA LANE, PERTAINING TO THE LEAWOOD SOUTH STORMWATER PROJECT [PROJECT #80256]

WHEREAS, Ryan J. Gildea and Courtney C. Gildea have executed a Temporary Construction Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Temporary Construction Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Temporary Construction Easement, a copy of which is attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Ryan J Gildea and Courtney C Gildea ("Grantors"), for the sum of Ten Dollars ($10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, do grant to the City of Leawood, Kansas, a Kansas municipal corporation ("Grantee"), with an address of 4800 Town Center Dr., Leawood, KS 66211, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

SEE ATTACHMENT ‘A’ (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting Leawood South Storm Sewer Improvements as shown by the plans of the proposed improvement dated 10-21-2019, prepared by McClure. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

This Temporary Construction Easement shall commence upon the date listed below and shall expire Six (6) months after the completion and acceptance of construction, but in no event later than June 1, 2023.

Grantors do hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.
This temporary construction easement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor.

GRANTORS:

Ryan J Gildea

Courtney C Gildea

STATE OF KANSAS )
COUNTY OF JOHNSON ) SS.

BE IT REMEMBERED that on this 2 day of October, 202_, before me, the undersigned, a Notary Public in and for the County and State, came Ryan J Gildea and Courtney C Gildea who are personally known to me to be the same persons who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal; the day and year last above written.

NOTARY PUBLIC

My Appointment Expires:

5/20/2022

NOTARY PUBLIC - State of Kansas
ANDREW J. BOOS
My Appl. Exp. 5/20/22
October 21st, 2019

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LEAWOOD SOUTH STORMWATER PROJECT – TRACT 28

LOT 3, BLOCK 20, LEAWOOD SOUTH SIXTH PLAT
CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

A temporary construction easement being a part of Lot 3 in Block 20 of Leawood South Sixth Plat, City of Leawood, Johnson County, Kansas, being more particularly as follows:

Commencing from the Northeast corner of said Lot 3; thence along the north line of said Lot 3 N70°52'19"W, 93.41; thence S18°15'41"W, 62.98 feet to the Point of Beginning; thence S76°44'26"E, 3.06 feet; thence S18°57'14"W, 32.26 feet; thence S20°49'25"E, 24.02 feet; thence N76°44'26"W, 17.87 feet; thence N18°15'41"E, 52.20 feet to the Point of Beginning.

Described tract of land contains 296 square feet, more or less.
Staff Review
Fact Sheet

SUBJECT: REQUEST TO APPROVE CHANGE ORDER #2
MISSION ROAD, 119TH TO 127TH STREET IMPROVEMENTS
October 19th, 2020

DISCUSSION
The Public Works Department is requesting approval of Change Order No. 2 (attached) to the Construction Agreement between the City and JM Fahey Construction Company for work on the Mission Road, 119th to 127th Street Improvements. The City approved the contract with JM Fahey Construction Company on March 18, 2019 at a construction cost of $3,219,842.85.

The improvements to Mission Road included pavement removal, curb removal, curb replacement, paving, storm sewer removal and replacement, pavement markings, sodding, street light removal and replacement, traffic signal modifications, and striped bike lanes along with a center left turn lane to improve safety.

Change Order No. 1 in the amount of $49,980.00 was due to additional work performed to improve the ride quality of the pavement.

During the course of the project there were delays from Evergy resulting in an increase to the traffic control and operational costs. With this change, the contract will be revised to $3,338,822.85.

It is the recommendation of the Public Works Department that the City Council approves Change Order No. 1 to the contract with JM Fahey Construction Company for a price of $69,000.00 and authorizes the Mayor to sign.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN
Approve Change Order No. 2

STAFF RECOMMENDATION
☑ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION
☐ For
☐ Against
☐ No position ☐ No Assignment

POLICY OR PROGRAM CHANGE
☑ No
☐ Yes

OPERATIONAL IMPACT

COSTS
$69,000.00

FUND SOURCES
72065
RESOLUTION NO. ________

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER NO. 2 IN THE AMOUNT OF $69,000.00 BETWEEN THE CITY AND J.M. FAHEY CONSTRUCTION COMPANY, PERTAINING TO THE MISSION ROAD IMPROVEMENT PROJECT FROM 119th STREET TO 127th STREET [PROJECT #72065]

WHEREAS, J.M. Fahey Construction Company was selected by the City for services pertaining to the Mission Road Improvement Project; and

WHEREAS, the parties desire to execute Change Order No. 2 to the agreement.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby authorizes the Mayor to execute Change Order No. 2 between the City and J.M. Fahey Construction Company, in the amount of $69,000.00, attached hereto as Exhibit “A,” and incorporated herein by reference as if fully set forth herein.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]  
Peggy J. Dunn, Mayor

ATTEST:

Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney
CITY OF LEAWOOD

CONTRACT CHANGE ORDER

Project Name: Mission Road (127th to 119th)
Contractor: JM Fahey
Eden Contract No.: 19.025
City Project No.: 72065
Fund No.: 2
Change Order No.: 2

The following changes are hereby authorized in the subject agreement dated: March 18, 2019

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
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</thead>
<tbody>
<tr>
<td>CO2.1</td>
<td>Additional Traffic Control, Production Loss &amp; C</td>
<td>LS</td>
<td>1</td>
<td>$69,000.00</td>
<td>69,000.00</td>
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<td>Carrying Costs Due to Utility Delays</td>
<td></td>
<td></td>
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</tbody>
</table>

TOTAL: $69,000.00

Summary of Change in Contract Price due to this Change Order:

- Contract price before this change order: $3,269,822.85
- Total Increase/Decrease of this change order: $69,000.00
- Contract price after this change order: $3,338,822.85
CITY OF LEAWOOD

CONTRACT CHANGE ORDER

Summary of Change in Contract Time due to this Change Order:

Contract time before this change order: 459 calendar/working days
Total increase/decrease in time for this change order: 0 calendar/working days
Contract time after this change order: 459 calendar/working days

This document shall become an amendment to the Agreement and all provisions of the Agreement and Contract Documents shall apply hereto. It is the Contractor's responsibility to notify its surety of this change order but its failure to do so will not relieve the surety of its obligations to the City of Leawood.

Indicate below the attached items, which are to be made a part of this Change Order.

This Contract Change Order is effective after sufficient originals are signed by the Contractor, reviewed by the Project Manager (if applicable), accepted by the City Engineer, and approved by the City of Leawood Governing Body. Deliver one copy to the City Engineer, Contractor, and Project Manager, if applicable.

SUBMITTED BY THE CONTRACTOR

__________________________________________
J.M. Fahey

Date: ________________________________

ACCEPTED BY THE CITY OF LEAWOOD

__________________________________________
City Engineer

Date: ________________________________

ATTEST:

__________________________________________
Kelly L. Varner, City Clerk, MSM

Date: ________________________________

APPROVED BY THE CITY OF LEAWOOD

__________________________________________
Mayor Peggy J Dunn

Date: ________________________________

APPROVED AS TO FORM:

__________________________________________
Patricia A. Bennett, City Attorney

Date: ________________________________
Sept. 2020 Monthly Report

<table>
<thead>
<tr>
<th>AREA OF CITY</th>
<th>CALLS FOR SERVICE</th>
<th>CODE 1 RESPONSE</th>
<th>NON-EMERGENCY</th>
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<tr>
<td>North Zone</td>
<td>970</td>
<td>2:51</td>
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<td>Center Zone</td>
<td>714</td>
<td>1:47</td>
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<td>South Zone</td>
<td>851</td>
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<table>
<thead>
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<th>TYPES OF CALLS FOR SERVICE</th>
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<tbody>
<tr>
<td>Traffic Stops</td>
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<td>Traffic Complaint Areas investigated</td>
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<td>Medical Calls</td>
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<td>Alarms</td>
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<tr>
<td>Arrests</td>
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<td>Accidents (Injury)</td>
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<td>Open Doors</td>
<td>128 (4.3/day)</td>
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<td>Suspicious Activity calls</td>
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<td>Check the Welfare</td>
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<td>9-1-1 Calls Received</td>
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<td>Administrative Calls Received</td>
<td>2557</td>
</tr>
</tbody>
</table>

MONTHLY HIGHLIGHTS

Warrant signed for Leawood car burglar

Leawood Detectives have secured a warrant for a Kansas City, MO, resident, charging him in at least four auto burglaries in Leawood—including one at Ironhorse Golf Club and another at I-Lan Park—as well as crimes in two other Johnson County cities. The suspect was stealing credit cards from unlocked vehicles and then immediately going to big box stores to purchase electronics and tools.
### Frequent crash locations

<table>
<thead>
<tr>
<th>INTERSECTION</th>
<th>Sept.</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-435 &amp; State Line Road</td>
<td>3</td>
<td>16</td>
</tr>
<tr>
<td>State Line Rd/135th St.</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>135th St/Mission RD</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>135th St/Roe Ave</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>135th St./State Line Road</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>103rd St / State Line RD</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Mission RD/137th St</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>State Line RD/119th St.</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

### A new look for patrol cars

Last month the police department revealed a new ‘old’ look for its patrol cars. The body lines of the new 2020 Ford Explorers required a change in graphics for the vehicles. Rather than adjusting the current logo, the decision was made to simplify our design and return to a design featuring the LPD star on the driver’s door (far left). The previous design had been in place since 2005.

### CRIME REPORT

<table>
<thead>
<tr>
<th></th>
<th>This month</th>
<th>Last month</th>
<th>Two months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burglaries</td>
<td>6</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>Thefts from vehicles</td>
<td>33</td>
<td>30</td>
<td>16</td>
</tr>
<tr>
<td>Drug possession violations</td>
<td>10</td>
<td>12</td>
<td>8</td>
</tr>
<tr>
<td>Stolen autos</td>
<td>5</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>Agg. assault/batteries</td>
<td>1</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Crim. Damage to Property/Vandalism</td>
<td>15</td>
<td>21</td>
<td>14</td>
</tr>
<tr>
<td>DUI</td>
<td>5</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>Shoplifting</td>
<td>2</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>Mental Health related calls</td>
<td>41</td>
<td>41</td>
<td>28</td>
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</table>

### TRAFFIC ENFORCEMENT REPORT

<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Arrests</td>
<td>51</td>
<td>57</td>
<td>34</td>
<td>58</td>
<td>64</td>
</tr>
<tr>
<td>Citations</td>
<td>362</td>
<td>560</td>
<td>541</td>
<td>900</td>
<td>846</td>
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<tr>
<td>Warnings</td>
<td>352</td>
<td>682</td>
<td>649</td>
<td>971</td>
<td>754</td>
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<tr>
<td>Crashes</td>
<td>23</td>
<td>29</td>
<td>29</td>
<td>37</td>
<td>48</td>
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</table>
September 2020 Report

Monthly Calls for Service

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Count</th>
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<tbody>
<tr>
<td>Fire Responses</td>
<td>11</td>
</tr>
<tr>
<td>EMS Responses</td>
<td>172</td>
</tr>
<tr>
<td>HazMat Responses</td>
<td>6</td>
</tr>
<tr>
<td>Tech Rescue Responses</td>
<td>1</td>
</tr>
<tr>
<td>Other Calls for Service</td>
<td>68</td>
</tr>
<tr>
<td><strong>Total Calls This Month</strong></td>
<td>258</td>
</tr>
<tr>
<td><strong>YTD Total Calls</strong></td>
<td>2,231</td>
</tr>
</tbody>
</table>

Monthly Activity Hours

(Non-training - can include response, public education, public services, maintenance, etc)

Staff Activity Hours: 985

Monthly Training Hours

Training Hours: 1,464

Monthly Highlights

- 15 Public Education / Public Relations Events
- 1 Infant / Child Car Seat Installation
- 55 CPR / First Aid Students taught
- 1 Residential Smoke Detector Installation
- New Fire Marshal Justin Ducey started on September 14th.
- Accreditation Peer Review Team Site Assessment Visit - September 21-24
- Assisted Lawrence FD with assessors for company officer promotional process - September 9-10
- Hosted KFRTI Fire Instructor 2 class for all county fire departments - September 16-17

LFD Receives Accreditation Site-Visit

A peer review team representing the Commission on Fire Accreditation International (CFAI) was on site in the City of Leawood on Sept. 21-24. The team had the responsibility to verify and validate all aspects of the Fire Department towards re-accreditation. This included visiting various City and County sites and conducting numerous interviews. The team had a great visit and ended up making the recommendation to the Commission for re-accreditation. As part of this recommendation, the team has to submit a detailed report of their findings and also make recommendations for improvement for the department. The Fire Department is currently scheduled to appear before the Commission for a hearing to make the final decision on accreditation in March in Orlando at the CPSE Excellence Conference. However, due to the ongoing pandemic, alternatives are being considered such as virtual hearings. If successful, this accreditation will be good for another five years.

LFD Admin Staff socially distanced with the CFAI Peer Review Team
Fire Department Incident Response Details

Monthly Fire Loss & Value Saved in Leawood

Number of incidents with fire related loss in Leawood for the month: 3
Pre-Incident Estimated Value: $420,100
Content Value Loss Estimate: $5,100
Property Value Loss Estimate: $25,000
Total Fire Value Loss Estimate: $30,100
Total Value Saved Estimate: $390,000

Incident Response Times

Emergency service performance standards are measured by 90-percentile performance to demonstrate credibility and reliability in service delivery. Percentile metrics demonstrate a better representation of response times than averages. Instead of displaying what the Department does half of the time, the Department observes what it does the majority of the time. Travel and total response times only include emergency responses within the City of Leawood and are included for both the first unit on scene as well as the Effective Response Force (ERF) which include all the units necessary to handle that risk type of emergency incident.

Summary of Monthly LFD Baseline Performance at the 90th Percentile

<table>
<thead>
<tr>
<th>LFD - Baseline Performance 90th Percentile</th>
<th>All Calls</th>
<th>Fire</th>
<th>EMS</th>
<th>Tech Rescue</th>
<th>HazMat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Number of Incidents by Type</td>
<td>258</td>
<td>11</td>
<td>172</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Alarm Handling</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Call Pick-Up to Dispatch</td>
<td>2:22</td>
<td>2:22</td>
<td>2:30</td>
<td>2:26</td>
<td>1:36</td>
</tr>
<tr>
<td>Turnout Time</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dispatch to 1st Unit Enroute</td>
<td>1:15</td>
<td>1:22</td>
<td>1:12</td>
<td>0:15</td>
<td>0:51</td>
</tr>
<tr>
<td>Travel Time 1st Unit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enroute to Arrival Time</td>
<td>5:23</td>
<td>5:41</td>
<td>5:10</td>
<td>2:13</td>
<td>N/A</td>
</tr>
<tr>
<td>1st Unit on Scene Emergency Responses Only</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Response Time - 1st Unit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enroute to Arrival 1st Unit on Scene Emergency Responses Only</td>
<td>8:07</td>
<td>7:19</td>
<td>8:02</td>
<td>5:25</td>
<td>N/A</td>
</tr>
<tr>
<td>Travel Time ERF</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enroute to Arrival Time Effective Response Force Emergency Responses Only</td>
<td>8:29</td>
<td>5:41</td>
<td>8:29</td>
<td>9:37</td>
<td>N/A</td>
</tr>
<tr>
<td>Total Response Time - ERF</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enroute to Arrival Effective Response Force Emergency Responses Only</td>
<td>10:53</td>
<td>7:19</td>
<td>10:50</td>
<td>12:18</td>
<td>N/A</td>
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# Leawood Municipal Court Receipts Processed

## Cumulative

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN</td>
<td>$135,897.50</td>
<td>$124,209.00</td>
<td>$112,615.50</td>
<td>$105,119.33</td>
</tr>
<tr>
<td>FEB</td>
<td>$271,140.75</td>
<td>$226,773.08</td>
<td>$214,571.00</td>
<td>$202,472.50</td>
</tr>
<tr>
<td>MAR</td>
<td>$417,435.75</td>
<td>$328,422.81</td>
<td>$327,949.25</td>
<td>$291,744.00</td>
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<tr>
<td>APR</td>
<td>$539,966.25</td>
<td>$430,746.09</td>
<td>$457,627.75</td>
<td>$329,641.00</td>
</tr>
<tr>
<td>MAY</td>
<td>$667,316.25</td>
<td>$532,916.01</td>
<td>$574,924.00</td>
<td>$371,190.00</td>
</tr>
<tr>
<td>JUN</td>
<td>$803,020.75</td>
<td>$632,601.01</td>
<td>$678,414.00</td>
<td>$425,770.50</td>
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<tr>
<td>JUL</td>
<td>$937,496.25</td>
<td>$740,497.51</td>
<td>$800,316.75</td>
<td>$511,709.25</td>
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<tr>
<td>AUG</td>
<td>$1,065,719.25</td>
<td>$853,735.81</td>
<td>$911,773.00</td>
<td>$611,794.25</td>
</tr>
<tr>
<td>SEP</td>
<td>$1,171,682.50</td>
<td>$939,594.81</td>
<td>$1,015,789.50</td>
<td>$718,547.75</td>
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<tr>
<td>OCT</td>
<td>$1,293,663.50</td>
<td>$1,078,242.81</td>
<td>$1,110,817.50</td>
<td></td>
</tr>
<tr>
<td>NOV</td>
<td>$1,413,905.25</td>
<td>$1,193,133.81</td>
<td>$1,169,617.50</td>
<td></td>
</tr>
<tr>
<td>DEC</td>
<td>$1,518,103.44</td>
<td>$1,281,212.81</td>
<td>$1,238,818.50</td>
<td></td>
</tr>
</tbody>
</table>

## Monthly

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN</td>
<td>$135,897.50</td>
<td>$124,209.00</td>
<td>$112,615.50</td>
<td>$105,119.33</td>
</tr>
<tr>
<td>FEB</td>
<td>$135,243.25</td>
<td>$102,564.06</td>
<td>$101,955.50</td>
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<td>JUN</td>
<td>$135,704.50</td>
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<td>$103,490.00</td>
<td>$54,580.50</td>
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<tr>
<td>JUL</td>
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<tr>
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<td>$85,859.00</td>
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<tr>
<td>OCT</td>
<td>$121,981.00</td>
<td>$138,648.00</td>
<td>$95,028.00</td>
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</tr>
<tr>
<td>NOV</td>
<td>$120,241.75</td>
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<td>$58,800.00</td>
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<td>DEC</td>
<td>$104,198.19</td>
<td>$88,079.00</td>
<td>$69,201.00</td>
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</table>

**Cumulative Totals:**

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>JAN</td>
<td>$1,518,103.44</td>
</tr>
<tr>
<td>FEB</td>
<td>$1,261,212.81</td>
</tr>
<tr>
<td>MAR</td>
<td>$1,238,818.50</td>
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<tr>
<td>APR</td>
<td>$718,547.75</td>
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<tr>
<td>MAY</td>
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<tr>
<td>JUN</td>
<td>$1,500,000.00</td>
</tr>
<tr>
<td>JUL</td>
<td>$1,500,000.00</td>
</tr>
<tr>
<td>AUG</td>
<td>$1,300,000.00</td>
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</tbody>
</table>

---

**Graph:**

- **2017**
- **2018**
- **2019**
- **2020**

**Legend:**

- **2017**
- **2018**
- **2019**
- **2020**

**X-axis:**

- JAN
- FEB
- MAR
- APR
- MAY
- JUN
- JUL
- AUG
- SEP
- OCT
- NOV
- DEC
# Leawood Municipal Court Caseload

## CUMULATIVE

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN</td>
<td>1,246</td>
<td>890</td>
<td>820</td>
<td>785</td>
</tr>
<tr>
<td>FEB</td>
<td>2,201</td>
<td>1,537</td>
<td>1,559</td>
<td>1,763</td>
</tr>
<tr>
<td>MAR</td>
<td>3,253</td>
<td>2,280</td>
<td>2,595</td>
<td>2,759</td>
</tr>
<tr>
<td>APR</td>
<td>4,615</td>
<td>2,907</td>
<td>3,597</td>
<td>2,962</td>
</tr>
<tr>
<td>MAY</td>
<td>5,483</td>
<td>3,900</td>
<td>4,481</td>
<td>3,312</td>
</tr>
<tr>
<td>JUN</td>
<td>6,852</td>
<td>4,713</td>
<td>5,542</td>
<td>3,915</td>
</tr>
<tr>
<td>JUL</td>
<td>7,783</td>
<td>5,607</td>
<td>6,496</td>
<td>4,471</td>
</tr>
<tr>
<td>AUG</td>
<td>8,778</td>
<td>6,470</td>
<td>7,419</td>
<td>5,371</td>
</tr>
<tr>
<td>SEP</td>
<td>9,877</td>
<td>7,527</td>
<td>8,194</td>
<td>6,221</td>
</tr>
<tr>
<td>OCT</td>
<td>10,792</td>
<td>8,728</td>
<td>8,827</td>
<td></td>
</tr>
<tr>
<td>NOV</td>
<td>11,812</td>
<td>9,420</td>
<td>9,374</td>
<td></td>
</tr>
<tr>
<td>DEC</td>
<td>12,523</td>
<td>10,161</td>
<td>10,015</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>12,523</strong></td>
<td><strong>10,161</strong></td>
<td><strong>10,015</strong></td>
<td><strong>6,221</strong></td>
</tr>
</tbody>
</table>

## MONTHLY

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAN</td>
<td>1,246</td>
<td>890</td>
<td>820</td>
<td>785</td>
</tr>
<tr>
<td>FEB</td>
<td>955</td>
<td>647</td>
<td>739</td>
<td>978</td>
</tr>
<tr>
<td>MAR</td>
<td>1052</td>
<td>743</td>
<td>1,036</td>
<td>996</td>
</tr>
<tr>
<td>APR</td>
<td>912</td>
<td>627</td>
<td>1,002</td>
<td>203</td>
</tr>
<tr>
<td>MAY</td>
<td>1,318</td>
<td>993</td>
<td>884</td>
<td>350</td>
</tr>
<tr>
<td>JUN</td>
<td>1,169</td>
<td>813</td>
<td>1,061</td>
<td>603</td>
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<tr>
<td>JUL</td>
<td>1,131</td>
<td>894</td>
<td>954</td>
<td>556</td>
</tr>
<tr>
<td>AUG</td>
<td>995</td>
<td>863</td>
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<tr>
<td>SEP</td>
<td>899</td>
<td>1,057</td>
<td>775</td>
<td>850</td>
</tr>
<tr>
<td>OCT</td>
<td>1,115</td>
<td>1,201</td>
<td>633</td>
<td></td>
</tr>
<tr>
<td>NOV</td>
<td>1,020</td>
<td>692</td>
<td>547</td>
<td></td>
</tr>
<tr>
<td>DEC</td>
<td>711</td>
<td>741</td>
<td>641</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>12,523</strong></td>
<td><strong>10,161</strong></td>
<td><strong>10,015</strong></td>
<td><strong>6,221</strong></td>
</tr>
</tbody>
</table>

![Cumulative Case Load Graph](chart.png)
PLAZA POINTE – GUIDEPOST MONTESSORI – REQUEST FOR APPROVAL OF A SPECIAL USE PERMIT, PRELIMINARY PLAN, AND FINAL PLAN LOCATED SOUTH OF 135TH STREET AND WEST OF ROE AVENUE - CASE 68-20

PLANNING COMMISSION RECOMMENDATION:
Planning Commission recommends unanimous approval (7-0) of Case 68-20, Plaza Pointe – Guidepost Montessori – request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, with the following stipulations:
1. The project is limited to the Plaza Pointe development, Guidepost Montessori and the construction of two playgrounds, and rearranging of parking areas.
2. Prior to Governing Body consideration, open area shall consist of 30% living material; and shown on plans.
3. Prior to Governing Body consideration, fencing shall be updated to remain consistent within the Plaza Pointe development; and shown on plans.
4. Prior to Governing Body consideration, curb height surrounding all playgrounds shall be increased, reducing the risk of vehicular accidents; and shown on plans.
5. All playground equipment shall meet all ASTM (American Society for Testing and Material) 1487 and CPSC (U.S. Consumer Product Safety Commission) current standards.
6. Per Section 16-4-3.6 of the Leawood Development Ordinance, this Special Use Permit shall have a duration of twenty (20) years from approval by the Governing Body, after which shall terminate if no new Special Use Permit is applied for and granted by the City of Leawood Governing Body.
7. A Special Use Permit for Guidepost Montessori shall be issued to Higher Ground Education Inc.
8. In the event the allowed use is discontinued for a period of three months or more, the Special Use shall be determined abandoned, and this permit shall become null and void.
9. Per the Leawood Development Ordinance, where pedestrian routes intersect vehicular access routes, the material of the pedestrian route shall be enhanced and differentiated from the vehicular paving material to match existing crosswalks within the Plaza Pointe development.
10. Per the Leawood Development Ordinance, all landscaped areas shall be irrigated.
11. The approved final landscape plan shall contain the following statements:
   a. All trees shall be callipered and undersized trees shall be rejected.
   b. All hedges shall be trimmed to maintain a solid hedge appearance.
   c. All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   d. Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   e. All landscaped open space shall consist of a minimum of 60% living materials.
12. A letter, signed and sealed by a Kansas registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.
13. No construction shall be allowed between the hours of 9:00 p.m. to 7:00 a.m. and not on Sundays.
14. A sign permit from the Planning Department shall be obtained prior to installation of any signs.
15. The applicant shall obtain all approvals and permits from the Public Works Department, per the public works memo on file with the City of Leawood Planning and Development Department (Exhibit A), prior to issuance of a building permit.

16. Development rights under this approval shall vest in accordance with K.S.A. 12-764.

17. The conditions and stipulations of the preliminary plan approval remain in full force and effect except to the extent expressly modified herein.

18. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood including the Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through eighteen.

PLANNING COMMISSION CHANGES TO STIPULATIONS:
- The Planning Commission removed Stipulation 9 that read: “A cross access/parking easement for the entire Plaza Pointe development shall be recorded with the Johnson County Registrar of Deeds prior to issuance of a building permit”.

APPLICANT:
- The applicant is Chris Horney with Murphy Real Estate Services.
- The property is owned by Mathews Real Estate Partnership LP.
- The architect is Eric Pepa with Allen+Pepa Architects.

REQUEST:
- The applicant is requesting approval of a Special Use Permit, Preliminary Plan, and Final Plan, including removal of 9 parking spaces with the addition of a playground and equipment, on the southeast corner of the Plaza Pointe development, in the SD-CR zoning district.
- No other exterior changes to the building are proposed to be made with this application.

ZONING:
- The property is currently zoned SD-CR (Planned General Retail).

COMPREHENSIVE PLAN:
- The Comprehensive Plan designates this property as Mixed Use.

LOCATION:
SURROUNDING ZONING:

- **North**: Directly north of 135th Street is the Parkway Plaza development, zoned MXD (Mixed Use Development).
- **South**: Directly south of 137th Street is Church of the Resurrection, zoned AG (Agricultural), with a Special Use Permit for a Place of Worship.
- **East**: Directly east of Roe Avenue is Villaggio at Leawood, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).
- **West**: Directly west is Briar Street is Cornerstone of Leawood, zoned SD-CR (Planned General Retail).

SITE PLAN COMMENTS:

- This application will use an existing building that faces to the north with parking located on the north and east sides of the building.
- The site will be accessed from 136th Street (private street) though an existing shared driveway that runs along the west side of the building.
- The applicant proposes to remove 9 parking spaces and the construction of two playgrounds. A smaller playground (1,450 sq.ft.) located at the northwest corner of the building and a larger playground (3,580 sq.ft.) located on the east side of the building. Both playgrounds will consist of living material.
- The playground equipment located on the east side of the building will be constructed of wooden logs adhering to LDO (Leawood Development Ordinance) requirements.
- The playgrounds will be enclosed by 2’ high wall with fence including shade devices provided over the play equipment.

BULK REGULATIONS:

- The following table outlines the required and provided regulations for the SD-CR Zoning District:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Exterior Structure Setback</td>
<td>40’</td>
<td>40’</td>
<td>Complies</td>
</tr>
<tr>
<td>Front Exterior Parking Setback</td>
<td>10’</td>
<td>10’</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Exterior Structure Setback</td>
<td>40’</td>
<td>40’</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Exterior Parking Setback</td>
<td>10’</td>
<td>10’</td>
<td>Complies</td>
</tr>
<tr>
<td>Interior Structure Property Line Setback</td>
<td>10’</td>
<td>10’</td>
<td>Complies</td>
</tr>
<tr>
<td>Interior Parking Property Setback</td>
<td>10’</td>
<td>0’</td>
<td>Existing</td>
</tr>
<tr>
<td>Open Space</td>
<td>30%</td>
<td>30%</td>
<td>Complies</td>
</tr>
</tbody>
</table>

PARKING:

- The LDO requires a minimum of 27 parking spaces for this site. The site will include 27 parking spaces, this accounts for 1.5 spaces per employee on a maximum shift.
- Parking will be reduced 9 spaces with the addition of the playground.
LANDSCAPING
• The applicant is proposing to keep the existing landscaping along the north and east property lines that are adjacent to 136th Street and Roe Avenue.
• The applicant is also proposing to keep existing landscaping on the west and south sides of the building.
• Any landscaping that is removed within the project site will be replaced within the property. Shade/Ornamental Trees, Shrubs, and perennials will all be replanted along the north and east property lines.

ELEVATIONS:
• Building is a single story brick building with a flat roof with the front of the building facing north. A tower element is over the main entrance. It was previously occupied by Carpet Corner.
• The exterior façade of the building will not be altered, including brick masonry.
• The applicant is proposing the construction of a 2’ high wall and fence, materials will match existing structure and the Plaza Pointe development.
• No other changes to the façade of the building are proposed with the plan.

SIGNAGE:
• Plaza Pointe has sign criteria approved by the Governing Body.
• Signage for Guidepost Montessori will be approved administratively through a separate application.

LIGHTING:
• There are no proposed changes to lighting with this application.

INTERACT:
• An Interact meeting was held on August 06, 2020. A meeting summary and sign-in sheet are attached.

GOLDEN CRITERIA:
The character of the neighborhood:
The area is characterized by a major arterial street (135th); parkway plaza zoned Mixed use to the North, Church of the Resurrection zoned AG to the south, a major arterial (Nall); and the City of Overland Park to the west, a major arterial street (Roe); Villaggio a mixed use development to the east.

The zoning and uses of properties nearby:
• North  Directly north of 135th Street is the Parkway Plaza development, zoned MXD (Mixed Use Development).
• South  Directly south of 137th Street is Church of the Resurrection, zoned AG (Agricultural), with a Special Use Permit for a Place of Worship.
• East  Directly east of Roe Avenue is Villaggio at Leawood, zoned SD-CR (Planned General Retail) and SD-O (Planned Office).
• West  Directly west is Briar Street is Cornerstone of Leawood, zoned SD-CR (Planned General Retail).

The Suitability of the subject property for uses to which it has been restricted:
Commercial properties surround the subject site. The applicant is requesting a Special Use Permit for a daycare within the commercial development. The subject property is suitable for the restricted uses.
The extent to which removal of the restrictions will detrimentally affect nearby property:
The project is suitable to this site, but the required Special Use Permit and stipulations recommended for approval with this application are necessary to ensure a high quality development.

The length of time that the property has been vacant:
The existing building on the site was constructed in 2002.

The relative gain to the public health, safety, and welfare due to the denial of the application as compared to the hardship imposed, if any, as a result of denial of the application:
Denial of this application will not result in a relative gain to the public health, safety and welfare because this project does not propose a disruptive use or any changes to the site.

The recommendation of the permanent staff:
Staff recommends the Planning Commission approve Case 68-20, Plaza Pointe – Guidepost Montessori – request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, with the stipulations listed in the report.

Conformance to the adopted master plan of the City of Leawood:
The Comprehensive Plan designates this property as retail. The zoning is SD-CR. The use is allowed with a Special Use Permit.
MEMO

DATE: September 17, 2020

TO: Richard Coleman, Director of Community Development

FROM: Brian Scovill, P.E., City Engineer
      Department of Public Works

SUBJECT: Plaza Point – Guidepost Montessori Preliminary Plan
         Case Number: 68-20

The Department of Public Works has reviewed the aforementioned project. The recommended stipulations are listed below.

1) Traffic Impact Analysis: A trip generation comparison indicates traffic impacts are consistent with the traffic study that was approved for the larger development.

2) Storm Water Study:
   a) The proposed stormwater plan is consistent with the stormwater plan that was approved with the larger development and no additional detention is required.
   b) The proposed development intends to use a pervious turf playground area. This decreases the overall impervious area and stormwater BMPs are not required.
   c) The curb inlet structure shall remain clear and accessible. The developer shall not construct fence or walls over the curb inlet or enclose the manhole access.

3) The parking lot pavement shall be constructed in accordance to the Leawood Development Ordinance.

4) Permanent structures, including monument signs, shall not be placed within the Right-of-Way and Public Easements.

5) All public improvements shall be designed and constructed in accordance with the City of Leawood Public Improvement Construction Standards as developed by the Department of Public Works (latest revision).

6) The developer shall obtain and submit to the Department of Public Works and the Building Official a copy of the NPDES Land Disturbance Permit issued by the Kansas Department of Health and Environment prior to any grading work at the site.

Sister City to I-Lan, Taiwan, R.O.C. • Sister City to Regional Council Gezer, Israel
7) Construction vehicles, including vehicles of construction personnel, shall not be parked within the Right-of-Way. All staging and storage of equipment and/or materials for private improvements shall be contained on the proposed development unless an Access Easement has been granted by the adjacent property owner.

8) The Developer shall repair and restore all damaged areas between the back of curb and the Right-of-Way abutting this lot including any existing damage. This shall include but is not limited to street lighting equipment, traffic signal equipment, sidewalk, storm sewers, grass, etc.

If you have any questions, please call me at (913) 339-6700, extension 134.

Copy: Project File
TO: Grant Lang
FROM: Jarrett Hawley
DATE: August 20, 2020

SUBJECT: Plaza Pointe- Guideport Montessori

The Leawood Fire Department has no objections or recommendations on Case 68-20 at this time.

Jarrett Hawley
Deputy Chief
Leawood Fire Department
NOTES:
1. Conour data per Johnson County AHS
Preliminary Development Plan

LEGEND

- Property Line
- Right of Way Line
- Lot Line
- Green Space

Hillwood, KS
Greenwood County
Spring 2020

Slillard Consulting, LLC

Olsson

11330 W 151st Street, Suite 200
Olathe, KS 66061

913.381.1110
www.olssoninc.com

Sheet C500
### Existing Plant Legend

**Deciduous Trees**
- Botanical: *Zelkova serrata* 'Muskashino'
- Ornamental: *Juniperus sabina* 'Buffalo'

**Evergreen Trees**
- Botanical: *Magnolia grandiflora* 'Sweet Bay'

**Deciduous Shrubs**
- Botanical: *Ilex decidua* 'Kodiak Orange'

**Ornamental Trees**
- Botanical: *Carya glauca* 'Blue Zinger'

**Ornamental Trees**
- Botanical: *Carya glauca* 'Blue Zinger'
- Common Name: *Carya glauca* 'Blue Zinger'

**Plants Schedule**

<table>
<thead>
<tr>
<th>Plant Type</th>
<th>Botanical / Common Name</th>
<th>Size 1</th>
<th>Size 2</th>
<th>Status 1</th>
<th>Status 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deciduous Trees</td>
<td><em>Zelkova serrata</em> 'Muskashino*'</td>
<td>8 &amp; 8&quot;</td>
<td>2.5&quot;</td>
<td>R &amp; R</td>
<td>R &amp; R</td>
</tr>
<tr>
<td>Ornamental Trees</td>
<td><em>Juniperus sabina</em> 'Buffalo'*</td>
<td>BASE, 8'</td>
<td></td>
<td>R &amp; R</td>
<td>R &amp; R</td>
</tr>
<tr>
<td>Evergreen Trees</td>
<td><em>Magnolia grandiflora</em> 'Sweet Bay'*</td>
<td></td>
<td></td>
<td>R &amp; R</td>
<td>R &amp; R</td>
</tr>
<tr>
<td>Deciduous Shrubs</td>
<td><em>Ilex decidua</em> 'Kodiak Orange'*</td>
<td></td>
<td></td>
<td>R &amp; R</td>
<td>R &amp; R</td>
</tr>
<tr>
<td>Ornamental Trees</td>
<td><em>Carya glauca</em> 'Blue Zinger'*</td>
<td></td>
<td></td>
<td>R &amp; R</td>
<td>R &amp; R</td>
</tr>
</tbody>
</table>

### Landscape Replacements

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<th>Category</th>
<th>Quantity Removed</th>
<th>Quantity Replaced</th>
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</thead>
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<td>Shade Trees</td>
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<td>4</td>
</tr>
<tr>
<td>Ornamental Trees</td>
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<td>5</td>
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<tr>
<td>Shrubs</td>
<td>65</td>
<td>65</td>
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<tr>
<td>Perennials</td>
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<td>24</td>
</tr>
</tbody>
</table>

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**SCALING IN FEET SHEET L01**

**Scale in Feet**

**PLAN LAYOUT:**
- PRELIMINARY DEVELOPMENT PLAN
- VEDOR COMMUNITY COLLEGE

**SHEET L01**

**OLSSON**

**DATE:**
- PRELIMINARY DEVELOPMENT PLAN
- VEDOR COMMUNITY COLLEGE

**SHEET L01**

**DRAWING:**
- PRELIMINARY DEVELOPMENT PLAN
- VEDOR COMMUNITY COLLEGE

**REVISIONS:**
- PRELIMINARY DEVELOPMENT PLAN
- VEDOR COMMUNITY COLLEGE

**SCALE IN FEET**

**SHEET L01**

**OLSSON**
This memorandum provides a comparison of expected trip generation for a portion of the existing Plaza Pointe development located in the southwest quadrant of 135th Street and Roe Avenue in Leawood, Kansas. An existing carpet showroom is proposed to be redeveloped to a preschool. This memorandum compares the number of trips expected to be generated by the existing and proposed land uses for this site. No other buildings within the existing site are proposed to be impacted, and no access changes are proposed. The proposed site plan is attached to this memorandum.

A study is not available for the existing site; thus, trip generation was conducted for the existing and proposed land uses. The proposed redevelopment is one building within a fully developed site, which would typically be viewed in its entirety, potentially as a shopping center. However, reviewing the individual building as a shopping center results in unrealistic trip generation estimates. Evaluated as a single building, the existing building represents a square footage on the lower end of the sample size for shopping center and reduces the consideration of shared trips that would be expected to occur within a larger development of this type. For the purposes of this memorandum, the existing building was reviewed individually without the influence of adjacent development.

Trip generation for the existing and proposed uses was conducted using the ITE Trip Generation Manual (10th Edition). The land use that most resembles the existing site is Furniture Store (LU 890). The land use that most resembles the proposed site is Daycare (LU 565).

Table 1 illustrates the land use comparison between the existing and proposed sites.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Existing Site Plan</th>
<th>Proposed Site Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Furniture Store</td>
<td>8,104 SF</td>
<td>-</td>
</tr>
<tr>
<td>Daycare</td>
<td>-</td>
<td>8,104 SF</td>
</tr>
</tbody>
</table>
Table 2 illustrates the existing and proposed land use expected trip generation for daily, AM, and PM peak hour periods and compares the difference for each.

### Table 2: Daily and Peak Hour Trip Generation Comparison

<table>
<thead>
<tr>
<th></th>
<th>Daily Comparison</th>
<th>AM Peak Hour Comparison</th>
<th>PM Peak Hour Comparison</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Existing Site Plan</td>
<td>Proposed Site Plan</td>
<td>Existing Site Plan</td>
</tr>
<tr>
<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
</tr>
<tr>
<td>Enter</td>
<td>Exit</td>
<td>Total</td>
<td>Enter</td>
</tr>
<tr>
<td>45</td>
<td>44</td>
<td>89</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>Difference</td>
<td>Total</td>
<td>Difference</td>
</tr>
<tr>
<td>148</td>
<td>149</td>
<td>297</td>
<td>45</td>
</tr>
</tbody>
</table>

Referencing Table 2, the proposed land use is expected to generate approximately 297 more trips during a typical weekday, 86 more AM peak hour trips, and 85 more trips during the PM peak hour when compared to the existing land use. Trip generation calculations are attached to this memorandum.

As stated above, this memorandum reviews the redevelopment of one building within an established development. Reviewing the site as a whole, it is anticipated that the redevelopment of this building will have a minimal impact on operations of the site or the adjacent roadway network.

We hope that we have provided adequate information for your request. If you have additional questions, please contact us at 913.381.1170.
Land Use: 890
Furniture Store

Description

A furniture store is a full-service retail facility that specializes in the sale of furniture and often carpeting. Furniture stores are generally large and may include storage areas. The sites surveyed included both traditional retail furniture stores and warehouse stores with showrooms. Although some home accessories may be sold, furniture stores primarily focus on the sale of pre-assembled furniture. A majority of items sold at these facilities must be ordered for delivery. Discount home furnishing superstore (Land Use 869) is a related use.

Additional Data

Time-of-day distribution data for this land use are presented in Appendix A. For the seven general urban/suburban sites with data, the overall highest vehicle volumes during the AM and PM on a weekday were counted between 11:00 a.m. and 12:00 p.m. and 4:30 and 5:30 p.m., respectively.

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in Alberta (CAN), California, Florida, Massachusetts, New Hampshire, New York, Texas, and Wisconsin.

Source Numbers

126, 280, 439, 532, 617, 883, 959, 975
### Trip Generation A - Existing Site Plan

#### Daily Trip Generation

<table>
<thead>
<tr>
<th>Code/Page</th>
<th>Land Use</th>
<th>Size</th>
<th>Trip Gen. Rate/Eq.</th>
<th>Daily Trips</th>
<th>Trip Distribution Enter/Exit</th>
<th>Daily Trips Enter/Exit</th>
</tr>
</thead>
<tbody>
<tr>
<td>890</td>
<td>Furniture Store</td>
<td>8,104 Sq. Ft.</td>
<td>Equation</td>
<td>89</td>
<td>50% 50%</td>
<td>45 44</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>89</strong></td>
<td><strong>45</strong> <strong>44</strong></td>
<td></td>
</tr>
</tbody>
</table>

#### AM Peak Hour Trip Generation

<table>
<thead>
<tr>
<th>Code/Page</th>
<th>Land Use</th>
<th>Size</th>
<th>Trip Gen. Rate/Eq.</th>
<th>AM Peak Hour Trips</th>
<th>Trip Distribution Enter/Exit</th>
<th>AM Peak Hour Trips Enter/Exit</th>
</tr>
</thead>
<tbody>
<tr>
<td>890</td>
<td>Furniture Store</td>
<td>8,104 Sq. Ft.</td>
<td>Equation</td>
<td>3</td>
<td>71% 29%</td>
<td>2 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>3</strong></td>
<td><strong>2</strong> <strong>1</strong></td>
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</table>

#### PM Peak Hour Trip Generation

<table>
<thead>
<tr>
<th>Code/Page</th>
<th>Land Use</th>
<th>Size</th>
<th>Trip Gen. Rate/Eq.</th>
<th>PM Peak Hour Trips</th>
<th>Trip Distribution Enter/Exit</th>
<th>PM Peak Hour Trips Enter/Exit</th>
</tr>
</thead>
<tbody>
<tr>
<td>890</td>
<td>Furniture Store</td>
<td>8,104 Sq. Ft.</td>
<td>Equation</td>
<td>5</td>
<td>47% 53%</td>
<td>2 3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>5</strong></td>
<td><strong>2</strong> <strong>3</strong></td>
<td></td>
</tr>
</tbody>
</table>
Land Use: 565
Day Care Center

Description
A day care center is a facility where care for pre-school age children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas and playgrounds. Some centers also provide after-school care for school-age children.

Additional Data
Time-of-day distribution data for this land use are presented in Appendix A. For the 21 general urban/suburban sites with data, the overall highest vehicle volumes during the AM and PM on a weekday were counted between 7:15 and 8:15 a.m. and 4:45 and 5:45 p.m., respectively.

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in California, Florida, Georgia, Maryland, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin.

Source Numbers
### Trip Generation B - Proposed Site Plan

#### Daily Trip Generation

<table>
<thead>
<tr>
<th>ITE Code/Page</th>
<th>Land Use</th>
<th>Size</th>
<th>Trip Gen. Avg. Rate/Eq.</th>
<th>Daily Trips</th>
<th>Trip Distribution Enter</th>
<th>Trip Distribution Exit</th>
<th>Daily Trips Enter</th>
<th>Daily Trips Exit</th>
</tr>
</thead>
<tbody>
<tr>
<td>565</td>
<td>Daycare</td>
<td>8,104 Sq. Ft.</td>
<td>Average</td>
<td>386</td>
<td>50%</td>
<td>50%</td>
<td>193</td>
<td>193</td>
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<tr>
<td><strong>Total</strong></td>
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<td></td>
<td></td>
<td><strong>386</strong></td>
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<td><strong>193</strong></td>
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#### AM Peak Hour Trip Generation

<table>
<thead>
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<th>ITE Code/Page</th>
<th>Land Use</th>
<th>Size</th>
<th>Trip Gen. Avg. Rate/Eq.</th>
<th>AM Peak Hour Trips</th>
<th>Trip Distribution Enter</th>
<th>Trip Distribution Exit</th>
<th>AM Peak Hour Trips Enter</th>
<th>AM Peak Hour Trips Exit</th>
</tr>
</thead>
<tbody>
<tr>
<td>565</td>
<td>Daycare</td>
<td>8,104 Sq. Ft.</td>
<td>Average</td>
<td>89</td>
<td>53%</td>
<td>47%</td>
<td>47</td>
<td>42</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>89</strong></td>
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<td></td>
<td></td>
<td><strong>47</strong></td>
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</table>

#### PM Peak Hour Trip Generation

<table>
<thead>
<tr>
<th>ITE Code/Page</th>
<th>Land Use</th>
<th>Size</th>
<th>Trip Gen. Avg. Rate/Eq.</th>
<th>PM Peak Hour Trips</th>
<th>Trip Distribution Enter</th>
<th>Trip Distribution Exit</th>
<th>PM Peak Hour Trips Enter</th>
<th>PM Peak Hour Trips Exit</th>
</tr>
</thead>
<tbody>
<tr>
<td>565</td>
<td>Daycare</td>
<td>8,104 Sq. Ft.</td>
<td>Average</td>
<td>90</td>
<td>47%</td>
<td>53%</td>
<td>42</td>
<td>48</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>90</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>42</strong></td>
</tr>
</tbody>
</table>
MEMO

TO: City of Leawood, Kansas
Public Works, Engineering, Community Development

FROM: Brett Lauritsen, PE
Brad Sonner, PLA
Olsson, Inc.

RE: Higher Ground Education
136th & Roe Ave (Carpet Corner Redevelopment)
Olsson #020-2090

DATE: August 6, 2020

Purpose of Memo

The purpose of this memorandum is to provide comparative analysis of existing and proposed impervious surfaces, peak runoff rates, and overall stormwater drainage patterns associated with proposed redevelopment of the Carpet Corner property at 136th & Roe Avenue.

Project Summary & Background

This current project application reflects converting the existing Carpet Corner store into a children’s school and care facility. The project also includes minor site infrastructure modifications, landscaping improvements, and a new turfed, fenced playground area on the east and north sides of the building upon removal of existing parking stalls.

Drainage Analysis

As minimal pavement and curb is being repaired or replaced with the project, overall site drainage patterns will remain the same, in compliance with all previously approved design plans. Preliminary evaluation of site modifications indicates an overall reduction in impervious area (Table 1 below):

Table 1. Pre & Post-Development - Impervious Surface

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Impervious Area (Square Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Development Scenario</td>
<td>29,129</td>
</tr>
<tr>
<td>Post-Development Scenario</td>
<td>26,621</td>
</tr>
</tbody>
</table>

*From August 2020 Site Plans & Design
A reduction in impervious area will result in lower peak storm water runoff flow rates when compared to those in existing conditions. See also included preliminary site plans for additional information, as well as Exhibits A & B of the respective Existing and Proposed impervious surface areas.

The total turfed area is approximately 5,200 square feet and considered pervious given typical characteristics and subgrade rock base, which is reflected in Table 1 figures above. As design for the project progresses, final turf specifications will be provided with construction plans, and likely similar to that shown in Figure 1 below. The turf provides a stable surface for activities while permitting water to infiltrate down, similar to a grass field.

**Figure 1. Synthetic Turf - Typical Section (Example)**

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**Summary & Conclusions**

- Review and approval of drainage improvements pertaining to this redevelopment project are requested with this Memorandum.
- This building-focused redevelopment requires minimal site improvements and no changes to drainage patterns will occur. Drainage will continue to be routed to existing curb inlets as in current conditions.
- Proposed improvements to the property result in a reduction of impervious area, thus reducing peak storm water flow rates.
- The proposed playground synthetic turf will include an aggregate base layer below the turf’s surface. The section will also include perforated drainage as necessary determined on final grades and soil strata, in line with manufacturer specifications.
- This project will not require installation of Best Management Practices (BMPs) in accordance with applicable City rules and ordinances.
EXHIBIT A
Existing Impervious Surface
(26,129 SF)
MEETING MINUTES

Date: Thursday, August 6, 2020 6:00 PM-7:00 PM
Location: Zoom Meeting
Presenters: Chris Homey & Higher Ground Education Staffs
Subject: Request a special use application for a daycare facility at 4701 W 136th Leawood, Kansas; commonly known as Carpet Corner building

ATTENDEES
Murphy Real Estate Service
Chris Homey, Kim Burrell, Bryan Li
Higher Ground Education
Alma Reza, Aaron Bailey, Jocelyn Scotty
Neighborhood Guests
Brad Tally (Owner of Tally J Brad DDS), Arjun & Sudha (Owner of Primrose School of Leawood)

Part 1 – INTRODUCTION

Chris Homey started the discussion by introducing himself and parties involved in this transaction, and then stated that the purpose of the meeting is to request special use permit for the building and wanted to generate feedbacks from the neighborhood. He further discussed high levels of the project including:

- The special use will be a daycare facility with maximum 134 student’s capacity and 27 parking spaces based on city’s zoning requirement.
- The building exterior will stay the same and a green space (~5,000 SF) will be added for children uses on the east of the building.
- The development team believed that the layout presented in the application has the least impact on the neighborhood after considering operational use and traffic flows.

Higher Ground Education team then joined and discussed school operation related topics including:

- The capacity initially with be limited to about 40 students, and gradually to achieve total of 134 students over four years period.
- The building will have total 7 classrooms and the operator intends to open 4 classrooms first and grow overtime based on demand.
- Pick up and drop off time is throughout the day between 7AM-7PM, and the peak hours are 7AM-9AM and 4PM-6 PM. Parents would bring kids in and out when pick up and drop off.
- Operation hour is between 7AM-6PM, and total employee will be 18 people maximum
Part 2 - Q&A

Q: Has the developer been to plan commission meeting?
A: No yet, given that there is step by step process, but the developer has been working with city administrators and planners for two months and received some feedbacks regarding park compliance and congestion in which will be addressed in the process. The feedback includes comply with parking requirement and congestion and add sidewalk from our property on to road which we are exploring.

Q: What is the daycare company background, and if this is the first daycare in this market?
A: Headquartered in Orange County, CA, Higher Grounded Education has opened 54 schools across the nation as June 30, 2020, and this will be the first venture for the company, if everything goes as planned. More information about school on the link. https://www.tohigherground.com/about/jocelyn-scotty

Q: Is the parking comply with city? How is the inflow and outflow?
A: Per city requirement, the parking is 1.5 per employee at max shift, in this case the max shift is 18 people hence 27 parking spaces. The kids will come from outside or front door and have direct access into playground area so will be limited exposure on the road. It will have some traffic given this is an urban environment. We will be cautious about where to put curb and fence and make sure kids are safe.

Q: What improvements will be on the building? Landscape?
A: The development team will clean up the building, do the landscape, high-quality finishes, etc. In general, this this will be a bit higher end class daycare in the market yet still affordable and accessible to families.

Q: What is project timeline and expect construction cross access during the construction process?
A: If everything goes well, it will take next 6-8 months to get through the full zoning process and design and then do the physical work. Give the most work will be interior, the team expect minimal construction noise or vibration, and will try to minimize any unharmonious work for the neighborhood. The end goal is to be a good neighbor for the community.

Q: Who will operate the daycare?
A: Higher Ground has administrative team that runs all the school locations, and the company will provide support to administrative team who is experienced in childcare to support any school operation.

Q: Next step and schedule?
A: The team will join plan commission meeting on August 25th, 2020. If have any comments, please reach out to the team members or staffs from the city of Leawood we contacted below.

Grant D Lang       City Planer       glang@leawood.org
Richard Sanchez   City Planer       richards@leawood.org
Dear Matt,

RE: Carpet Corner conversion to Guidepost Montessori School

In reference to your letter regarding the concerns about the potential conversion, as a representative of the potential purchaser, I would like to respond to each of the concerns laid out in the letter to the City of Leawood:

1. Parking –
   - Lot 8 currently has 35 parking spaces. We are removing a net of 8 spaces, by removing 8 spaces on the east, two on the north, and adding two on the west.
   - The cross-parking easement referred to in the Declaration of Easements, Covenants, and Restrictions (DECR) is section 6.2, which effectively gives the non-exclusive use of parking in other lots to each owner. This section must be read in concert with Section 5.1, which dictates the number of spaces required, which states “There shall be maintained on each site at all times a sufficient number of car spaces so that at any given time the parking ratio on each Site will not be less than that required to be maintained on each Site (without regard to parking availability on any other Site) by governmental authority”. Given the new use, and more clearly defined in item #2, we are meeting the LDO requirement of 27 spaces by the 1.5 spaces per employee.
   - As to our ability to address the parking and other improvements within the DECR, sections 3.2 and 3.3 are relevant. Section 3.2 says that “Subject to the other terms and provisions of this Declaration (including Section 3.1 above if applicable), each Owner shall have the right, without the consent of the Developer, to make changes, alterations, and additions (collectively, “Alterations”) to the Improvements from time to time located on its Site, PROVIDED, HOWEVER so long as the Developer is an Owner, each Owner shall obtain prior written consent of Developer before making any Alterations to the Improvements on the Site...” The Developer from the DECR is no longer an Owner, so the balance of the section is not applicable. Even if the Developer was still an Owner, he wouldn’t have approval rights, as we are not increasing the floor area, modifying the exterior appearance of the building itself, increasing or changing the building footprint, altering the location of the building, or altering the parking that would change the ratios set forth in Section 5. Per the above, we are not doing that.
   - Per section 3.3 of the DECR, “Subject to the other terms and provisions of this Declaration, each Owner shall have the right, without the consent of any other Owner, to construct Improvements on its Site and to make Alterations to the Improvements from time to time located on its Site.”
   - As demonstrated across multiple areas within the DECR, we have no obligation to obtain the consent of the other Owners within the DECR to make these Alterations.
   - It is accurate to state that we are using less parking, but that is because the use is different, and thus the requirement is different. The Leawood Development Ordinance states the requirement of 1.5 parking spots per employee at maximum shift, and we are meeting that requirement. If there is an issue with that requirement, it should be taken up with the City of Leawood.
   - We will not comment on any parking at other sites, and we have provided a traffic study as required by the City of Leawood Planning Department.

2. Parking & 1.5 Employees at Max Shift –
The Kansas Department of Health and Environment has very specific laws and regulations related to licensing for preschools and childcare centers. This property must follow those, and therefore this calculation of employees follows these regulations. They can be found here on pages 53-54.

We have a total of 7 classrooms, broken down into 1 infant classroom, 2 toddler classrooms, and 4 classrooms from 3-6 (labeled as Children’s House in our plans). 

K.A.R. 28-4-428. Staff requirements. Each licensee shall ensure that all of the following requirements are met:

(a) Minimum staff-child ratio.

1. The ratio between staff members and children shall be determined by the ages of the children and the type of care provided.

2. The minimum staff-child ratio and the maximum number of children per unit shall be the following, at all times:

<table>
<thead>
<tr>
<th>Age of children</th>
<th>Minimum staff-child ratio</th>
<th>Maximum number of children per unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infants</td>
<td>1 to 3</td>
<td>9</td>
</tr>
<tr>
<td>Infants and other children under the age of 6</td>
<td>1 to 4</td>
<td>(including not more than 2 infants)</td>
</tr>
<tr>
<td>Toddlers</td>
<td>1 to 5</td>
<td>10</td>
</tr>
<tr>
<td>Children at least 2 years of age but under the age of 3</td>
<td>1 to 7</td>
<td>14</td>
</tr>
<tr>
<td>Children at least 2½ years of age but under school-age</td>
<td>1 to 10</td>
<td>20</td>
</tr>
<tr>
<td>Children at least 3 years of age but under school-age</td>
<td>1 to 12</td>
<td>24</td>
</tr>
<tr>
<td>Kindergarten enrollees</td>
<td>1 to 14</td>
<td>28</td>
</tr>
<tr>
<td>School-age</td>
<td>1 to 16</td>
<td>32</td>
</tr>
</tbody>
</table>

- We have one infant classroom, 3 staff (1 classroom of 9 students)
- We have two Toddlers classrooms, 4 staff (2 classrooms of 10 students)
- We have 1 class of 2-3 year old students, 2 staff (1 classroom of 14 students)
- We have 3 classes of 3-6 year old students, 6 staff (3 classrooms of 24 students)
- Although we have a kitchen area, we do not prepare food within the facility, so no staff is dedicated to that.
- We are required to have at least 1 administrator but may end up having 2.
- This totals to 17 staff, and that is one less than projected with the 18.

3. Shared Easement Removal—Section 6.1 refers to the Common Area Easement, which gives all owners of Plaza Point access to the Common Facilities within the Common Area, which is Tract A (more commonly known as 136th Street and Linden Avenue) and any access roads, driveways, entranceways, sidewalks, curbs, fences, signs, monumentation, landscaped areas, fountains, and stormwater collection, detention and retention facilities (Common Facilities). Said differently, there is a misreading of the document that is conflating Common Facilities within the Common Area (i.e. roads and sidewalks within the Tract A lot) with private roads or sidewalks within each Owner’s Site. There is no easement between Sites for sidewalks within the DECR.

4. Fencing—The code reference to 16-4-7.6.B is an incorrect one, as that refers screen walls or fences for site utility services, not simply a fence for a playground as we’re proposing. To our knowledge, we are currently compliant with the LDO for the fencing as proposed and we have no knowledge or comment on previous projects.

5. Landscaping—
It is factually inaccurate to say that we are removing a significant amount of landscaping, as we are modifying the landscaping and actually increasing the green space on the site. We are reducing the amount of impervious surface on the site, thus reducing peak storm water flow rates.

It is correct to say that we are adding parking on the west side, but given that we are removing parking on the east and adding it on the west, we are unclear why that would be “unfair”?

It was pointed out that there is no parallel parking in any other area in Plaza Pointe. It is unclear how that is relevant, as parallel parking is not prohibited by the LDO nor the DECR.

Finally, the plan does not remove a setback between the building on the west side, it simply modifies it, as there is still a setback of 5’ from the curb to the building.

6. **Safety** – As addressed in the City of Leawood Plan Commission meeting on 9/9/20, we have proposed to include a 2’-6” retaining wall in lieu of a more typical 6” curb. The fencing would then go on top of this, but the retaining wall would prevent any cars from being able to interfere with our children in the playground. The referenced code (16-4-7.3.C) we do not view as a relevant code, as that is referencing setback/buffer areas along a property line, which is not the case here.

7. **Proposed sidewalk with stairs** – This was a request by the City of Leawood Planning Department. After discussion with the City of Leawood Planning Department, they are ok with us removing this access to Roe Avenue.

If there is further discussion that needs to be had on this, please advise and we will address. We are open to hosting another Zoom call with the group if necessary, prior to the 9/22/20 meeting if necessary.

Thank you,

Chris Horney
Managing Director
Murphy Real Estate Services
Grant - As we discussed, I am attaching concerns about the Guidepost Montessori Project. I have discussed this with Dr. Brad Talley who owns the Dental office and Erin Davis who owns Sydney Pet and Spa and they share these concerns. Both of them are directly to the south of this project.

Please let me know how we can be at the Planning Commission meeting to express our concerns to the committee members.

Thank You,

Arjun Amaran
Primrose School of Leawood
913-488-3841
WARNING: This email originated from an EXTERNAL SOURCE. DO NOT CLICK LINKS or ATTACHMENTS unless you recognize the sender and know the content is safe.
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: Kerry Lamig
Business Name: Prevail Strategies
Signature: [Signature]
Date: 8/25/2020
Below are some issues we see with the Guidepost Montessori School Project..

The number of parking spaces, shared easements, and landscaping is a value add for the Plaza Pointe community. All the buildings in Plaza Pointe had to abide by these rules when our buildings were constructed. There is even a Common Area Easement and a Cross Parking Easement that was agreed to. These rules do protect our property value. If this new project is not held to the same standards, they are reducing the value of the other properties in Plaza Pointe. We hope that the City of Leawood takes all of this in consideration before they consider approving a Special Use Permit for this project.

1.) **Parking** - They are removing many parking spots. We count a reduction of at least 11 parking spots on the East side. When the buildings were built in Plaza Pointe there was a **Cross Parking Easement**. A copy of these agreements is attached - Section 6.2. It was signed by the owner of the Carpet Corner building. The agreement means that all owners have the right to use the parking spots. They are removing 11 spots that other property owners could be using. Then when they use up all the spots they could still use the neighbors parking spots. **They are using a smaller ratio of parking spots than was required when the Plaza Pointe buildings were built.** As a comparison, the Primrose School of Leawood has 50 parking spots with a capacity of 178 children. Guidepost Montessori will have a capacity of 132 children, but will only have 27 spots. We know for a fact looking at their building layout they will need more than 18 staff. They will also need more parking for when parents come to pick up and drop off. If they will have vehicles to transport children they will need spots for that as well. All of this additional parking burden will be taken on by the neighboring Plaza Pointe Buildings which have this cross parking easement agreement.

2.) **Parking and 1.5 Employees at Max Shift.** Guidepost Montessori is basing their parking calculations on 18 staff. However they have seven rooms, an office, a kitchen, and an infant room. The seven rooms will require two teachers each for 14 teachers, the infant room will require three teachers, the kitchen will require one, and the office will require two (Director and an Assistant Director). That is a total of 20 staff minimum. If any of the rooms are changed to infant rooms the minimum will be higher. At 1.5 parking spots per staff they would need a minimum of 30 spots when they have only accounted for 27 spots.

3.) **Shared Easement Removal** - They are removing sidewalk and shared easements for Plaza Pointe. There is a Shared **Common Area Easement (Section 6.1)**. They are removing the shared common area between Dr. Tally's building and the Carpet corner building. They are also removing the common area sidewalk on the East and North of the building.

4.) **Fencing** - They are putting their fencing right up against the parking lot. If you look at the Primrose School of Leawood, there is a lot of space between fencing and the
parking lot. This is for safety and aesthetics. The Primrose School of Leawood was also required to put a wall around all four corners. Anywhere there is a fence there is landscaping hiding the playground. There needed to be landscaping to hide the playground. The original owner who built this building, Ken Baude, said the City of Leawood was very particular about all of these items before they were given a special use permit for the Primrose School of Leawood. I believe the Leawood Development Ordinance requires screening outside of a fence. 16.4.7.6 B) ... The screening wall or fence shall be accented with landscaping materials to soften the appearance of the wall or fence. In fact two other childcare centers in Leawood have this. Please see pictures below with descriptions.

5.) Landscaping - They are removing a significant amount of landscaping. They are removing landscaping and easement on the West side of the building to accommodate additional parallel parking. There has been no Parallel parking approved for use in any other area of Plaza Pointe. It would be unfair to allow for the removal of landscaping and put in parking in that area. That also removed any setback between the building and the road.

6.) Safety - There is a huge safety issue with having the fence right up against the parking lot without any setbacks or buffers. Attached is an article about a preschool where there wasn't a proper buffer and a car hit the fence and injured several children. This was a serious situation that happened a few years ago. One child was critically injured and in the hospital for several days as a result of this. 16-4-7.3 C) Perimeter Landscaping Not Adjacent to a Public Right-of-Way: A landscaped setback/buffer area is required along all property lines on the periphery of the area covered by the plan, other than street frontages. 1.a) Notwithstanding any other provisions relating to yard requirements, such landscaped setback/buffer areas shall be a least 10 feet in width

7.) Proposed Sidewalk with Stairs - The plan also calls for a sidewalk that connects to Roe on the East side. I don't think this should be allowed. This will encourage people to
park along Roe and walk to the building. We don't have anything like this connecting the buildings in Plaza Pointe to Roe.
The items in Red above are all the parking spots they are removing. The Items in yellow are all of the Easements they are removing. The item in green shows the amount of landscaping required by Plaza Pointe and the City of Leawood at the time of construction to have between buildings and the parking lot. As you can see this new project does not allow for space between the parking lot and their building.
The above picture in the red circle shows the wall required by the City of Leawood to put in place for before the construction of the Primrose School of Leawood. The wall conforms to the same brick used throughout the Plaza Pointe Development. The yellow circle shows the fence and the landscaping right outside the fence. As you can see you can't see the playground from the street. In the plan they have shown they don't have any landscaping between the playground and the parking lot and street.
Primrose School of Leawood - In the above picture in the red shows the walls and landscaping. The green arrows show the amount of easement and landscaping between the property and the street and parking lot.
Kiddie Kollege of Leawood on 134th and Briar. Notice the Easements and setbacks from the Fence/Building and the street/parking marked with green arrows.
Primrose School of Leawood - 137th and Linden Ave. Notice the Easements and setbacks from the Fence/Building and the street/parking marked with green arrows.
Several people reported injured Thursday when a car crashed into a Frisco day care, according to police WFAA Courtesy

FRISCO

Five children and one adult were taken to the hospital after a car crashed into a fence at a day care center, according to police.

Police are unsure about the severity of injuries, said Ryan Chandler, a Frisco police spokesman.

The crash happened about 4:50 p.m. Thursday at the Primrose School of
Six hospitalized after car crashes into fence of Texas day care

Frisco in the [9100 block of Teel Parkway](https://www.star-telegram.com/news/local/article176019581.html), Chandler said.

The 17-year-old driver of the vehicle hit the accelerator instead of the brake pedal, crashing into the gate outside the school, officials told [WFAA-TV](https://www.star-telegram.com/news/local/article176019581.html), a media partner of the Star-Telegram. The father of the driver told WFAA that he was sitting in the passenger’s seat when the crash occurred.

"Several kids were either moving into the classroom or out of the classroom, we're not sure which," Kevin Haines, captain with the Frisco Fire Department, told WFAA.

Two of the children were taken by air ambulance to Children’s Medical Center in Dallas. Three children and an adult were transported to the hospital by the Frisco Fire Department.

As of Friday, one child remained in critical condition in the ICU and three others were admitted overnight to the trauma floor, WFAA reported.

The teen did not appear to be injured, said Sgt. Jeff Inmon, also a Frisco Police Department spokesman.

The driver was not arrested and no charges have been filed. He was released after questioning, Inmon said.

Police said the investigation is still ongoing.
To Whom it may concern –

I hope this letter finds you well. My name is Matt Mitchell and I am the property manager for the Plaza Pointe HOA. During a meeting held with owners there were concerns about the sale and remodel of the Carpet Corner location. Thus, I am writing on behalf of the owners. On the following pages you will find a signed petition to remedy the following issues.

A major point of contention is that of the parking spaces. Per the drawings of the new Montessori School, a major section of the parking lot will be demised and made into a playground. This has major ramifications to the surrounding businesses. Not only will this take from other owner’s parking, but it also creates an access and traffic flow issue. The fence(s) which the school will install will segregate cross flow access from one side of the parking lot to the other. Moreover, the traffic flow issue is further exasperated by the fact that student drop off and pick up will block customers, workers, and owners from accessing their buildings.

In addition to the aforementioned, there are issues pertaining to the landscaping and easements with proximity to the street. As detailed in the Plaza Pointe bylaws, there are several requirements which all owners must abide by. In this scenario, the Montessori School does not adhere to the landscaping and easements requirements in any capacity.

It is our recommendation, on behalf of the owner’s association, to have these issues resolved. We thank you for your time and consideration with this matter. If you have any questions, please feel free to reach out to me at your convenience.

Best regards,

Matt Mitchell | Property Manager

Asset Management Group

D: 913-498-9493 | | www.assetmgmtgrp.com

5600 W. 95th St Ste. 307 Overland Park, KS 66207
From: Plaza Pointe Association
To: Leawood City Planning Commission

At the City Council Meeting on 9/9/2020, Guidepost Montessori proposed a plan that had violations of the LDO and this current plan continues to have violations of the LDO. The staff report on 9/9/20 had clear mistakes on it. This project was in the middle of being looked into by the City Planning Commission on 9/9/20 with the Staff recommending the project and stating that it met the LDO requirements. However, there were LDO violations including the following:

- **Required Space East Building (MAJOR LDO ISSUE):** There is 73ft 4 inches from the building to the curb. The proposal had put 35ft for the playground, and 18ft for the parking. However that left the driveway at 20ft, 4 inches. The driveway needs to be 24feet. That means that the Playground width of 35ft was larger than the space allowed by the LDO. This is a major issue that should have been caught before presenting to the City Council with a recommendation to approve.

- **Required Space East Building:** There needs to be 56ft. 18ft for the Parking spots at Prevail, 24ft for the driveway, 9ft for Parallel Parking, and 5ft for the setbacks they proposed. There is only 55ft and 5in.

- **Parallel Parking Issues on the West side of the Building with the grade:** There is a difference in the grade from the Parallel Parking to the base of the building. If there is parallel parking then there is no way for cars to park and open their door.
In our meeting with Chris Horney, Grant Lang, and the neighboring properties on Thursday, September 17th, we brought up these violations of the LDO. Only after we mentioned these issues Mr. Horney said he had a completely different plan that fixed the driveway issue on the east, removed the parallel parking, and added a playground on the West side. Mr. Lang said he had not seen that plan before. We understand that plans may change, but the initial plans would not pass the LDO as was presented at the 9/9/20 meeting.

There is an ever changing amount of the capacity of the building and even until this day the applicant has not provided a clear interior plan and shown how he gets the number of Employees at Max Shift. This is vital to determining the number of parking spaces. In the initial interact meeting on August 6th, Mr. Horney said that the number of children in the building would be 134 with 8 rooms, 18 staff, and a 5,214 playground. Then at the 9/9/20 Committee meeting he proposed 134 children, 8 rooms, 18 staff, and a 4,932sqft playground. Now he is proposing 115 children, 7 rooms, 17 staff, but a 5,030 playground space. However at 115 children he would only need 4,513sqft. It is very strange that the last plan that was just shown to us on the 9/17/20 meeting is asking for 5,030sqft of playground space. That is the amount of playground space required for the 134 children capacity center he initially required, but he states he is lowering his capacity from 134 to 115 children and only needs 17 staff. This seems like a bait and switch. He wants to get the larger playground approved and will later change the inside layout for licensing to allow for 134 children as opposed to 115 children.

When the number of parking spots is determined by the number of staff which is determined by the number of rooms/children, why is the applicant not providing a clear layout of the inside of the building? Why is he not showing his calculation for the employees at max shift which is needed for the LDO requirement? So far he has only shown the minimum staff required. Not the employees required at Max shift. This should be required and presented to the city not changed days before the City Council Planning Meeting. The inside layout dictates the parking spots and should not be allowed to change. It is unfair to the neighboring properties if they are removing 9 parking spots (25%), increasing the traffic, and at a future date increase the children capacity in their school. This would require more parking spots which they would not provide.

We as an association have an issue with the increased traffic, decreased parking spaces, major child safety issues, and facade changes.

- **Traffic:** According to the Olsson traffic report there is an increase of 233% daily traffic, a 2867% increase in traffic at AM peak hours, and a 1800% increase in PM peak hours. All this when they are decreasing parking spaces by 25%.
- **Traffic around the corner from 136th St:** There is very little space for the turn into the Guidepost Montessori building with the increased traffic. There is no access for this increased traffic directly from Roe or from 137th St. The only access is through a shared private access road (136th St.). The reason the Primrose School of Leawood building was moved from the lot which now has the Prevail building to its existing location along 137th St. was to allow for direct access to the building from the main road (137th St.) rather than an interior road (136th St.). This was expressed in the Feb. 26th, 2002 City Planning Meeting: *When the day care was going to go on the center circle, that was the orientation of this original plan. After discussions with the Planning Commission and the applicant, the day care was moved. This triggered the whole concept of the quadrant. .... This will result in a quadrant that*
flows and circulates well, with the same square footage, and sense of continuity with the courtyard area, the sidewalks, that connect everything.”

- **Parking Space Calculation:**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>1st PROPOSAL</th>
<th>AMENDED PROPOSAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>STAFF RATIO SQ FT MAX #</td>
<td>134 Capacity 5025 sqft</td>
<td>115 Capacity 4313sqft</td>
</tr>
<tr>
<td>CLASSROOM</td>
<td>Playground required SQ FT</td>
<td>CHILDREN STAFF</td>
<td>CHILDREN STAFF</td>
</tr>
<tr>
<td>Infant</td>
<td>631 1 to 3 55 11.47</td>
<td>9 3</td>
<td>9 3</td>
</tr>
<tr>
<td>Toddler</td>
<td>678 1 to 5 35 19.37</td>
<td>15 2</td>
<td>10 2</td>
</tr>
<tr>
<td>Toddler</td>
<td>654 1 to 7 35 18.69</td>
<td>14 2</td>
<td>10 2</td>
</tr>
<tr>
<td>Children’s House</td>
<td>946 1 to 12 35 27.03</td>
<td>24 2</td>
<td>14 2</td>
</tr>
<tr>
<td>Children’s House</td>
<td>900 1 to 12 35 25.71</td>
<td>24 2</td>
<td>24 2</td>
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<td>Children’s House</td>
<td>900 1 to 12 35 25.71</td>
<td>24 2</td>
<td>24 2</td>
</tr>
<tr>
<td>Children’s House</td>
<td>954 1 to 12 35 27.26</td>
<td>24 2</td>
<td>24 2</td>
</tr>
<tr>
<td>GMA Room</td>
<td>317 1 to 7 35 9.06</td>
<td>9 2</td>
<td>Not Included</td>
</tr>
</tbody>
</table>

| Director & Asst Director | 20 | 18 |
| Assistant Teachers for Breaks | 3 | 3 |

| Total at Max Shift | 23 | 21 |
| Required Parking spots(1.5) | 35 | 32 |

The applicant has not provided details on the total employees at Max Shift. Just looking at the inside plans that were provided he will require more than the requested 18 employees at max shift. The applicant should be required to clearly explain how the employees at max shift is calculated. The documents provided so far are misleading. The applicant has not even mentioned he is reducing the capacity from the initial proposed 134 to 115 children. He is only showing how he can have 17 staff in an effort to meet the minimum requirements on the parking. His 17 staff count is highly inaccurate and misleading.

- **Parking Lot and Landscaping:** The City Council Meeting Minutes on Feb, 26th, 2002 state “There will be parking on the north and east sides. It will be completely landscaped.” This project will be removing all of that landscaping around the building that was originally provided and required of this lot.

- **Parking lot Space originally proposed in 2002:** According to the meeting minutes on Feb, 26th, 2002, there was to be 4.7 parking spaces per 1000 sqft of interior space. This was the standard for all Plaza Pointe Buildings. The Primrose School of Leawood was required to follow this requirement for its special use permit. This should also be the standard for any changes made to the Carpet Corner Building so as to keep with the Cross Access Parking Agreement in Plaza Pointe and not to impair the neighboring properties as required by the LDO 16-4-3.1. The meeting minutes on Feb 26th, 2002 state: “Henderson asked if the 4.7 per 1000 would be adequate parking with the new configuration. Joseph responded that Staff is comfortable with the number of parking spaces because usage will be at different times.” This project projects higher traffic as much as 2867% at AM Peak Hours and will require more parking than Carpet Corner however they are asking to reduce the number of parking spots by 9 a 25% reduction! This will adversely affect the neighboring Plaza Pointe buildings and violate the LDO 16-4-3.1.
- **Child Safety:** There are child safety issues with the playground so close to the driveway with no setbacks and sidewalks. Cars, Trucks, Commercial vehicles, could run into the playground fence and injure a child. There is no setback for this as there is for the neighboring child care centers in Leawood such as the Primrose School of Leawood and the Kiddie Kollege of Leawood. There is also no sidewalk for children to get on after getting out of their car. Anyone parking on the East side of the building will have to walk on the driveway and around the building until they can get on a sidewalk. This is because this applicant has removed the sidewalk on the East side of the building. This violates the safety of the Leawood public and a violation of the **LDO: 16-4-3.5.**

- **Rear Setback:** The Special Use Permit also requires a 40ft rear setback. **LDO 16-4-3.6** For any structures, excluding utilities, minimum building setback of 40’ from all property lines, unless a deviation has been approved by the Governing Body per Section 16-3-9 of this ordinance. **LDO 16-4-3.6** For any structures, excluding utilities, minimum building setback of 40’ from all property lines, unless a deviation has been approved by the Governing Body per Section 16-3-9 of this ordinance.

Right now it is not 40 ft. If this was approved in the past it was approved with the existing shared courtyard and not for this new daycare special use with additional fencing and egress doors that will be required.

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- **Sidewalk and Shared Easement:**

This sidewalk which is the only entrance to the shared courtyard for Brad Tally’s patients will be removed and a playground will replace it. This should not be allowed. The courtyard was intended as a shared use. According to the meeting minutes from the Planning Commission that approved this use in Feb, 26th, 2002, it states: “**There will be a large amount of greenspace on the southeast corner. This will result in a quadrant that flows and circulates well, with the same square footage and a sense of continuity with the courtyard area, the sidewalks that connect everything.**”
Facade changes: The facade of the building will also change with the fencing, playgrounds, landscaping, and additional egress doors around the building. These are changes to the exterior of the building and should be approved by the Plaza Pointe Association. Currently the association is not in favor of these changes on this project.

The meeting minutes on Feb, 26th, 2002, state: “You will always get some kind of glimpse of large bay windows. There is architectural design on all four sides. The front entrance has large open bay windows that face the plaza. Makes a good presentation and is consistent with the other buildings in the Plaza Pointe development. "... “Brian asked if all the materials for Carpet Corner are consistent with what was originally approved for Plaza Pointe. Subtle responded, yes.” This project does not propose to keep anything consistent with the rest of the development. The fencing without landscaping and sidewalk is far from consistent. With the addition of the Egress doors, the outside of the building will change and not be consistent with the rest of the development.

Snow Removal Issues: With the added landscaping at North and East and the removal of the landscaping setbacks around the building, there will be little no space to push snow. This will leave snow in parking spaces and even less space for parking. This will cause a huge disturbance for the neighboring properties.

Issues that need correction on Staff Report - 9/21/20:
- Exterior Changes: The staff report states that: “no other exterior changes to the building are proposed to be made with this application.” Later it says: “The exterior façade of the building will not be altered, including brick masonry. No other changes to the façade of the building are proposed with the plan.” This is clearly incorrect. In the Interior plan that was sent to us by the applicant on 9/10/20, and is attached to this plan, clearly states: “EXTERIOR BUILDING ELEVATIONS, STRUCTURE AND ROOF TO REMAIN AS-IS EXCEPT WHERE NEEDED FOR EGRESS OR FUNCTIONALITY”. The plan we were given is adding 4 new egress doors to the building. This will be required to meet fire code. Therefore the exterior of the structure will change. Fire code may also require an exit window from the classrooms. That will further change the exterior. The addition of all the fencing around the entire building does change the exterior in all directions.
- Rear Structure Setback: This has been removed from the staff report which was on the 9/9/20 staff report. According to the LDO 16-4-3.6 There needs to be 40ft from all property lines. In the Rear they do not meet the 40ft requirement for a Special Use Permit.
- Playground and living material: Staff report states that “Both playgrounds will consist of living material” That is incorrect, all the plans that we were given only mentioned turf not living material in the playground area.
- Landscaping: The staff report states: “The applicant is also proposing to keep existing landscaping on the north and south sides of the building.” This is not true. The north side of the building landscaping is being removed and the playground is put in its place.
- Lighting: The staff report states: “There are no proposed changes to lighting with this application.” The issue is the parking lot lights in the front of the building that are currently in the landscaped area will have to be moved. Kansas Childcare Licensing will not allow these parking lot lights to stay inside the playground area. The plans do not show where they will be moved.
Restrictions will detrimentally affect nearby property: Staff states “The project is suitable to this site, but the required Special Use Permit and stipulations recommended for approval with this application are necessary to ensure a high quality development.” The stipulations do not limit the applicant to increasing the capacity of their school at a later date which would require more staff and more parking. This will detrimentally affect nearby property. There should be a stipulation limiting the staff and the building capacity for children. The applicant should show their interior plan and provide evidence that their employees at Max Shift calculation is correct.

LDO Violations:

16-4-3.5 Standards for Approval In addition to the requirements for approval of a Development Plan, a special use permit may only be granted by the Governing Body upon a finding that the applicant has satisfied the burden of establishing that the following additional criteria have been met:
   A) The proposed use will not be detrimental to the public health, safety, or general welfare of the City; and
   - The proposed use will be detrimental to the public health and safety, or general welfare of the city. This project is trying to meet minimum standards in order to cram in a project that will comply with city regulation and is not taking into account the safety of children in the City of Leawood. The removal of a safe sidewalk for children to walk on to enter a building is missing. Having a fence right up to the driveway where there will be high traffic is highly dangerous.

16-4-3 SPECIAL USE PROVISIONS 16-4-3.1 Statement of intent
Some uses of land are not appropriate in all locations within a district or under circumstances where the use imposes an inappropriate impact on the public or neighboring properties and are therefore designated as “special uses.” These uses may be approved at a particular location through the receipt of a special use permit where the impact of these uses does not inappropriately affect or impair the use and enjoyment of neighboring property.

-This project will impair the use and enjoyment of neighboring properties. It will further devalue the neighboring properties as a result of removing common area easement and cross access parking. The removal of parking spots, when there has been an existing Cross Access Parking and Common Area Easement Agreement with the neighbors for the past 18 years, does have an adverse impact on the neighbors. This project will generate much more traffic while decreasing the number of parking spots as explained earlier.

LDO 16-4-3.6 - Rear Setback - The issue with this was explained above.

LDO 16-4-5.4 - Required Parking Ratios - B) 7) Day Care Center 1.5 employee on Maximum shift. This is a violation of the LDO. The LDO states the “Employees on Maximum shift” and the applicant is basing their request on the minimum number of employees that will be required by Kansas Childcare Licensing not the employees at maximum shift. They will require additional staff and would have the ability to add a significant number of employees and therefore be in violation of the LDO for the minimum number of parking spaces. At the last City Council Planning Meeting, one council member asked “How many staff do you expect to have at max shift”. The applicant responded, “3 to 7 employees”. This is highly misleading and factually wrong. Based on the licensed capacity of 134 children, Kansas Child Care regulations would require a Minimum” of 20 staff members. This does not account for three more
assistant teachers to have proper staffing for breaks, laundry, cooking, grocery runs, training, service hours, and standard operations.

- **16.4.7.6 B)**

<table>
<thead>
<tr>
<th>Violation of the LDO 16.4.7.6 B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All site utility services including but not limited to meters, vaults, sprinkler risers, vacuum breakers, trash containers, and service or loading areas shall be screened with walls or fences. These screening walls or fences shall be of a minimum height to extend above and completely block the view of such areas or devices. Solid fences or walls shall be constructed of material and design that are compatible with the building architecture.</td>
</tr>
<tr>
<td>The screening wall or fence shall be accented with landscaping materials to soften the appearance of the wall or fence. Landscaping shall consist of either shrubs, grasses or ornamental trees.</td>
</tr>
<tr>
<td>This gas utility meter on the east side of the building will not be screened by fencing and the landscaping required. The existing landscaping is going to be removed in the new plans. This is a violation of the LDO. In fact all the landscaping on 3 sides of the building are proposed to be removed. This will not keep the consistent look of the Plaza Pointe neighborhood of buildings.</td>
</tr>
</tbody>
</table>

The Plaza Pointe Association requests that the City of Leawood Planning Commission take all of these concerns into consideration and deny the Special Use Permit to Guidepost Montessori.

Best Regards,

Matt Mitchell | Property Manager
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: Susan Abeln  
Business Name: CrossFirst Bank  
Signature:  
Date: 9-9-2020
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: J. Brad Tully DDS

Signature: [Signature]

Business Name: J. Brad Tully DDS

Date: 9-8-2020
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

M3 Development Co., LLC

By [Signature]

Date: September 8, 2020

James G. Dussold
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: David Rayl
Business Name: Executive Suites & Services

Signature: ____________________________ Date: September 8, 2020
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: KEVIN CONDOO
Signature: [Signature]
Business Name: The Retirewood Plaza Corp
Date: 9/6/2020
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: Mike Aziz
Business Name: Royal LLC
Signature: [Signature]
Date: 9/8/20
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: Pat Do

Business Name: Mid America Orthopedics KC

Signature: [Signature]

Date: 9/8/20
Subject: Guidepost Montessori School Project

To: The City of Leawood City Council

I have a business in the Plaza Pointe Community in Leawood. I agree with the items outlined in the attached document of concerns. These include the Parking, Shared Easements, Fencing, Landscaping, Safety, and a new proposed sidewalk with stairs connecting to Roe Ave. There is a Cross Parking Easement Agreement for Plaza Pointe and the removal of parking spots from this property should not be allowed. I request that the City Council not approve the Special Use Permit for this project.

Sincerely,

Name: Ariun Amaran

Business Name: Primerose School of Leawood

Signature: ___________________________ Date: 9/8/20
BYLAWS OF
PLAZA POINTE OWNERS ASSOCIATION, INC.

ARTICLE I
OFFICES

1.1 Name. The name of the corporation is Plaza Pointe Owners Association, Inc. It is incorporated under the laws of the State of Kansas as a not-for-profit, non-stock corporation. The corporation is the owner’s association referenced in the Declaration (as defined below).

1.2 Location. The principal office of the corporation shall be located in Leawood, Kansas, but meetings of members and directors may be held at such other places in Johnson County, Kansas as may be designated by the Board of Directors from time to time.

ARTICLE II
DEFINITIONS

2.1 Association shall mean Plaza Pointe Owners Association, Inc., its successors and assigns.

2.2 Subdivision shall mean all of the property which is now or hereafter within the jurisdiction of the Association as provided in the Declaration.

2.3 Common Area shall have the meaning set forth in the Declaration.

2.4 Building Lot shall have the meaning set forth in the Declaration.

2.5 Owner shall have the meaning set forth in the Declaration.

2.6 Declaration shall mean that certain Declaration of Easements, Covenants and Restrictions for Plaza Pointe recorded on January 16, 2001 in Book 6824 at Page 51 in the Office of the Register of Deeds of Johnson County, Kansas (the “Register’s Office”), as amended by that certain First Amendment to Declaration of Easements, Covenants and Restrictions recorded August 12, 2002 in Book 8007 at Page 595 in the Register’s Office, and as further amended by that certain Second Amendment to Declaration of Easements, Covenants and Restrictions recorded June 20, 2003 in Book 9121 at Page 868 in the Register’s Office and any additional declarations as may be recorded from time to time with the Register’s Office which relate to the Subdivision commonly known as “Plaza Pointe” or any other Subdivision under the jurisdiction or coverage of the Association from time to time.

ARTICLE III
MEMBERSHIP

3.1 Membership Generally. Membership in the Association shall be limited to persons or entities that are the Owners of any Building Lot which is now or hereafter within the jurisdiction of the Association. Persons or entities (other than a contract seller) who hold an interest merely as security for the performance of an obligation shall not be members. Membership shall be appurtenant to and may not be separated from ownership of a Building Lot.
3.2 Suspension of Membership. During any period in which a member shall be delinquent in the payment of any assessment levied by the Association as provided in the Declaration, the voting rights of such member shall be suspended, and the rights of such member to receive services provided by the Association may be suspended by the Board of Directors, until such assessment has been paid. Such rights of a member may also be suspended by the Board of Directors, after notice and hearing, for a period not to exceed ninety (90) days, for violation of any of the rules and regulations established by the Board of Directors governing the use of the Common Area in or available to the Subdivision.

ARTICLE IV
VOTING RIGHTS

4.1 Voting. The Association shall have one class of membership, namely Class A. Each Owner of a Building Lot shall be a Class A member. Class A members shall have one (1) vote for each square foot of building area contained on the lot. For purposes hereof, the term building area shall mean with respect to each building, or structure on an Owner’s Site, the number of square feet of floor area at each level or story (including basements and structural mezzanines) lying within the exterior faces of exterior walls (except party walls as to which the center line, not the exterior faces, shall be used), without deduction for stairways, elevators or escalators, interior walls, columns or other construction equipment. Where more than one (1) person holds an interest in a Building Lot, all such persons shall be members and the vote for such Building Lot shall be exercised as they may determine among themselves; however, the number of votes for such Building Lot shall never exceed the number of votes allocated to that Building Lot based upon square footage.

4.2 Representatives. Where a Building Lot is owned by a corporation, partnership or other entity, such entity shall designate a person who is entitled to vote respecting such Building Lot and to serve, if elected or appointed, as a director of the Association, such designation to be made by filing an instrument to that effect with the Association, either by post mail or electronic communication.

ARTICLE V
USE OF COMMON AREA

5.1 Common Area. The Owners of Building Lots within the Subdivision shall have the non-exclusive right to the use of all Common Area to the extent not located on any Building Lot.

5.2 Rules and Regulations. The Association shall have the right and the power to make reasonable rules and regulations which shall govern the use of the Common Area.

ARTICLE VI
BOARD OF DIRECTORS

6.1 Number. The affairs of the Association shall be managed by a Board of Directors composed of five (5) directors. Each director named in the Articles of Incorporation shall hold office until the first annual election of directors or until his or her earlier resignation or removal. Each individual elected as a director shall serve until the next annual election and until his or her successor is duly elected and has commenced his or her term of office or until his or her earlier resignation or removal.
6.2 **Qualification.** Each Owner that has designated a director must be and remain a member in good standing of the Association in order for such Owner’s designee to be elected and remain as a director.

6.3 **Removal.** Any director may be removed from the Board of Directors, with or without cause, by a majority vote of the members of the Association entitled to vote. In the event of death, resignation or removal of a director, his or her successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his or her predecessor.

6.4 **Compensation.** No director shall receive compensation for the service he or she may render to the Association as a director. However, any director may be reimbursed for his or her reasonable out-of-pocket expenses incurred in the performance of his or her duties.

6.5 **Newly Created Directorships.** Newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, unless it is otherwise provided in the Articles of Incorporation or these Bylaws, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, or until their earlier resignation or removal. If there are no directors in office, then an election of directors may be held in the manner provided by statute.

**ARTICLE VII**

**MEETING OF DIRECTORS**

7.1 **Annual Meetings.** Annual meetings of the Board of Directors shall be held within 15 days following the annual meeting of the members at such place as may be fixed by the Board.

7.2 **Regular Meetings.** Regular meetings of the Board of Directors may be held without notice and shall be held at such place and time as may be fixed from time to time by the Board.

7.3 **Special Meetings.** Special meetings of the Board of Directors shall be held at such place and time as may be specified by and when called by the president of the Association or by any two or more directors.

7.4 **Notice of Special Meetings.** Written or printed notice stating the place, day and hour of a special meeting and the purpose or purposes for which the meeting is called, shall be delivered to each director not less than five (5) days before the date of the special meeting, either personally or by mail, by or at the direction of the person(s) calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the director at his address as it appears on the records of the Association, with postage thereon prepaid. Any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all directors shall be present.

7.5 **Quorum.** Unless otherwise required by law, a majority of the total number of directors shall constitute a quorum for the transaction of business. Except as otherwise required by law or as provided in Article XVI hereof, every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.
7.6 **Adjournment.** If a quorum shall not be present at any such meeting, the directors present shall have the power successively to adjourn the meeting, without notice other than announcement at the meeting, to a specified date. At any such adjourned meeting at which a quorum shall be present any business may be transacted which could have been transacted at the original session of the meeting.

7.7 **Meetings by Conference Telephone or Similar Communications Equipment.** Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

7.8 **Action Taken Without a Meeting.** Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if written consent thereto is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

**ARTICLE VIII**

**NOMINATION AND ELECTION OF DIRECTORS**

8.1 **Nomination.** Nomination for election to the Board of Directors may be made in writing by any member delivered to the secretary of the Association in advance of the annual meeting or from the floor at the annual meeting of the members.

8.2 **Election.** Election to the Board of Directors shall be by written ballot or through electronic communication. At any such election, the members entitled to vote or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of Article IV hereof. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

8.3 **Commencement of Term of Office.** A director shall be deemed elected at the time of his or her election, but he or she shall not be deemed to have commenced his or her term of office or to have any of the powers or responsibilities of a director until the time he accepts the office of director either by a written or electronic acceptance or by participating in the affairs of the Association at a meeting of the Board of Directors.

**ARTICLE IX**

**POWERS OF THE BOARD OF DIRECTORS**

9.1 **General Powers.** The Board of Directors shall have the power to:

9.1.1 **Scope.** Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.

9.1.2 **Rules and Regulations.** Adopt and publish rules and regulations governing the use of the Common Area and the personal conduct of the members and
their guests thereon, and to establish penalties for the infraction thereof; provided, however, that the Board of Directors may not, in any event, revoke, limit, restrict, or suspend in any way, the right of any Owner to use and enjoy any street for ingress and egress.

9.1.3 Employment. Employ (and contract with for such periods of time and on such terms as may be deemed appropriate) agents, independent contractors, managers and employees, and to prescribe their duties and responsibilities.

9.1.4 Records and Reports. Cause to be kept a complete record of all its acts and of the corporate affairs of the Association and to present reports thereof to the members.

9.1.5 Supervision. Supervise all officers, agents and employees of the Association, and see that their duties are properly performed.

9.1.6 Assessments. As more fully provided in the Declaration, provide for the levying of the regular assessments against each Building Lot and any special assessment against any Building Lot and to take all actions necessary or appropriate to collect the same.

9.1.7 Certificates. Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not an assessment has been paid. A reasonable charge may be made by the Association for the issuance of these certificates.

9.1.8 Insurance. Procure and maintain public liability insurance, fire and extended coverage hazard insurance and other insurance on property owned by the Association and maintain officer's and director's liability insurance, all with such coverages and in such sums as may be deemed appropriate by the Board of Directors.

9.1.9 Bonding. Cause officers or employees having fiscal responsibility to be bonded, as the Board of Directors may deem appropriate.

9.1.10 Maintenance. Cause the Common Area and other areas to be maintained as provided in the Declaration.

9.1.11 Committees. Appoint one or more committees. Any such committee shall be composed of at least one (1) director and any other individuals as the Board of Directors shall designate. Not all members of a committee need be directors unless otherwise provided in the Declaration, Articles of Incorporation or Bylaws. A quorum of any committee so designated by the Board of Directors shall be any number of the members designated by the Board of Directors, but that quorum shall not consist of less than one-half (1/2) of the total number of members appointed to such committee. The Board may designate one (1) or more individuals as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

9.1.12 Performance. Perform all acts and do all things required or permitted to be done by the Association by the Declaration or otherwise; and perform all acts and do
all things permitted or required of a Board of Directors of a not-for-profit corporation under the laws of the State of Kansas.

9.2 Limitations on Power. The Board of Directors shall not have the power to take any of the following actions without the affirmative vote of the members:

9.2.1 Indebtedness of Association. Except for unsecured accounts payable incurred in the ordinary course of the business of the Association, borrow money and incur indebtedness for purposes of the Association or cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor; provided, however, in all events, the repayment of any such indebtedness shall not be or become the personal obligation of any Owner or any director.

9.2.2. Sale or Disposal of Assets. Except for the disposal or replacement of personal property in the ordinary course of the business of the Association, sell, convey or otherwise dispose of any assets of the Association.

9.2.3. Loans and Guarantees. Except for obligations evidenced by assessments under the Declaration or other accounts receivable in the ordinary course of the business of the Association, lend funds or property to any other person or guarantee or become a surety of the debts or obligations of any other person.

ARTICLE X
MEETINGS OF MEMBERS

10.1 Annual Meetings. The annual meeting of the members of the Association shall be held on the second Tuesday of January of each year or as otherwise scheduled by the Board, but within the first 60 days of the year, at such place and time as may be fixed by the Board of Directors. If the day for the annual meeting of members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday. At the annual meeting, directors shall be elected, reports of the affairs of the Association shall be considered, and any other business within the powers of the membership may be transacted.

10.2 Special Meetings. Special meetings of the members may be called at any time by the president or by a majority of the Board of Directors, or upon written or electronic request of members holding at least one-tenth (1/10th) of the votes of the members.

10.3 Place and Notice of Meetings. All meetings of the members shall be held in Johnson County, Kansas at such place as may be designated in the notice of the meeting. Written or electronic notice of each meeting of the members shall be given by, or at the direction of, the person(s) duly calling the meeting, not less than seven (7) days nor more than forty (40) days prior to such meeting to each member entitled to vote thereat, addressed to the member's address, electronic or physical, last appearing on the books of the Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose(s) of the meeting. Such notice shall be deemed to be delivered when it is deposited in the United States mail with postage thereon so addressed to the member.
10.4 **Quorum.** The presence at a meeting, in person or by proxy, of members entitled to cast at least a majority of the total votes of the membership on the specific actions shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be obtained. Except as otherwise provided in these Bylaws, the Declaration or the Articles of Incorporation or by law, a majority vote of those present at a meeting at which a quorum is present shall be necessary to transact any business entitled to be transacted by the members.

10.5 **Proxies.** At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary of the Association before the start of the meeting. Every proxy shall be revocable and shall automatically cease to be effective, if not sooner terminated by its terms or revoked, upon the expiration of eleven (11) months from the date of its issuance or upon conveyance by the member of his or her Building Lot, whichever event shall occur first.

**ARTICLE XI**

**OFFICERS AND THEIR DUTIES**

11.1 **Enumeration of Offices.** The officers of the Association shall be a president, a vice-president, a secretary and a treasurer, who shall be elected from among the members of the Board of Directors, and such other officers as the Board of Directors may from time to time elect.

11.2 **Election of Officers.** Initially, the officers shall be elected by the Board of Directors named in the Articles of Incorporation at the first meeting of that body, to serve at the pleasure of the Board until the first annual meeting of the Board and until their successors are duly elected and qualified or until their earlier resignation or removal. At the first and each subsequent annual meeting of the Board of Directors, the newly elected Board shall elect officers to serve at the pleasure of the Board until the next annual meeting of the Board and until their successors are duly elected and qualified or until their earlier resignation or removal. An officer shall be deemed qualified when he or she enters upon the duties of the office to which he or she has been elected or appointed and furnishes any bond required by the Board of Directors or these Bylaws; but the Board of Directors may also require of such person his or her written or electronic acceptance and promise faithfully to discharge the duties of such office.

11.3 **Special Appointments.** The Board of Directors may appoint such other officers and agents as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties consistent with these Bylaws as the Board may, from time to time, determine.

11.4 **Resignation and Removal.** Any officer may be removed from office by the Board of Directors whenever, in the Board's judgment, the best interests of the Association will be served thereby. Any officer may resign at any time by giving written or electronic notice to the Board through the president or the secretary. Such resignation shall take effect on the date of receipt of such notice by the Board or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
11.5 **Vacancies.** A vacancy in any office may be filled by the Board of Directors at any time. The officer elected to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

11.6 **Multiple Offices.** Any two (2) offices may be held by the same person.

11.7 **Duties.** The duties of the officers are as follows:

**President.** The president shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the affairs and officers of the Association. He or she shall preside at all meetings of the membership and at all meetings of the Board of Directors. He or she shall be a non-voting ex officio member of all standing committees (and may also be a voting member of any such committee, in the capacity of an official appointee, as the case may be) and shall have the general powers and duties of management usually vested in the office of president and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

**Vice President.** The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties and have such other powers as may be prescribed by the Board of Directors.

**Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members, shall keep the corporate seal, if any, of the Association and affix it on all papers required to have the seal affixed thereto, shall serve notice of meetings of the board and of the members, shall keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties, and have such other powers as may be prescribed by the Board of Directors or usually vested in the office of secretary.

**Treasurer.** The treasurer shall have responsibility for the safekeeping of the funds of the Association, shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Association and such other books of account and accounting records as may be appropriate, and shall perform such other duties and have such other powers as may be prescribed by the Board of Directors or usually vested in the office of treasurer. The books of account and accounting records shall at all reasonable times be open to inspection by any director.

11.8 **Compensation.** Officers of the Association shall not receive any compensation or salary for their services, but may be reimbursed for their reasonable out-of-pocket expenses incurred in the performance of the duties of their offices.

**ARTICLE XII**

**ASSESSMENTS**

12.1 **Purpose.** The assessments levied by the Association shall be used to provide funds to enable the Association to exercise the powers, maintain the improvements and render the services provided for in these Bylaws, the Declaration and the Articles of Incorporation.
12.2 **Provisions Governing Assessments.** Assessments shall be levied in the manner provided in the Declaration.

**ARTICLE XIII**

**BOOKS AND RECORDS**

The books and records of the Association shall, at all times during reasonable hours and upon reasonable notice, be subject to inspection by any member for proper purposes. The Declaration, Articles of Incorporation and Bylaws of the Association shall also be available during reasonable hours for inspection by any member.

**ARTICLE XIV**

**CORPORATE SEAL**

If adopted by the Board of Directors, the Association shall have a corporate seal in a circular form having inscribed thereon the name of the Association and the words "Corporate Seal—Kansas". The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise attached.

**ARTICLE XV**

**GENERAL PROVISIONS**

15.1 **Depositories and Checks.** The moneys of the Association shall be deposited in such banks or financial institutions and shall be drawn out by checks signed in such manner as may be provided by resolution adopted by the Board of Directors from time to time.

15.2 **Certain Loans Prohibited.** The Association shall not make any loan to any officer or director of the Association.

15.3 **Absence of Personal Liability.** The directors, officers and members of the Association shall not be individually or personally liable for the debts, liabilities or obligations of the Association.

**ARTICLE XVI**

**AMENDMENT**

These Bylaws may from time to time be altered, amended, or repealed, or new Bylaws may be adopted by a majority vote of the members of the Association entitled to vote who are present at a meeting at which a quorum is present.

**ARTICLE XVII**

**CONFLICT**

In the case of any conflict between the Articles of Incorporation of the Association and these Bylaws, the Articles of Incorporation shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XVIII**

**FISCAL YEAR**
The Board of Directors shall have power to fix and from time to time change the fiscal year of the Association. In the absence of action by the Board of Directors, the fiscal year of the Association shall end each year on the date which the Association treated as the close of its first fiscal year, until such time, if any, as the fiscal year shall be changed by the Board of Directors.

ARTICLE XIX
WAIVER OF NOTICE

Whenever any notice is required to be given under the provisions of the statutes of Kansas, or of the Articles of Incorporation or of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the members, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the Articles of Incorporation or these Bylaws.

ARTICLE XX
INDEMNIFICATION

20.1 Indemnification Required by Law. The Association shall provide to its directors and officers such indemnification as it is required to provide pursuant to the provisions of the Kansas general corporation code.

20.2 Additional Indemnification.

20.2.1 The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the Association, by reason of the fact that such person is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys’ fees, taxes imposed by Chapter 42 of the Internal Revenue Code of 1986 [hereinafter in these Statutes the “Code”], and expenses of correction paid pursuant to Chapter 42 of the Code) and against judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.
20.2.2 The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees) and against amounts paid in settlement actually and reasonably incurred by such person in connection with the defense or settlement of the action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the Association unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication of liability and in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnification for such expenses as the court shall deem proper.

20.2.3 To the extent that a director, officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in the two preceding paragraphs of this section or in defense of any claim, issue, or matter therein, such person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by such person in connection with the action, suit, or proceeding.

20.2.4 Any indemnification under section 20.2.1 or 20.2.2, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in section 20.2. Such determination shall be made: (i) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to the action, suit, or proceeding; or (ii) if such a quorum is not obtainable or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

20.2.5 Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of the action, suit, or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the Association as authorized in this section.

20.2.6 The indemnification provided by this section 20.2 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any provision of law, the Articles of Incorporation, the Declaration, other provisions of these Bylaws, any agreement or contract, a vote of disinterested directors, or otherwise, both as to action in an official capacity and as to action in any other capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such person.
20.2.7 The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against any liability asserted against such person or incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of this section.

20.2.8 For purposes of this section, references to the Association include all constituent entities absorbed in any consolidation or merger as well as the resulting or surviving entity.

20.2.9 The provisions of this section are intended to facilitate the Association’s ability to attract and retain qualified individuals to serve as its directors and officers and at its request as directors and officers or in other capacities for other entities or enterprises by providing and maximizing the amount of indemnification that the Association is permitted to provide to such persons by the Kansas Nonprofit Corporation Act, and such provisions shall be construed accordingly. The provisions of this section do not limit the Association’s power to pay or reimburse expenses incurred by a director or officer of the Association in connection with appearing as a witness in a proceeding at a time when the director or officer has not been made a named defendant or respondent to the proceeding.
SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS SECOND AMENDMENT TO DECLARATION ("Agreement") is made as of the 17th day of June, 2003, by The Sailors Company, LLC.

RECITALS

A. By a certain Declaration of Easements, Covenants and Restrictions recorded in Book 6824 at Page 51 of the land records for Johnson County, Kansas (the "Original Declaration"), easements, covenants and restrictions benefitting and burdening the real property legally described as

Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas (the "Entire Premises")

were created.

B. By a certain First Amendment to Declaration of Easements, Covenants and Restrictions recorded in Book 8007 at Page 595 of the land records for Johnson County, Kansas (the "First Amendment"), the Original Declaration was amended as therein set forth. (The Original Declaration as amended by the First Amendment is herein referred to as the "Declaration.")

C. Under Section 11.1 of the Declaration, the Developer has the right to modify the Declaration without the consent of the other owners of the Entire Premises provided such modification does not materially increase the obligations or decrease the rights of any such owner.

D. The undersigned is the Developer under the Declaration and the following modifications to the Declaration do not materially increase the obligations or decrease the rights of any owner of any part of the Entire Premises.

E. The undersigned desires to amend the Declaration in accordance with Section 11.1 thereof as hereinafter set forth.

AGREEMENT

1. Exterior Improvements. The legal description attached as Exhibit A to the First Amendment is hereby deleted in its entirety and the legal description attached hereto as Exhibit A is inserted in lieu thereof.

2. Section 5.1. Section 5.1 of the Declaration is amended by the insertion of the following sentence at the end of such section: "No parking spaces located on Lot 1 and adjoining Lot 2 shall be marked or designated for a particular building, owner, or user."
3. **Section 7.1.** Section 7.1 of the Declaration is amended by the insertion of the words "other than the Exterior Improvements on such Owner's Site" between the words "thereon" and "in" as appear in the third line of such section.

4. **Section 7.2.** In connection with Section 7.2 of the Declaration, Developer acknowledges that Developer is responsible for damage to areas outside of the Exterior Improvements located on Lots 1, 2 and 13, PLAZA POINTE resulting from erosion caused by Developer's failure to properly maintain the Exterior Improvements or as arises out of improper design or construction of the Exterior Improvements on such lots.

5. **Section 7.3.** Developer agrees to name the owners of Lots 1, 2 and 13, PLAZA POINTE as additional insureds under the commercial general liability policy of insurance it maintains and that is paid for pursuant to Section 7.3 of the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this document effective as of the date first above written.

THE SAILORS COMPANY, LLC

By: [Signature]
Richard H. Sailors
Manager

State of Kansas )
) Ss:
County of Johnson )

On this 18th day of June, 2003, personally appeared Richard H. Sailors, to me personally known to be the person described in and who executed the foregoing Second Amendment to Declaration, and acknowledged that he executed the same as the free act and deed of The Sailors Company, LLC, and that he was authorized to do so.

Witness my hand and Notary Seal subscribed and affixed in said County and State, the day and year in this certificate above written.

Cynthia S. Hixson
Notary Public

My Term Expires: 11-19-06

BOOK 9121 PAGE 869
Exhibit A

DETENTION BASIN DESCRIPTION

A tract of land lying within Lots 1 and 2 of Plaza Pointe, a subdivision in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Beginning at the Southwest corner of said Lot 1; thence North 01 degree 50 minutes 17 seconds West along the West lot lines of said Lots 1 and 2 a distance of 585.76 feet to the Northwest corner of said Lot 2; thence North 88 degrees 09 minutes 43 seconds East along the North line of said Lot 2 a distance of 88.54 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 70.60 feet to a point; thence South 44 degrees 28 minutes 14 seconds East a distance of 30.20 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 77.78 feet to a point; thence South 25 degrees 18 minutes 31 seconds West a distance of 63.72 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 207.22 feet to a point; thence South 16 degrees 18 minutes 29 seconds East a distance of 42.06 feet to a point; thence North 88 degrees 09 minutes 43 seconds East a distance of 44.63 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 71.87 feet to a point on the South line of said Lot 1; thence South 72 degrees 11 minutes 24 seconds West along the South line of said Lot 1 a distance of 140.46 feet to the POINT OF BEGINNING and containing 1.2540 acres, more or less.
FIRST AMENDMENT
TO
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS FIRST AMENDMENT TO DECLARATION ("Agreement") is made as of the 29th day of March, 2002, by the undersigned owners of all of the property hereinafter described.

RECITALS

a. Together, the undersigned own fee title to the real property legally described as Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas (the "Entire Premises").

b. By a certain Declaration of Easements, Covenants and Restrictions recorded in Book 6824 at Page 51 of the land records for Johnson County, Kansas (the "Declaration"), easements, covenants and restrictions benefitting and burdening the Entire Premises were created.

c. The undersigned desire to amend the Declaration as hereinafter set forth.

NOW, THEREFORE, the parties agree and declare as follows:

AGREEMENT

1. Section 1.f. Section 1.f of the Declaration is deleted in its entirety and the following is inserted in lieu thereof:

   "f. The term "Exterior Improvements" means (i) the detention and/or retention facilities located on the parts of Lots 1, 2 and 13, PLAZA POINTE, more fully described in Exhibit A hereto, and (ii) the lawn and landscaped areas between the property lines of the portions of the Entire Premises as adjoin 135th Street, Roe Avenue and 137th Street and the back of the curbs of such streets."

2. Section 6.1. Section 6.1 of the Declaration is supplemented by the addition of the following thereto:

   "The Common Area shall at all times be subject to the exclusive control and management of the Developer, and the Developer shall have the right from time to time to establish, revoke, modify and enforce reasonable rules and regulations with respect to the all...
or any part of the Common Area. Each Owner shall comply with all such rules and regulations and shall use reasonable efforts to cause such Owner's Permitted Users to comply with the same.

Without limiting the generality of the foregoing, the paved portions of Tract A shall be used solely for ingress and egress and no parking of motor vehicles shall be permitted on any part of Tract A. The Developer shall have the right to enforce the foregoing prohibition against parking on Tract A by all lawful means, including but not limited to, posting no-parking signs, issuing citations for violations of the no-parking rules and having violators towed, but only to the extent any of the same is not prohibited by law."

3. **Section 6.3.** Cunningham Properties, L.P. joins with M3 Development Co. LC in the grant set forth in Section 6.3 of the Declaration.

4. **Section 7.1.** Section 7.1 of the Declaration is deleted in its entirety and the following is inserted in lieu thereof:

"7.1. **Owner Maintenance.** Each Owner shall, at its own expense and without contribution or reimbursement from any other Owner, maintain such Owner's Site together with the Improvements thereon in good order, condition and repair and in a sightly and attractive condition equal at least to other comparable developments in the greater Kansas City metropolitan area. Without limiting the generality of the foregoing, each Owner shall be responsible for properly irrigating and sprinkling and shall so irrigate and sprinkle the grass and landscaping on such Owner's Site. In so doing, each Owner shall cooperate and coordinate with Developer, including providing Developer reasonable access to the control panel for the irrigating and sprinkling system(s) on such Owners' Site. Except when construction is actively being conducted on an Owner's Site, when vacant, each Owner's Site shall be planted in grass, shall be kept regularly and properly mowed and weed free and free of paper, refuse, debris and litter."

5. **Section 7.2.** The clause "Except as provided in Section 7.1 with respect to irrigation and sprinkling," as set forth in Section 7.2 of the Declaration is hereby deleted.

6. **Section 7.2.g.** Section 7.2.g of the Declaration is hereby deleted in its entirety.

7. **Section 7.2.i.** The word "Removal" as appears in Section 7.2.i of the Declaration is hereby deleted and is replaced with the word "Clearing."
8. **Section 7.4.** Section 7.4 of the Declaration is deleted in its entirety and the following is inserted in lieu thereof:

"7.4. **Payments.**

a. In each Fiscal Year during the term of this Agreement, each Owner shall pay to the Developer such Owner's Common Maintenance Contribution (as hereinafter defined).

b. The "Owner's Common Maintenance Contribution" for each Fiscal Year or part thereof shall be that portion of the Operating Costs equal to the product obtained by multiplying the Operating Cost for such Fiscal Year by a fraction ("Owner's Percentage"), the numerator of which shall be the "average" number of square feet of building area within the contributing Owner's Site for such Fiscal Year, and the denominator of which shall be the "average" number of square feet of building area within the Combined Owner's Sites for such Fiscal Year.

c. The Owner's Common Maintenance Contribution shall be paid to the Developer in advance in quarterly installments on the first day of each quarter of each Fiscal Year during the term of this Declaration, in an amount reasonably estimated by the Developer from time to time. In addition, if an unusual or extraordinary expense of a category that constitutes an Operating Cost but for which no provision has been made in Developer's estimates is incurred, or if the actual expense incurred for an Operating Cost that is provided for in Developer's estimates is materially higher than budgeted for, then the Developer may submit a supplemental billing to the other Owners on the same basis as provided above for the Owner's Common Maintenance Contribution, which billing shall be due and payable within 30 days after invoice. Within 90 days after the end of each Fiscal Year, the Developer shall furnish each Owner with a statement (the "Statement") summarizing such Owner's Common Maintenance Contribution for the preceding Fiscal Year and reconciling the installments paid on account thereof. The Developer and such Owner shall then adjust any overpayment or underpayment by such Owner of such charge within thirty (30) days. Any claim for revision of any Statement submitted by the Developer which is not made within 90 days after the receipt of such Statement, shall be deemed waived and discharged.

d. The "average" number of square feet of building area within a contributing Owner's Site shall be the sum of the number of square feet of building area thereon as of the first day of each quarter of the Fiscal Year divided by the number of quarters in such Fiscal Year. The "average" number of square feet of building area within the Combined Owner's
Owner's Sites shall be the sum of the aggregate number of square feet of building area on all of the Owner's Sites as of the first day of each quarter of the Fiscal Year divided by the number of quarters in such Fiscal Year. Until the end of the fiscal quarter in which any building constructed on an Owner's Site is sufficiently complete so as to qualify for the issuance of a temporary certificate of occupancy from the City of Leawood, the number of square feet of building area on such site shall be deemed to be the number of square feet of building to be constructed thereon (i) as shown on the preliminary site plan of the Entire Premises, until a final site plan for such site has been approved by the City of Leawood, and (ii) as shown on the final site plan for such site upon approval thereof by the City of Leawood. For purposes hereof, the term building area shall mean with respect to each building, or structure on an Owner's Site, the number of square feet of floor area at each level or story (including basements and structural mezzanines) lying within the exterior faces of exterior walls (except party walls as to which the center line, not the exterior faces, shall be used), without deduction for stairways, elevators or escalators, interior walls, columns or other construction or equipment.

9. **Section 7.6.** Section 7.6 of the Declaration is deleted in its entirety and the following is inserted in lieu thereof:

"7.6. **Lien.** If any Owner fails to pay any amount due pursuant to Section 7.4, the Developer shall have, and is hereby granted, as security for such sum, for all interest on such sum as provided for in Section 7.5 above and for the costs provided for in Section 7.7 below, a valid and enforceable lien ("CMC Lien") upon such Owner's right, title and interest in and to its Site, and the Developer shall have the right to foreclose the CMC Lien in the manner provided by law, it being understood and agreed that the CMC Lien shall be prior to all matters recorded after this Declaration is recorded except that the CMC Lien shall be junior and subordinate to the lien of any first mortgage hereafter recorded against such Owner's Site."

10. **Section 9.2.** The policies of insurance maintained under Section 9.2 of the Declaration shall name Developer and the Association (following its formation, if any) as additional insureds.

11. **Section 9.3.** Section 9.3 of the Declaration is deleted in its entirety and the following is inserted in lieu thereof:

"9.3. **Indemnity.** Each Owner hereby indemnifies and saves each other Owner, Developer and the Association harmless from and against all claims, actions, damages,
liability, expense (including reasonable attorneys' fees and court costs), suits and judgments arising from bodily injury, death or property damage occurring on or from any part of its Site, except to the extent caused by the act or omission of such other Owner, Developer or the Association, their respective employees, agents or contractors;”

12. **Miscellaneous.**

a. Except as expressly provided herein, the Declaration is unamended and the parties hereby ratify the same as herein modified. In the event of conflict or ambiguity between the terms of the Declaration and the provisions of this Agreement, the provisions of this Agreement shall govern and control.

b. This Agreement:
   i. constitutes the entire agreement among the parties hereto with respect to the subject matter hereof;
   ii. shall be construed and governed by the laws of the State of Kansas;
   iii. shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns;
   iv. may not be amended except by written agreement; and
   v. may be executed in multiple counterparts, whether of the entire agreement or of the signature page, or both, all of which counterparts taken together shall constitute the complete Agreement.

IN WITNESS WHEREOF, this First Amendment to Declaration of Easements, Covenants and Restrictions has been duly executed by the undersigned as of March 29, 2002.

[Signatures appear on the pages attached]
[Signature Page to First Amendment to Declaration of Easements, Covenants and Restrictions regarding Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas]

THE SAILORS COMPANY, LLC

By: ____________________________
    Joseph E. Werner
    Manager

By: ____________________________
    John Capito
    Manager

STATE OF KANSAS )
COUNTY OF JOHNSON ) ss.

The foregoing was acknowledged before me on May 6th, 2002 by Joseph E. Werner as Manager of The Sailors Company, LLC.

My Commission Expires:

9/21/05

STATE OF KANSAS )
COUNTY OF JOHNSON ) ss.

The foregoing was acknowledged before me on May 6th, 2002 by John Capito as Manager of The Sailors Company, LLC.

My Commission Expires:

9/21/05
ZIPZ! POINTE LLC

By: [Signature]

Name: Jack M. Beat

Title: President

STATE OF Kansas )
COUNTY OF Johnson ) ss.

The foregoing was acknowledged before me on 7-24, 2002 by Jack M. Beat as President of ZIPZ! Pointe LLC.

Notary Public

My Commission Expires:

[Signature]

[Stamp: NOTARY PUBLIC - State of Kansas]

CAROL A. CUNNINGHAM
My Appt. Exp. 9-8-04
PLAZA POINTE NINE, L.L.C.

By: \[Signature\]  8/1/02

Name: \textbf{VINCENT W. DEAN}  

Title: \underline{AS AGENT}

STATE OF \textbf{KANSAS} )  
COUNTY OF \textbf{JOHNSON} ) ss

The foregoing was acknowledged before me on \textbf{AUGUST 1, 2002} by

\textbf{VINCENT W. DEAN} as \underline{AGENT} of Plaza Pointe Nine, L.L.C.

\textbf{ELLEN CHRISTINE MABERRY}  
Notary Public

My Commission Expires:

\textbf{MAY 4, 2006}  

\textbf{ELLEN CHRISTINE MABERRY}  
Notary Public - State of Kansas  
My Appt. Expires \textbf{MAY 4, 2006}
[Signature Page to First Amendment to Declaration of Easements, Covenants and Restrictions regarding Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas]

M3 DEVELOPMENT CO. LC

By: Max W. Greer
Member

STATE OF Kansas
COUNTY OF Johnson

The foregoing was acknowledged before me on July 31, 2002 by Max W. Greer as Member of M3 Development Co. LC.

Carol D. Sloan
Notary Public

My Commission Expires: 1-3-03

NOTARY PUBLIC

CAROL D. SLOAN
EXP. DATE
STATE OF KANSAS
[Signature Page to First Amendment to Declaration of Easements, Covenants and Restrictions regarding Lots1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas]

MILLENIUM PROPERTIES, L.L.C.

By: JAMES A. BERBERICK

Title: MEMBER - MANAGER

STATE OF KANSAS

COUNTY OF JOHNSON

The forgoing was acknowledged before me on JULY 31, 2002 by JAMES A. BERBERICK as MEMBER - MANAGER of Millennium Properties, L.L.C.

RAYMOND L. JONSCHER, Notary Public

My Commission Expires: 7-29-2004
[Signature Page to First Amendment to Declaration of Easements, Covenants and Restrictions regarding Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas]

MATTHEWS REAL ESTATE PARTNERSHIP

By: ________________________________

Name: James M. Matthews
Title: Partner

STATE OF MISSOURI )
COUNTY OF JACKSON ) ss

The foregoing was acknowledged before me on AUGUST 6, 2002 by
James M. Matthews as PARTNER of Mathews Real Estate Partnership

Notary Public

My Commission Expires:

__________________________

CAROL A. SAULSBURY
Notary Public - Notary Seal
STATE OF MISSOURI
CLAY COUNTY
MY COMMISSION EXP. OCT. 8, 2005
[Signature Page to First Amendment to Declaration of Easements, Covenants and Restrictions regarding Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas]

CUNNINGHAM PROPERTIES, L.P.

By: 

Name: Sarah Cunningham Jurcik

Title: Partnership Manager

STATE OF KS )
COUNTY OF Jo ) ss

The forgoing was acknowledged before me on August 5, 2002 by Sarah Cunningham as Partnership Manager of Cunningham Properties, L.P.

My Commission Expires:

12-9-03
[Signature Page to First Amendment to Declaration of Easements, Covenants and Restrictions regarding Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas]

SCHROEDER LAND COMPANY, LLC

By: Anita J. Baude
Name: Anita J. Baude
Title: Member

STATE OF Kansas )
COUNTY OF Johnson ) ss.

The foregoing was acknowledged before me on August 6th, 2002 by Anita J. Baude as member of Schroeder Land Company, LLC

Notary Public

My Commission Expires:
April 9, 2005

BOOK 8007 PAGE 607
A tract of land lying within Lots 1 and 2 Plaza Pointe, a subdivision in the City of Leawood, Johnson County, Kansas more particularly described as follows:

Beginning at the Southwest corner of said Lot 1; thence North 01 degree 50 minutes 17 seconds West along the West lot lines of said Lots 1 and 2 a distance of 585.76 feet to the Northwest corner of said Lot 2; thence North 88 degrees 09 minutes 43 seconds East along the North line of said Lot 2 a distance of 88.54 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 70.60 feet to a point; thence South 44 degrees 28 minutes 14 seconds East a distance of 43.49 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 70.17 feet to a point; thence South 25 degrees 18 minutes 31 seconds West a distance of 83.44 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 187.49 feet to a point; thence South 16 degrees 16 minutes 29 seconds East a distance of 42.06 feet to a point; thence North 88 degrees 09 minutes 43 seconds East a distance of 44.63 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 71.87 feet to a point on the South line of said Lot 1; thence South 72 degrees 11 minutes 24 seconds West along the South line of said Lot 1 a distance of 140.46 feet to the POINT OF BEGINNING and containing 1.2845 acres more or less.

A tract of land lying within Lot 13 Plaza Pointe, a subdivision in the City of Leawood, Johnson County, Kansas more particularly described as follows:

Beginning at the Southwest corner of said Lot 13; thence North 01 degree 50 minutes 17 seconds West along the West line of said Lot 13 a distance of 96.15 feet to a point; thence North 88 degrees 09 minutes 43 seconds East a distance of 50.82 feet to a point; thence South 40 degrees 53 minutes 31 seconds East a distance of 17.38 feet to a point; thence South 82 degrees 43 minutes 15 seconds East a distance of 32.56 feet to a point; thence South 01 degree 50 minutes 17 seconds East a distance of 77.49 feet to a point on the South line of said Lot 13; thence South 88 degrees 09 minutes 43 seconds West along the South line of said Lot 13 a distance of 93.92 feet to the POINT OF BEGINNING and containing 8439.6655 square feet more or less.

Exhibit A
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DECLARATION is made as of the day of , 2000, by THE SAILORS COMPANY, LLC, a Kansas limited liability company, M3 DEVELOPMENT CO. LC ("M3"), a Kansas limited liability company, and 135TH AND ROE INVESTMENTS, LLC, a Kansas limited liability company ("ROLC").

RECITALS

A. Together, M3, ROLC and Developer own fee title to the real property legally described as Lots 1 through 13, inclusive, and Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas (the "Entire Premises").

B. M3, ROLC and Developer desire to create the easements, covenants and restrictions on the Entire Premises provided for below.

NOW, THEREFORE, M3, ROLC and Developer agree and declare as follows:

Section 1. Definitions.

a. The term "Association" shall mean an association of the Owners which, at the option of Developer, may be formed to acquire all of the rights, powers and reservations of Developer and/or to perform Developer's obligations and duties under this Declaration (collectively, "Developer's Rights") and/or to own the Common Area and Common Facilities.

b. The term "Building Lot" means each of Lots 1 through 13 inclusive, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas.

c. The term "Combined Owner's Sites" shall mean the aggregate of all Owners' Sites.

d. The term "Common Area" means Tract A, PLAZA POINTE, a subdivision in Leawood, Johnson County, Kansas, together with such other property as Developer may designate as Common Area under this Declaration by an amendment hereto made pursuant to Section 11.1.

e. The term "Common Facilities" shall mean the improvements constructed on the Common Area from time to
time intended for the non-exclusive use or benefit of all or substantially all Owners and Permitted Users, including, without limitation, access roads, driveways, entranceways, sidewalks, curbs, fences, signs and monumentation, landscaped areas, fountains and stormwater collection and detention facilities.

f. The term "Exterior Improvements" means the parking lots (including lighting facilities), sidewalks and other paved areas, grass and landscaping and sprinkler systems and stormwater collection, detention and retention facilities from time to time located on the Building Lots, but specifically excludes all buildings and other structures and all equipment serving the same and all building signs.

g. The term "Developer" means The Sailors Company, LLC and each of its successors and assigns as is a Successor Party.

h. The term "Fiscal Year" shall mean a period of 12 consecutive full calendar months, commencing and ending on such dates as Developer shall from time to time determine.

i. The term "Owner" shall mean the fee simple owner from time to time of any Site, PROVIDED, HOWEVER, the term "Owner" shall not include a party who, immediately after acquiring a Site, leases such Site back to the prior Owner of such Site or to an affiliate or subsidiary of such prior Owner in a sale-leaseback transaction, in which event the lessee under such sale-leaseback transaction (provided such lessee shall have assumed by a document in recordable form all of the fee owner's lessor's obligation under this Declaration), and not the fee owner-lessor, shall be deemed the "Owner" of such Site for so long as such lease remains in effect if the provisions of such sale-leaseback lease shall so provide. The term Owner includes Developer with respect to any Site owned by Developer.

j. The term "Person" shall mean any person, partnership, limited liability company, trust, corporation or other form of business entity.

k. The term "Permitted Users" shall mean each Owner's tenants, subtenants, concessionaires and licens-
ees and the respective officers, employees, agents, customers and invitees of each of the foregoing parties.

1. The term "Site" shall mean each Building Lot and the Improvements constructed thereon from time to time, if any.

Section 2. Declaration to Run with Land.

MJC, ROLC and Developer hereby declare that (i) all of the Entire Premises shall be conveyed, encumbered, leased, occupied, used, improved and/or transferred (in whole or in part), subject to the provisions of this Declaration and (ii) this Declaration shall run with the Entire Premises and shall be binding upon and inure to the benefit of and be enforceable by Developer and each Owner and their respective heirs, successors and assigns.

Section 3. Improvements to be Constructed by an Owner; Alterations; Ordinances; Floor Area and Unavoidable Delays.

3.1. Improvements to be Constructed by an Owner. Subject to the other terms and provisions of this Declaration, each Owner may construct (but shall not be required to construct), and may permit others to construct, buildings, parking areas and other improvements (collectively, "Improvements") on its Site; PROVIDED, HOWEVER, so long as Developer is an Owner, no Improvements shall be constructed or reconstructed on a Site without Developer's prior written approval in each instance of the plans and specifications for such proposed Improvements pertaining to the following items: grading, building size, building height, building location, exterior building materials, exterior building design, parking layout, landscaping and building signage, which approval, in the case of reconstruction, shall not be unreasonably withheld if such plans and specifications are substantially identical to the plans and specifications approved by Developer for the initial construction of such Improvements. Each Owner shall construct and reconstruct the Improvements on its Site or cause the same to be constructed and reconstructed in accordance with the plans and specifications which may be required by governmental authorities having jurisdiction over the construction of such Improvements.

3.2. Alterations. Subject to the other terms and provisions of this Declaration (including Section 3.1 above if applicable), each Owner shall have the right, without the consent of Developer, to make changes, alterations and additions (collectively, "Alterations") to the Improvements from time to time located on
its Site, PROVIDED, HOWEVER, so long as Developer is an Owner, each Owner shall obtain the prior written consent of Developer before making any Alterations to the Improvements on its Site which would (i) increase the Floor Area of any building on its Site beyond the Floor Area originally approved by Developer; (ii) result in a different exterior appearance (i.e., materials, color and/or design) to the building located on its Site than existed before; (iii) result in a larger or different building footprint than existed before; (iv) alter the location of the building located on its Site; or (v) alter any parking in a manner such that the parking ratio set forth in Section 5 is not satisfied.

3.3. Other Owners. Subject to the other terms and provisions of this Declaration, each Owner shall have the right, without the consent of any other Owner (other than Developer as provided above), to construct Improvements on its Site and to make Alterations to the Improvements from time to time located on its Site.

3.4. Ordinances. Each Owner shall at all times, both during and after the completion of construction of any Improvements on its Site, comply with all Federal, State, County and Municipal laws, ordinances, rules and regulations ("Laws"), respecting the construction, maintenance and operation of the Improvements on its Site; PROVIDED, HOWEVER, each Owner shall have the right, at its own cost and expense, to contest or review by legal proceedings the validity or legality of such ordinance, law or regulation, but promptly upon final determination of the validity or legality thereof, such contesting Owner shall comply therewith to the extent held to be valid or legal.

3.5. Floor Area. The term "Floor Area" as used in this Declaration shall mean with respect to each building or structure on any Building Lot the number of square feet of floor area at each level or story (including basements and structural mezzanines other than mezzanines devoted exclusively to storage) lying within the exterior faces of exterior walls (except party walls as to which the center line, not the exterior faces, shall be used), without deduction for stairways, elevators or escalators, interior walls, columns, or other construction or equipment, excluding, however, utility vaults and penthouse areas used for mechanical equipment.

3.6. Unavoidable Delays. The time within which Developer or any Owner shall be required to perform any act under this Declaration, other than the payment of money, shall be extended by a period of time equal to the number of days during which perform-
mance of such act is delayed unavoidably by strikes, lockouts, acts of God, governmental acts or restrictions, enemy action, civil disturbance, fire, casualties or any other similar cause beyond the reasonable control of such party ("Unavoidable Delays").

Section 4. Use and Other Building Restrictions.

The Improvements on each Site shall be used only for those purposes and uses which satisfy all of the following conditions and for no other purpose or use: (i) such purposes and uses are permitted by applicable zoning ordinances; (ii) such purposes and uses have been previously approved in writing by Developer, but only so long as Developer is an Owner; (iii) such purposes and uses are generally found in comparable retail (including restaurants), commercial (including hotels) and office development in the greater Kansas City metropolitan area. In no event shall any Site be used for an adult book store or adult entertainment facility.

Section 5. Parking Ratio; Deck Parking; Employer Parking; Rooftop Screening.

5.1. Spaces. There shall be maintained on each Site at all times a sufficient number of car spaces so that at any given time the parking ratio on each Site will not be less than that required to be maintained on each Site (without regard to the parking available on any other Site) by governmental authority, except to the extent that such ratio may be reduced as a result of a taking in condemnation not resulting in the termination of this Declaration.

5.2. Deck Parking. Except as approved in writing by Developer, all parking areas on the Entire Premises shall be at grade level and no deck parking shall be permitted.

5.3. Rooftop Screening. All rooftop equipment located on any building within the Entire Premises shall be screened in an appropriate manner approved by Developer.

Section 6. Easements.

6.1 Common Area Easement. Developer hereby declares and grants to the Owners (collectively, "Grantee") for the benefit of Grantee's Site and Grantee's Permitted Users, the perpetual non-exclusive right, privilege and easement to use the Common Facilities from time to time located on the Common Area for the respective purposes for which the Common Facilities are designed, in
common with the others entitled thereto, without payment of any fee or other charge being made therefor, except as otherwise provided in Section 7 below. Such rights shall constitute a servitude on the Common Areas and shall be appurtenant to Grantee’s Site. The easement granted in this Section 6.1 shall continue in force and run with the land in perpetuity and shall survive the termination or expiration of this Declaration.

6.2 Cross Parking Easement. Developer and each of the Owners ("Grantor") hereby declares and grants to the Owners (collectively, "Grantee") for the benefit of Grantee’s Site and Grantee’s Permitted Users, the perpetual non-exclusive right, privilege and easement to use parking areas, driveways, access ways, sidewalks, walkways, exits, entrances and other paved areas as the same may exist from time to time on each Grantor’s Site, in common with the others entitled thereto, without payment of any fee or other charge being made therefor, for the purpose of vehicular ingress and egress and parking and pedestrian ingress and egress. Such rights shall constitute a servitude on each Grantor’s Site and shall be appurtenant to each Grantee’s Site. The easement granted in this Section 6.2 shall continue in force and run with the land in perpetuity and shall survive the termination or expiration of this Declaration.

6.3 Developer Access. M3 hereby grants and Developer hereby reserves and retains, for the benefit of Developer and its successors and assigns, including the Association, a right of access to the Common Areas and to the Building Lots for the limited purpose of performing the Common Maintenance Obligations described in Section 7.2 below.

Section 7. Maintenance.

7.1 Owner Maintenance. Each Owner shall, at its own expense and without contribution or reimbursement from any other Owner, maintain the Improvements other than the Exterior Improvements on such Owner’s Site in good order, condition and repair and in a sightly and attractive condition equal at least to other comparable developments in the greater Kansas City metropolitan area; provided, however, that each Owner shall be responsible for properly irrigating and sprinkling and shall so irrigate and sprinkle the grass and landscaping on such Owner’s Site.

7.2 Developer Maintenance. Except as provided in Section 7.1 with respect to irrigation and sprinkling, Developer shall maintain the Exterior Improvements and the Common Area and Common
Facilities in good order, condition and repair and in a sightly and attractive condition equal at least to other comparable developments in the greater Kansas City metropolitan area (the "Common Maintenance Obligations"). The Owner of each Site shall reimburse the Developer for the "Operating Costs" (hereinafter defined) incurred by the Developer in performing the Common Maintenance Obligations in accordance with Section 7.4 below. The Common Maintenance Obligations include the following:

a. Maintenance, repair and replacement of all paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be at least equal to the original material in quality, use, appearance and durability.

b. Maintenance, repair and replacement of all curbs, curb cuts, gutters, sidewalks, walkways and retaining walls.

c. Painting and striping of all parking areas.

d. Maintenance, repair and replacement of all directional signs and markers and all artificial lighting equipment and facilities (including replacement of fixtures and bulbs).

e. Maintenance of all landscaped areas, including mowing and trimming, planting and replacement of shrubbery, flowers and other plantings.

f. Maintenance, repair and replacement of all storm drains, stormwater collection, detention and retention facilities, sewers, utility lines and systems.

g. Policing and regulating of vehicular and pedestrian traffic.

h. Removal of all paper, debris and refuse, including thorough sweeping.

i. Removal of snow and ice from all driveways and sidewalks.

7.3. Operating Costs. The term "Operating Costs" shall mean the total cost and expense incurred in insuring, operating,
maintaining, equipping, inspecting, protecting, replacing and repairing the Exterior Improvements and Common Facilities including, without limitation, the cost or expense of or incurred in connection with or reasonably attributable to: lighting the Common Area; electrical energy, water and other utility charges; gardening and landscaping (including planting, replanting and replacing flowers, shrubs and trees); cleaning; commercial general liability (including "umbrella coverage") and hazard insurance (including fire and extended coverage [with vandalism and malicious mischief endorsement], boiler and machinery and all-risk or "DIC" policies) covering the Common Area; fire protection; fees for required licenses; real estate taxes (ad valorem and general and special assessments) for the Common Area; personal property taxes; line painting, sanitary control; sanitary and storm sewer charges for the Common Area; resurfacing and restriping of parking areas; removal of ice, snow, trash, rubbish, debris, garbage and other refuse; maintaining, repairing, replacing and certifying stormwater collection, detention and retention facilities; depreciation on machinery and equipment used in such maintenance; personnel (including security personnel) to provide and supervise any of the foregoing service (including wages, unemployment and Social Security taxes, workmen's compensation insurance and the cost of uniforms for such personnel); reasonable accounting and data processing fees and costs attributable to the determination of Operating Costs; plus a reasonable management fee covering the administrative costs incurred by the Developer in connection with the foregoing.

7.4. Payments. In each Fiscal Year during the term of this Agreement, each Owner shall pay to the Developer such Owner's Common Maintenance Contribution (as hereinafter defined). "Owner's Common Maintenance Contribution" for each such Fiscal Year shall be that portion of the Operating Costs equal to the product obtained by multiplying the Operating Costs for such Fiscal Year by a fraction, the numerator of which shall be the number of square feet of land area within an Owner's Site and the denominator of which shall be the number of square feet of land area within the Combined Owner's Sites. Owner's Common Maintenance Contribution shall be paid to the Developer in monthly installments on the first day of each calendar month in advance during the term of this Declaration, in an amount reasonably estimated by the Developer. Within 90 days after the end of each Fiscal Year, the Developer shall furnish each Owner with a statement (the "Statement") summarizing such Owner's Common Maintenance Contribution for the preceding Fiscal Year and reconciling the monthly installments paid on account thereof. The Developer and such Owner shall then adjust any overpayment or underpayment by such Owner of such charge within thirty (30) days.
Any claim for revision of any Statement submitted by the Developer which is not made within 90 days after the receipt of such Statement, shall be deemed waived and discharged.

7.5. Interest. All amounts payable under any provision of this Section 7, if unpaid when the same become due as herein provided, shall bear interest from the date due until paid at an annual interest rate equal to four percent (4%) in excess of the prime rate published in the midwest edition of the Wall Street Journal on the date due, but in the event the rate of interest payable by the party being charged is limited by the laws of the State of Kansas, the interest rate shall not exceed the highest rate of interest which may be legally charged to each party (the "Interest Rate").

7.6. Lien. If any Owner fails to pay any amount due pursuant to Section 7.4, then in addition to interest on such sum as above provided the Developer shall have, and is hereby granted, as security for such sum, a valid and enforceable lien ("CMC Lien") upon such Owner's right, title and interest in and to its Site, and the Developer shall have the right to foreclose the CMC Lien in the manner provided by law, it being understood and agreed that the CMC Lien shall be prior to all matters recorded after this Declaration is recorded except that the CMC Lien shall be junior and subordinate to the lien of any first mortgage hereafter recorded against such Owner's Site.

7.7. Costs. Any Owner which fails to pay such Owner's Common Maintenance Contribution as set forth herein shall pay all costs and expenses incurred by Developer in collecting such amounts, including, without limitation, the reasonable attorneys' fees and court costs of Developer.

7.8. Survival. The rights granted under this Section 7 shall survive the termination or expiration of this Declaration.

Section 8. Eminent Domain.

Nothing in this Declaration shall be construed to give an Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting any other Owner's Site or giving the public or any government any rights in the Entire Premises. Any Owner may file a collateral claim with the condemning authority for its losses which are separate and apart from the value of the land area and Improvements taken from another Owner.
Section 9. Insurance and Waiver of Subrogation.

9.1 Property Insurance.

   a. Each Owner shall keep the Improvements on its Site insured against loss or damage by fire and the perils commonly covered under an "all risk" insurance policy with vandalism and malicious mischief coverage in an amount sufficient to prevent such Owner from being a co-insurer thereof.

   b. Any loss covered by such insurance shall be adjusted with the insured and the insurance proceeds shall be held in trust by the insured and used for restoration as herein required to the extent required therefor.

   c. Such policies may be made payable to the holder of any first mortgage which is a lien upon the Site of the insured under a standard mortgagee clause, provided such mortgagee agrees that it will, in the event of loss, apply the proceeds thereof, to the extent necessary, to satisfy the obligations of the Owner under Section 10 hereof.

   d. Each Owner (the "Releasing Party") for itself and its property insurer hereby releases every other Owner (collectively, "Released Party") from and against any and all claims, demands, liabilities or obligations whatsoever for damage to the Releasing Party's property or loss of rents or profits resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the Released Party or by any agent, associate or employee of the Released Party, this release being to the extent that such damage or loss is covered by the property insurance which the Releasing Party is carrying or is obligated hereunder to carry, or, if the Releasing Party is not carrying such required insurance, then to the extent such damage or loss would be covered if the Releasing Party were carrying that insurance.

9.2 Liability Insurance. Each Owner shall maintain a policy of commercial general liability insurance, naming itself as the insured, against claims on account of bodily injury and prop-
erty damage incurred upon or about its Site, such insurance to be written with combined single limit (bodily injury and property damage) of not less than $2,000,000.00. The foregoing policy shall also contain a contractual endorsement covering the insured's obligations under the provisions of Section 9.3.

9.3. Indemnity. Each Owner hereby indemnifies and saves each other Owner harmless from and against all claims, actions, damages, liability, expense (including reasonable attorneys' fees and court costs), suits, and judgments arising from bodily injury, death or property damage occurring on or from any part of its Site, except if caused by the act or omission of such other Owner, its employees, agents or contractors.

9.4. Certificates. Each Owner, upon request, shall deliver to each requesting Owner certificates of the insurance required to be maintained under this Section 9 and evidence of the renewal of such insurance from time to time. Each certificate of insurance shall, upon request, stipulate thereon that the insurance evidenced thereby shall not be materially reduced or canceled unless ten (10) days' prior written notice shall have been given by the insurer to the requesting Owner.

9.5. Blanket Coverage and Self-Insurance. Any Owner may carry any insurance required to be maintained under this Section 9, either in whole or in part, (i) under any plan of self-insurance which such party may have in effect provided the self insurance does not exceed $1,000,000.00 and the aggregate net worth of such Owner or any party guaranteeing or otherwise liable for such Owner's performance hereunder is $50,000,000 or more, (ii) under a "blanket policy" covering other properties of such Owner or its affiliates, or (iii) by use of an umbrella coverage policy.

Section 10. Damage or Destruction.

If any Improvements on an Owner's Site shall be damaged or destroyed, such Owner shall, at its own expense, either (i) promptly repair or rebuild the same to as good condition as existed prior to such damage or destruction, or (ii) promptly clear away all debris and take all other actions (including paving and landscaping) required by good construction practice so that the area occupied by the demolished building or part of an improvement will be clean and attractive, it being agreed that this provision shall not prevent such party from subsequently building on such Site.
Section 11. Term and Membership.

11.1. Term. This Declaration shall continue and the obligations hereunder shall remain binding and effective from the date hereof until the twenty-fifth (25th) anniversary of the date of the recording of this Declaration in the land records of Johnson County, Kansas, PROVIDED, HOWEVER, (i) the easements which by specific provisions herein are perpetual or survive such expiration or sooner termination of this Declaration shall continue in force as so provided and (ii) this Declaration, or any provision hereof, may be terminated, extended, modified or amended with the written consent of the Owners of fifty-one percent (51%) of the land area of the Entire Premises. Notwithstanding anything to the contrary contained herein, unless this Declaration is terminated at least six months before the expiration of the then applicable term of this Declaration, the term of this Declaration shall automatically be extended for successive periods of 10 years. Notwithstanding the foregoing, until the sooner to occur of (i) the tenth annual anniversary of the date of recording this Declaration; or (ii) the date Developer no longer owns any Site, no such termination, extension, modification or amendment shall be effective without the prior written approval of Developer. In addition, at any time prior to the fifth annual anniversary of the date of recording this Declaration, Developer shall have the right to modify or amend this Declaration, each such modification or amendment to have priority and be effective as of the date of recording this Declaration, without the consent of the other Owners provided such modification or amendment does not materially increase the obligations or decrease the rights of an Owner. During such five-year period, each Owner shall sign any such amendment or modification within 20 days after request by Developer. If an Owner fails to sign and deliver such amendment or modification to Developer within such 20-day period, then such Owner hereby appoints Developer as Owner’s attorney-in-fact for the purpose of executing any such amendment or modification on behalf of such Owner. Further, all the Owners hereby consent and agree to any and all amendments hereto designating additional property as Common Area as contemplated by Section 1.d above, and all such amendments shall be effective if executed by Developer and recorded in the land records for Johnson County, Kansas without the requirement for joinder therein by any Owner with the same force and effect as though all the Owners joined in the execution thereof.

11.2. Membership. If Developer shall convey the Common Areas and Common Facilities to the Association, then each Owner of a portion of the Combined Owner’s Sites shall automatically become
a member of the Association, and shall be entitled to exercise voting rights in accordance with the provisions of the bylaws of the Association, which bylaws shall be prepared by Developer and shall include such terms and provisions as Developer shall determine in Developer's sole discretion; provided such bylaw terms and provisions are not inconsistent with the provisions of this Declaration and such bylaw terms and provisions do not further limit or encumber the Owner's sites beyond those provisions already provided for in this Declaration. The bylaws of the Association may prescribe conditions (such as the payment of all authorized dues and assessments, including the payment of each Owner's Common Maintenance Contribution) as prerequisites to the exercise of voting rights. Each Owner shall be entitled to one vote per square foot of land area owned by such Owner. Within 20 days after request, each Owner shall execute such documents as Developer may reasonably request evidencing the formation of the Association and that such Owner is a member of the Association bound by all of the terms and provisions of such bylaws. If any Owner fails to sign and deliver such document to Developer within such 20-day period, then such Owner hereby appoints Developer as Owner's attorney-in-fact for the purpose of executing any such document on behalf of such Owner.

Section 12. Mechanic's Lien.

No Owner will permit any mechanic's, laborer's, materialmen's or similar lien resulting from the acts of such Owner or its contractors, subcontractors, agents or employees, or any Permitted User of such Owner to attach to any portion of the Entire Premises other than such Owner's Site.

Section 13. Taxes.

Each Owner shall promptly pay all real estate taxes, special assessments, water charges, sewer rates and other like municipal charges levied against its Site, the non-payment of which would give rise to a lien superior to any other Owner's rights under this Declaration. Each Owner may contest the validity or amount of any such tax on its Site but upon final determination as to the validity and amount thereof, such Owner shall promptly pay the same.

Section 14. Unperformed Covenants.

a. If any Owner (the "Defaulting Party") fails to perform any of the covenants on its part to be performed as set forth in this Agreement, Developer or any other
Owner (the "Curing Party") may (but shall not be required to) (i) if no emergency exists, perform the same after giving twenty (20) days' notice to the Defaulting Party (unless within such twenty (20) day period the Defaulting Party shall commence the necessary action and thereafter continue the same with diligence), and (ii) in an emergency situation, perform the same without notice or delay. The Defaulting Party shall, on demand, reimburse the Curing Party for the reasonable costs, including professional and attorney fees, incurred to perform such covenant.

b. Except for willful misconduct or gross negligence, the Curing Party shall not be liable or in any way responsible for any loss, inconvenience, annoyance or damage resulting to the Defaulting Party or anyone holding under the Defaulting Party for any action taken pursuant to this Section.

c. No act or thing done or performed by a Curing Party pursuant to this Section shall be construed as a waiver of any default of the Defaulting Party or as a waiver of any covenant, term or condition herein contained or of the performance thereof.

d. All amounts payable under any provision of this Section 14, if unpaid when the same become due as herein provided, shall bear interest from the date such expense was incurred until reimbursed at an annual interest rate equal to the Interest Rate.

e. Each Owner hereby grants to Developer and the other Owners non-exclusive rights of entry and non-exclusive easements over and under any and all parts of the granting Owner's Site (excluding the right to enter any building or other structure thereon) for all purposes reasonably necessary to enable such Owners (acting directly or through agents, contractors or subcontractors) to perform any of the terms, provisions, covenants or conditions of this Declaration which the granting Owner shall have failed to perform. Such right shall be exercised at such times and in such manner as to cause the least practical interference with the conduct of business upon the granting Owner's Site.
f. If a Defaulting Party is required by the terms of this Declaration to pay a Curing Party any sum, then in addition to interest on such sums as above provided, the Curing Party shall have, and is hereby granted, as security for such sum, a valid and enforceable lien ("Lien") upon the Defaulting Party's rights, title and interest in and to its Site and the Improvements thereon (the "Defaulting Party's Property") upon recording a notice of such Lien in the land records of Johnson County, Kansas that includes the legal description of the Defaulting Party's Site, and the Curing Party shall have the right to foreclose the Lien in the manner provided by law, it being understood and agreed that the Lien shall be junior and subordinate to any other lien or encumbrance on the Defaulting Party's Property recorded prior to the recording of the notice of such Lien.

g. The rights and easements granted under this Section 14 shall survive the termination or expiration of this Declaration.

Section 15. Estoppel Certificate.

Developer and each Owner shall, from time to time, upon not less than twenty (20) days' prior written request therefor from Developer or any other Owner, execute and deliver a certificate in recordable form stating whether this Declaration is unmodified and in full force and effect, or if modified, that this Declaration is in full force and effect, as modified, and stating the modifications, stating whether or not, to the best of the knowledge of the Owner executing the same, such requesting party is in default in any respect under this Declaration, and if in default, specifying such default and stating such additional matters concerning this Declaration, the requesting party's Site, the Common Areas, Common Facilities or Entire Premises or the Common Maintenance Contribution as is within the knowledge of the executing Owner.

Section 16. Waivers.

No delay or omission by Developer or any Owner in exercising any right or power accruing upon the non-compliance or failure of performance by any other Owner under the provisions of this Declaration shall impair any such right or power or be construed to be a waiver thereof. A waiver by an Owner hereto of any of the covenants, conditions or agreements hereto to be performed by Developer or any Owner shall not be construed to be a waiver of
any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

Section 17. Remedies Cumulative.

a. All rights, privileges and remedies afforded any Developer or Owner by this Declaration shall be deemed cumulative and the exercise of any one of such remedies shall not be deemed to be a waiver of any other right, remedy or privilege provided for herein.

b. Developer and each Owner shall have the right to enforce any provision of this Declaration in any court of competent jurisdiction by injunction, specific performance or otherwise.

c. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision herein, the prevailing party or parties shall be entitled to judgment for the reasonable attorneys’ fees and court costs incurred in any such action.

Section 18. Construction.

a. The Section headings of this Declaration are for convenience of reference only and in no way define or limit the scope or conduct of this Declaration or in any way affect its provisions.

b. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter genders, shall include all other genders; the singular shall include the plural, and vice versa.

c. The word "including" as used in this Declaration shall be construed as being expansive, descriptive and inclusive and not limiting or exclusive and, in each instance that it appears without expressly so providing, shall be construed as being followed by the words "without limitation."

Section 19. Applicable Law.

This Declaration shall be governed by, and construed in accordance with, the laws of the State of Kansas.
Section 20. Partial Invalidity.

If any provision of this Declaration or the application thereof shall, to any extent, be invalid or unenforceable, the remainder of this Declaration shall not be affected thereby and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.


Every notice, demand, consent, request, approval or other document or instrument required or permitted to be served upon an Owner shall be in writing and shall be deemed to have been duly served on the day of mailing (it being agreed, however, that the time period in which a response to any such notice, demand, consent, request or other document shall commence to run from the date of receipt by the addressee thereof), and shall be sent by overnight delivery, registered or certified United States Mail, postage prepaid, return receipt requested, or hand-delivery addressed to the address where the real estate tax bills for such Owner’s Site are to be delivered by the tax assessor’s office. Each Owner may change the place for serving of notices upon it, by ten (10) days’ prior written notice informing the other Owners of the change in the address to which notices shall be sent. Rejection or other refusal to accept or the inability to deliver because of a changed address of which no notice was given shall be deemed to be the receipt of the notice as of the date of such rejection, refusal or inability to deliver.

Section 22. Limitation on Developer’s Liability; Assignment of Developer’s Duties; Sale by an Owner; Notification to Mortgagee.

22.1. Limitation on Developer’s Liability. Notwithstanding anything set forth in this Declaration to the contrary, it is agreed that each Owner shall look solely to the equity of Developer (which term for the purposes of this Section 22.1 shall also include any “Successor Party” as defined in Section 22.2 below) in the Entire Premises for the satisfaction of the remedies of any Owner in the event of a breach of any of the covenants or conditions of this Declaration by Developer, and Developer shall not be liable for any such breach except to the extent of its equity in the Entire Premises.

22.2. Assignment of Developer’s Rights. Developer’s Rights may be assigned to any party that assumes the duties of Developer pertaining to the particular right, power and reserva-
tions assigned ("Successor Party") and upon any such Successor Party evidencing its consent in writing to accept such assignment and assume such duties, such Successor Party shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Developer herein and the Developer shall thereupon be released and relieved of such obligations and duties accruing thereafter. In no event shall any of Developer's Rights inure to the benefit of any party other than a "Successor Party" who has been assigned such rights from Developer and who has accepted such assignment from Developer.

22.3. **Sale by an Owner.** If an Owner sells all or any portion of its Site (which sale may be affected without the consent of any other Owner), upon such sale such Owner (and in the case of any subsequent sales, the then grantor or transferor) shall be entirely released and relieved from all liability with respect to the performance of any covenants and obligations on the part of such Owner to be performed under this Declaration which accrue from and after the date of such sale with respect to such Owner's Site or portion thereof which was sold; it being intended hereby that the covenants and obligations on the part of each Owner to be performed under this Declaration shall be binding on each Owner, its heirs, successors and assigns, or any subsequent owner of all or any portion of the Entire Premises, only during and in respect of their respective periods of ownership of a portion of the Entire Premises and only with respect to such portion so owned.

22.4. **Notification to Mortgagee.** Each Owner serving a notice of default under this Declaration shall send by registered or certified United States Mail, postage prepaid, a copy of such notice to any holder of a first mortgage on the Site of the Owner so served provided such holder shall have sent the Owner serving the notice of default a notice informing it of the existence of such mortgage and the address to which copies of such notices of default are to be sent, and such holder shall be permitted to cure any such default within the grace period permitted under Section 14.
IN WITNESS WHEREOF, Developer has caused this Declaration of Easements, Covenants and Restrictions the day and year first set forth above.

M3 DEVELOPMENT CO. LLC

By: Max W. Greer, Jr.
Member

THE SAILORS COMPANY, LLC

By: Joseph E. Werner
Manager

By: John Caputo
Manager
The foregoing was acknowledged before me on Dec. 8, 2000 by Max W. Greer, Jr., as a Member of M3 Development Co. LC.

Notary Public


STATE OF MISSOURI

JACKSON COUNTY


MARY L. WRIGHT
Notary Public – Notary Seal
STATE OF MISSOURI
Jackson County

-20-  BOOK 5824 PAGE 70
STATE OF Missouri |
COUNTY OF Jackson |

ss.

The foregoing was acknowledged before me on Nov. 14, 2000 by John Capito as Manager of The Sailors Company, LLC.


Notary Public

MARY L. WRIGHT
Notary Public – Notary Seal
STATE OF MISSOURI
Jackson County
[Signature Page to Declaration of Easements, Covenants and Restrictions with M3 Development Co. LC and The Sailors Company, LLC]

135TH AND ROE INVESTMENTS, LLC

By: ____________________________
    August L. Huber, III
    Member

STATE OF ________________ ) ss.
COUNTY OF ________________ )

The foregoing was acknowledged before me on ____________, 2001 by August L. Huber, III, as a Member of 135th and Roe Investments, LLC.

Notary Public

My Commission Expires:

ERYL M. JARRETT
My Appt. Exp. 11/14/01
CALL TO ORDER/ROLL CALL: McGurren, Coleman, Bock, Stevens, Hunter, Peterson, Elkins joined after the meeting began: Belzer. Absent: Hoyt

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

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

MEETING STATEMENT:

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

Public comments will only be accepted during the public hearing portion of each agenda item where a public hearing is required. The City encourages the public to submit comments in writing prior to the public hearing by emailing comments to pcpubliccomments@leawood.org. Written public comments received at least 24 hours prior to the meeting will be distributed to members of the Planning Commission. Those wishing to appear remotely using the Zoom format media, should register at pcpubliccomments@leawood.org on or before Friday, September 18th at 5:00 pm Individuals who contacted the Planning Department in advance to provide public comments will be called upon by name.

Electronic copies of tonight’s agenda are available on the City’s website at www.Leawood.org under Government / Planning Commission / Agendas & Minutes. Because this meeting is being live-streamed, all parties must state their name and title each time they speak. This will ensure an accurate record and make it clear for those listening only. This applies to all commissioners, staff, applicants and members of the
Chairman Elkins: If the substance of the minutes is correct, we’ll make a note that the pagination is off.

Mr. Sanchez: Actually, the even pages are missing.

Chairman Elkins: Then we will not entertain a motion to approve the minutes, and we’ll look for those at our next meeting.

Comm. Peterson: This has happened before. What I would suggest is we go to the packet online and download the minutes there. They are correct there.

Chairman Elkins: That raises the issue of which is the official copy. I’d just as soon have them come to the meeting correctly if that’s possible, but good suggestion.

CONTINUED TO THE OCTOBER 27, 2020 PLANNING COMMISSION MEETING:
CASE 69-20 – HILLS OF LEAWOOD VILLAS – Request for approval of a Final Plat and Final Plan, located north of 151st Street and east of Mission Road.

Chairman Elkins: Does staff wish to keep this as is or to be subject to call as well? Staff indicates the case should be continued for a time certain for the October 27, 2020 meeting as noted. When we amended the agenda, Case 82-20 – Town Center Revised Sign Guidelines – and Case 83-20 – Town Center Crossing Revised Guidelines – have both been continued to a future meeting, subject to call.

CONSENT AGENDA:
CASE 80-20 – PARKWAY PLAZA – WEBER CARPET – Request for approval of Final Plan, located north of 135th Street and east of Briar.

Chairman Elkins: Do any commissioners wish to hear from staff and/or the applicant? If not, is there a motion?

A motion to approve the Consent Agenda was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 6-0. For: McGurren, Coleman, Block, Stevens, Peterson, Belzer, including a recusal from Hunter.

OLD BUSINESS:
CASE 68-20 – PLAZA POINTE – GUIDEPOST MONTESSORI – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, for a Daycare/Montessori, located south of 135th Street and west of Roe Avenue. PUBLIC HEARING

Chairman Elkins: Does staff have any additional information regarding developments since our last meeting?

Staff Presentation:
City Planner Grant Lang made the following comments:
Mr. Lang: Since the previous meeting, the applicant met with the property owners to
discuss concerns, and changes were made to the plan. The playground on the east side of
the building was reduced, allowing for better pedestrian sidewalk connections to the
parking lot. The applicant has removed parallel parking on the west side of the structure,
creating more room for open space. The proposed sidewalk connection to Roe Avenue
was removed at the request of the neighboring property owners. The application does
meet all requirements of the Leawood Development Ordinance (LDO), and staff
recommends approval of Case 68-20 with the stipulations listed in the report.

Chairman Elkins: Thank you. Mr. Horney, are you present on behalf of the applicant?

Applicant Presentation:

Mr. Horney: As Grant mentioned, we met last Thursday to discuss the concerns from the
letter you received previously. As Grant said, we addressed the 24’ width, the concern
about the parallel parking, the concern about the sidewalk connection to Roe Avenue, and
did our best to clarify the questions around the number of staff and parking. I know you
also received a new letter recently. I want to make a note that, from the staff
recommendations, Item No. 9 asks for a cross-parking easement to be recorded. This was
recorded when the original development happened in 2002. I won’t be re-recording a new
easement, but we will work within the existing easement. I don’t know if now is the
appropriate time to address some of the concerns from the letter that I receive a couple
hours ago.

Chairman Elkins: Thank you. Let me take up one issue first with Mr. Lang regarding the
recording. Is it staff’s position that something in addition needs to be recorded in the
county records, or does the existing recorded cross-easement suffice?

Chairman Elkins: Thank you. Mr. Horney, if you could address the concerns in the most
recent letter that would be helpful.

Mr. Horney: Let me start by saying that I’m not sure, based on the initial letter and now
the second letter, if there is anything I can do to satisfy some of the neighbors, one of
which owns an existing daycare nearby. It is clear that, despite addressing as many
concerns as I can, I’m not going to be able to address the concern that he just doesn’t
want it to be there. I’ll highlight some of the concerns in the new letter. The first page
talks about the changes we’ve already made that you see in the plan. We’ve confirmed
we have 24 feet. We removed the parking on the west side. On the second page, I’m
supposedly being accused of baiting and switching the number requirements. I believe
you received a copy of the letter of us responding back prior to the meeting.

Chairman Elkins: I believe that is the case.

Mr. Horney: The Kansas Department of Health and Environment has specific laws about
this. Under our current plan, we have a 115-child plan. That requires us to have 17 staff.
The reason we are seeking 5,025 square feet is, as you may know, plans can change. There is nothing bait-and-switch about it; we’re trying to make sure if the population or age groups of our school change, we don’t then become noncompliant with the current requirement. We’re trying to make sure we have the ability to change because if there is an infant classroom that goes from nine students to a 3-6-year-old classroom that could have 20-24 students, it would require fewer staff with almost double the number of children. We’re trying to give ourselves enough flexibility to grow as the school grows over time. That’s why we’re proposing the 5,025 square feet. That does not mean that we will have increased staffing. Quite likely, it would be the opposite. As far as capacity or traffic, we provided a study. I’m not sure if it’s appropriate to comment on that. We provided the specific parts of the Kansas Department of Health requirements regarding parking. You have the floor plan. I do want to comment that there are comments about assistant teachers and cooks. We have a warming kitchen, so cooking will not happen on the property. Assistant teachers are not required. To me, the third page reads about how someone else believes they would run the property and not how we’re required to run the property. I’m not interested in getting into a debate about that. There are clear requirements from the Kansas Department of Health. On the parking lot space and landscaping, all I could refer to is the Staff Report. We’ve complied with all the requirements and the LDO. Regarding child safety, we created the 2’ wall that surrounds the parking lot that will be lined with brick. It will match the property, but the height would stop a car from potentially injuring a child or entering the playground. As far as walking a child from the parking spaces and the lack of parking, I guess we should talk about the plan of how we would actually park this. All of the employees would park in the southeast corner. The parents would drop off in the front or the northeast corner, which is directly accessible to the sidewalk that comes out. These are children under six, and it’s a requirement of the school that every parent walks the child into the school. Kids aren’t running around in the parking lot. There was a comment about a rear setback. We’re not changing the structure of the building, so I would defer to Grant and his team on that. Regarding the sidewalk and shared easement, the sidewalk is there. He is correct in saying that we will be building a playground. Per our access and easement agreement, we have the ability to do so. I’m not sure what to say other than that. On Page 5, there are comments about façade changes. We will be swapping out a couple windows for doors, but the property already has transoms. It wouldn’t be much different than what you see today. It will continue to be a glass door with a different window. I’m not sure how to address the snow removal concern. I don’t think it’s appropriate to comment on the issues that need correction on the Staff Report and LDO violations. If there are questions, I’d be happy to answer them.

Chairman Elkins: Thank you. Does the commission have questions?

Comm. McGurren: Would it be fair to say that you’re in agreement with all staff recommendations?

Mr. Horney: Yes.
Chairman Elkins: Thank you. Are there other questions? If not, this case requires a Public Hearing. It will be using the Zoom format. Staff has received indications to provide additional testimony from a number of individuals. Before I open the Public Hearing, I’d like to cover ground rules. We permit four minutes for commentary. You’ll see a clock that will count down. When we get down to about 30 seconds, I will attempt to let you know time is running out. We would ask that you be respectful of the clock. We certainly want to hear your comments.

Public Hearing
Kerry Lawing, 4745 W. 136th Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Lawing: I’m in the building adjacent to the property we’re discussing. The first thing that I guess I would say I’m concerned with because of COVID is our building, which is about 14,000 square feet, only has about 40% occupancy right now. Frequently, the parking is already very tight. One of my predominant concerns is that there are eight parking spots removed. The entire development has shared parking. There is no reserved parking for one building versus the other. I have no qualms against any business – daycare or other. I do think that it’s not likely at 7:30 in the morning and in the afternoon that this parking doesn’t become a much bigger problem as parents are dropping kids off. We’re an investment business. All our staff starts at about 7:30-8:00. We don’t even have enough spaces when everybody shows up now. What will it look like when we remove nine spots for parking, certainly at the peak times? That is a major concern. The second thing I would look at is our executive offices will literally be overlooking the playground. I’m not sure what the answer is, and I’m not against any business, but our entire suite of offices looks at the Carpet Corner building. I don’t know that it’s necessarily what we thought we were getting, and I didn’t really think it could be changed in such a significant way as it relates to the setbacks. We had to get approval from the City of Leawood for a paint color. I can’t believe we can do the playground. There doesn’t seem to be a setback or green space on our side. It seems to be inconsistent with some of the other rules. Lastly, a lot of noise comes from playgrounds. There are other schools in the area. It is literally right next door to our building, so I don’t think there’s any way to address that. Those are the major concerns with a significant investment with employees and other people from when we bought the building. This is a significant change. I’d respectfully ask that the committee consider those things as we considered the changes overall. Thank you.

Brad Tally, 13650 Roe avenue, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Tally: I just want to thank you for a forum that lets us attempt to be good neighbors. I’m living on faith that people who guide us are using a vision of prosperity. With that said, I’ve been a faithful community business owner in Plaza Pointe for about 17-18 years. I was one of the first buildings in the development. I worked with the developer and his architect from California. I was also there when the development was transferred from the developer to the owner-run Plaza Pointe Owners’ Association. I know a lot went
into the development, the design, and the queues. I sat through all the Planning Commission and City Council meetings. It was quite a project to get through. I would like a new neighbor. The building has been disregarded and kind of an eyesore for many, many years. I have tried with the landscaping to help with that, but it’s really been a challenge. I’m not against a business or anyone coming in and doing their job. I’d encourage every one of you to visit our corner. It’s a very high-traffic corner in the neighborhood. It has special nuances that can’t be seen on a piece of paper. I’ve been in practice for 26 years in the area. My patients are 55 years old on average – anywhere from 3 to 103. I have three major concerns to talk about. Number one is the traffic flow around the buildings. It is very tight where this minimum 24 feet comes into play. That’s not the measurement I get between the curbs. It’s more like 22 feet. I know the plans will be exact when they come through. I worry about the traffic flow, and I want people to think about that. I would encourage you to look at the Olsson Traffic Impact. Currently, in the morning, the peak AM time, there are only three trips. The proposed trips are going to be 79 between 7:00 and 9:00 a.m. In the afternoon, there are five trips between 4:00 and 6:00 p.m. currently. There will be 90 trips in the afternoon. We’re talking about five parking places in the front of that building for 90 or 130 children there. It just seems really challenging that it’s going to work. 136th comes out to Roe, and there is a median in the center of Roe. If people are dropping off children, they will have to figure out a way to either cut back through my parking lot and work their way back around to 137th and Roe to turn left to go back toward north, which is Corporate Lakes and Kansas City and where a lot of people are going to head off to work. The traffic flow is a real problem. I guess I don’t understand how easement agreements and all of that type of stuff work when you’re able to sign all of that and make it a priority that we can just remove sidewalks. There is an open space between my building which is directly south. Our two buildings are 36 feet across. That concrete area was set by the City of Leawood to be an area where people gather and walk through. Chris is pushing the playground right to the edge of the property line, which goes over the sidewalk. There will no longer be access from that side of the building for patients, for people with dogs going to Sydney’s Pet Spa. They will have to walk back along that side to the front of the building to get their children in the front door. On the west side of that area between our two buildings, the sidewalk is actually on my property. I’m not quite sure how that works. I believe there is some type of rule where the Kansas Department of Health requires a fence all the way around an existing daycare. I’m not up on that, but I’m assuming I’ll end up with a fence between us, in the middle of a concrete patio that is designed, landscaped, and supposed to be an area to look at that is nice. All of my patient chairs face north and look out onto that center area. They’ll no longer have access to that. During the pandemic, I have patients waiting out there and families waiting for patients. They’re not going to have access. The parking, traffic flow, and access to the center patio while covering up the sidewalk access are points I really don’t understand. Thank you for listening to my comments.

Ken Bowdy, 15415 Ironhorse Circle, Leawood, appeared before the Planning Commission via Zoom and made the following comments:
Mr. Bowdy: In 2001, my wife Anita and I applied for a Special Use Permit for the Primrose School of Leawood, a childcare facility in the Plaza Pointe development. Plaza Pointe was the first project developed along the 135th Street Corridor, and we were among one of the first projects proposed in the development. We were concerned about the significant number of requirements the city required of our project to meet the Special Use Permit. One requirement was related to the playground. The city required an extensive amount of brick walls to screen the playground from view, combined with a large amount of landscaping to screen the brick walls. We were also required to use a premium-quality metal decorative fence material, and the landscaping was required to soften the view of the fencing. This was just one of many requirements for us to receive a Special Use Permit, and we agreed to these requirements. We knew these needed to be met in order to maintain the standards of the City of Leawood and the Plaza Pointe development. We also knew that, as other projects developed throughout the area, the city would require others to be held to these same high standards. Not only was this evident in the projects presented in just the last two Planning Commission meetings, but also recently in the approval of the Kiddie Kollege childcare facility at 134th and Briar. Kiddie Kollege, Primrose School of Leawood and Crème de la Crème are just a few examples of nearby childcare facilities that required Special Use Permits, and they were all required to these high standards. The proposed design of Guidepost Montessori is clearly not meeting this high standard and is not meeting the requirements for a Special Use Permit. The design of the playground does not meet the requirement for a Special Use Permit. The proposed design is extremely unsafe and would be detrimental to the public health. The lack of an appropriate setback and the fact that cars would be traveling inches from the fence separating the children from moving vehicles is extremely dangerous. This proposed use is in no way operating in a manner compatible with the surrounding uses. These issues are a violation of the LDO standards for approval 16-4-3.5 a. and b. The removal of a significant number of parking spaces does not meet the minimum number of spaces that are required throughout the Plaza Pointe development. Every lot in the development was required to have 4.7 spaces per 1,000 square feet of building and is subject to a shared use of these spaces. The removal of any parking spaces would violate this agreement. This is also a violation of the LDO, Section 16-4-3.1, which states that the impact of a Special Use Permit cannot inappropriately affect or impair the use and enjoyment of neighboring properties. The proposed removal of sidewalks would create unsafe access to the only entrance on the north side of the building and would restrict access throughout the development. This is also in violation of the standards of approval, Section 16-4-3.5. The result would be detrimental to the public health and safety, as well as not being compatible with the surrounding uses. The restricted access would inappropriately affect or impair the use and enjoyment of the neighboring properties and be in violation of Section 16-4-3.1. These are only a few of the many reasons this proposal does not meet the standards for approval of a Special Use Permit. The applicant has every right to bring their business to the City of Leawood, but they should be required to find the location and present a design that meets the standards for approval. I’d like to thank each of you for the difficult decision that you make on behalf of the community. I’d also like to thank you for the opportunity to speak tonight, and I recommend that 68-20 be denied approval of a Special Use Permit in this proposed plan.
Sudha Amoran, owner of Primrose School of Leawood, 4820 W. 137th Street, appeared via Zoom and made the following comments:

Mrs. Amoran: A few things have been mentioned with regard to the Guidepost Montessori project, and I wanted to add some context from experience owning and operating a childcare center in Leawood. Most of the traffic and parking space for a center in use is during the morning and evening during pickup and drop-off time. There was a comment made in the last meeting that it would only need to have 3-7 teachers in the center for the morning. This is highly misleading and incorrect. They would require more teachers than that. If you look at the parking space calculation, you’ll see that they say the employees at max shift will be 17. They do not include an assistant director, which is required by the State of Kansas for a center over 100, a cook for the planned kitchen, and an assistant teacher required for restroom breaks and to do the staff lunch breaks in the building. Meals will need to be prepped and served to the children, as required by licensing. They cannot possibly do this without a cook or a teacher that will be in charge for all of this. As proposed, they would need at least 21 staff to do this. The project does not take children’s safety into consideration. They are removing a sidewalk on the east side of the building. There is no way for children to safely get to the front entrance without a sidewalk. When we do pickup and drop-off for the children, they go to the sidewalk and then inside the building. That’s how our procedure is. With this design, parents and children will walk on the driveway where cars are going to go to the front of the building. At the meeting last week, the applicant mentioned that this is like a grocery store without a sidewalk. I want to say very clearly that a childcare center is not the same as a grocery store. There should be a sidewalk on the side of the building if that is parking. There is no space between the playground and the driveway on the site. In the front, there is no landscaping setback before the playground fence. This is very dangerous. At a childcare center in Texas, a car ran into a fence and injured children. They should be required to have a setback like we have at Primrose and at Kiddie Kollege of Leawood. All of you should have a letter from the Association showing the business owners of Plaza Pointe are against this proposed land. Please do not approve this Special Use Permit for this project, and thanks for the time.

Chairman Elkins: Thank you. Is Matt Mitchell present? Is there anyone else from the public who wishes to be heard on Case 68-20?

As no one else was present to speak, a motion to close the Public Hearing was made by Coleman.

Daniel Burkado, 605 W. 47th Street, Suite 200, Kansas City, MO, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Burkado: I’m here on behalf of Matthews Real Estate Group, the current owner of the Carpet Corner building. I just wanted to say that the current owner is in full support of pushing this forward. Of course, one thing to take into consideration is there would be some pretty drastic improvements to the property, which would in turn increase property values for people who are already occupying these buildings. It sounds like Mr. Horney
has gone through rebuttals to some of the issues that were brought up. I just wanted to let you know that the Matthews Real Estate Group is also in support of the Special Use Permit.

**Chairman Elkins:** Thank you. Any other comments from the public on Case 68-20?

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

**Chairman Elkins:** This is the time for the applicant to respond to the comments in the Public Hearing. Mr. Horney, do you care to be heard?

**Mr. Horney:** (Shares screen) I’d like to start with a few statements that are, perhaps, a bit misleading. There was a mention of Kiddie Kollege having the same requirements as Primrose. I guess they do not have a brick wall around their fence. It is just a simple metal, ornate fence, similar to the type we would have. That fence would sit above the 2’ wall that was put in place to ensure we could have a safe playground. I want to clear up a comment about removing the sidewalk connection. To be clear, the sidewalk that is south would not be removed, and we would not have fencing alongside the property. The only fencing would be around the playground. With that, I’m happy to stop and answer questions if you have any.

**Chairman Elkins:** Thank you. Questions for Mr. Horney? I know you’ve addressed this a time or two, but it continues to arise. Can you give us your perspective on the staffing requirements from the State of Kansas for your facility and the question about the need for a cook and assistant teacher and assistant director?

**Mr. Horney:** In our application, we said 18. In the letter we provided to the neighbors, we have a total of seven classrooms. One infant classroom has nine students and three staff. Two toddler classrooms have ten students each and two staff each. One 2-3-year-old classroom with 14 and three with an age range of 3-6 have 24 students each and six staff. We will have at least one administrator but may end up having two. This is a total of 15 staff, plus the administrator and assistant, which makes 17. We are not required to have a cook. The food is brought in. Even if we were, it would be 18, which is exactly what we said in the application and on the drawings. All of this is dictated by the Kansas Department of Health. When you get a license to run a daycare, they dictate all of this. This isn’t something that is really debatable. It is somewhat formulaic. I’m not sure why there is as much confusion or concern about it.

**Chairman Elkins:** Just for the record, at this point, do you have a license, or is the appropriate time to get one once the building is done?

**Mr. Horney:** You can’t get your license until after the facility is complete and they come out to inspect the facility to ensure that we’ve actually met all the guidelines. We wouldn’t even get that until after we got the Certificate of Occupancy.
Chairman Elkins: So, if there’s an error in your analysis of the Kansas regulations, you’re at risk for not obtaining the necessary license to operate your business, correct?

Mr. Homey: Absolutely, and by that point in time, we would have spent millions of dollars in doing this. Guidepost Montessori, which is Higher Ground Education, has 45 schools across the country. They’re very well versed in ensuring they follow the rules and guidelines of each respective Department of Health.

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

Comm. Coleman: There are some alarming accusations from some of the people in the Public Hearing, both written and verbal, that we are not meeting the LDO or adhering to our local laws. I just wanted to get your response to that.

Mr. Lang: It looks like a little bit of the confusion is coming from previous installments where they built Primrose or Kiddi Kollege. A lot of times, those setbacks that they’re referring to are exterior lot line setbacks. Those are much different than what we’re looking at here as far as interior. Currently, the playground doesn’t have an additional setback. Where they are at Kiddi Kollege, the main setback would be from that space. That’s probably why they required additional landscaping.

Comm. Coleman: To the best of your knowledge, the report says they meet all of the regulations. Is that correct?

Mr. Lang: That is correct.

Comm. Coleman: In this development, everyone owns their own building and property, but they’re part of the association for the entire development. Is that correct?

Mr. Lang: I believe so.

Comm. Coleman: On Page 1 of the Staff Report, you highlight an orange rectangle. Is that the property line for the building that is being proposed?

Mr. Lang: Those will be the interior lines for that property.

Comm. Coleman: Then, under the ownership, they can do what they want within regulations for their property that they’re purchasing.

Mr. Lang: I believe so. It looks like they have specific deeds and covenants, but as long as they’re within those guidelines, they’re okay.

Comm. Coleman: Can you also point out the tenants in the building to the west of the proposed building?
Mr. Lang: I believe the tenant in that building spoke earlier today. That was Kerry Lawing. I’m unsure of the business name.

Comm. Coleman: The building to the south?

Mr. Lang: That is Brad Tally’s building. He’s a dentist. There is also a pet spa.

Comm. Coleman: I believe the building to the west was an investment company. To the best of your knowledge, are there any other businesses in that building to the west?

Mr. Lang: I don’t believe so.

Comm. Coleman: The southwest corner of this tract has three buildings and this very large parking lot to the southwest. To me, in looking at the entire development, that tract of land is meant to be shared parking for all three buildings in that square of the development site.

Mr. Lang: Yes, they all have a shared parking agreement.

Comm. Coleman: But I’m not seeing Primrose using that parking lot; it will basically be those three buildings in that tract. Do you know how many parking spaces are in that lot?

Mr. Lang: Off the top of my head, I do not.

Comm. Coleman: It’s a significant number.

Mr. Lang: Yes, it looks like it.

Comm. Block: There were comments made about the landscaping around the fence at Kiddi Kollege and the school closer to the subject property. Was that a requirement then?

Mr. Lang: I’d have to refer to Mark Klein on that to know if it was a requirement at that time.

Comm. Block: But it definitely isn’t now.

Mr. Lang: No.

Comm. Block: I thought there was a rendering of a vinyl fence, but then Mr. Horney said it was going to be something similar to a metal fence.

Mr. Lang: There is a stipulation listed that they will match what is existing within the development. There is an example at the Primrose Schools with a metal, wrought-iron look.
Comm. Block: That will be the case, and the stone 2’ structure would be brick to match the existing. Thank you.

Chairman Elkins: Mr. Lang, are there two different traffic studies? Is there a traffic study done by the neighbors and one by the applicant?

Mr. Lang: I believe only the applicant has done one. If the neighbors have one of their own, I haven’t seen it.

Chairman Elkins: So, this Olsson traffic study we heard about was done at the applicant’s request.

Brian Scovill, City Engineer, made the following comments:

Mr. Scovill: The Olsson traffic study was requested by the city from the developer. We simply asked for a traffic generation comparison to consider what kind of traffic impacts this development might have on public streets surrounding the development. We did not evaluate internal circulation or impacts within the development.

Chairman Elkins: What conclusion did staff draw from reviewing the traffic report?

Mr. Scovill: There would be a significant increase in traffic compared to the previous building. The increase would be very marginal when compared to the capacity of the street network.

Chairman Elkins: Can you tell us a little about how either Olsson or your staff have factored in the current pandemic? I assume they looked at traffic recently, and we hope that’s not normal, though it may be the new normal.

Mr. Scovill: That’s a great question. With respect to what was evaluated in this case, we really didn’t have to look at traffic volumes and the capacity of the current volume on the road. We looked at the trip generations based on the use of the site. If we were to look at the volumes, we would look at the most recent volumes and compare current volumes. Then we look at a factor to grow the volume based on several variables, including what we might consider traditional growth based on commercial and residential development in the area.

Chairman Elkins: Thank you. Could either you or Mr. Lang comment on the analysis that staff has put into the impact of the removal of the five parking spaces?

Mr. Lang: What we’re mostly concerned about is needing to maintain a ratio of 5.1 parking spaces per employee on a maximum shift. With this plan, they meet that, and it comes from the LDO.

Chairman Elkins: What about the cross easements?
Mr. Coleman: I think you meant to say 1.5.

Mr. Lang: That’s correct; it’s 1.5. As far as the cross-access easements go, it appears that they are meeting that within their deeds and covenants.

Comm. Block: We don’t typically look at circulation within the property; it is only on the adjacent streets other than for fire apparatus, for example. Is that correct?

Mr. Scovill: Public Works typically does not look within the property. Occasionally, we’re asked to help or review it or have our consultants look at it. We don’t generally evaluate the circulation unless there’s something to flag that. In this case, we didn’t have a lot of discussions on the circulation. It’s a fairly simple circulation plan here as opposed to the discussion we had with Cure of Ars with significant delays in queuing onto Mission Road.

Comm. Block: Even with the public comments, you don’t think that’s necessary in this case?

Mr. Scovill: We could look at it if requested. I don’t think we’ll have any surprises. I don’t anticipate the evaluation to come back with any major red flags. It’s a very basic grid network within this site. The number of vehicles coming out and utilizing the site during morning drop-off and pickup would be the item to look at and the number of parking spaces utilized for that. I would have to consult with probably Olsson and Associates. Since the developer used them, we would look to another consultant. We could certainly look into that.

Comm. Block: That’s okay; I just didn’t know if it was typical or not.

Chairman Elkins: Thank you. Mr. Lang, the provisions of the LDO around Special Use Permits direct us to consider the impact of the Special Use on the uses and enjoyment of the neighboring properties. Can you tell us a little about how staff analyzed that in recommending the Special Use Permit, especially in the context of this internal flow of traffic?

Mr. Lang: I would have to refer that question to Mark Klein.

Mr. Klein: You’re absolutely right that a Special Use Permit is different than a business that is coming in and doesn’t require a Special Use Permit because we are supposed to consider the impacts. It is my understanding that the site came in and looked at the number of required parking spaces of 1.5. I wanted to make note that they are required to still have that amount of parking over time. If they have a maximum of 18 staff, it allows 27 parking spaces. They couldn’t go over that amount of staff because they’d be in violation of the Special Use Permit. With regard to circulation, we are requiring 24’ drive aisles. I imagine some of the traffic will continue south to go down to 137th Street. I imagine there might be others on the north side that go up to 136th Street and out that way. Obviously, that’s a right-in, right-out at that intersection.
Chairman Elkins: What is the term being proposed for this Special Use Permit?

Mr. Klein: By default, there is a 20-year time period. The Planning Commission has the ability to restrict that further.

Chairman Elkins: We have the authority to recommend for approval a shorter term if we think it might be appropriate.

Mr. Klein: Correct.

Chairman Elkins: Mr. Lang, was there another question you referred to Mr. Klein?

Comm. Block: I think it was the history of why fences had screening in the past but this one doesn’t need it.

Mr. Klein: I’m not aware of a specific requirement of the screening of the fences. When Plaza Pointe came in, it was in 2000. This is one of the first projects I was exposed to. Market Square was the first development along that corridor because it was here when I arrived in 1999. Plaza Pointe was designed to have a village feel to it. That’s why the buildings are lined up along 135th and Roe. The buildings are spaced out with parking interspersed. Some of those features are design features. Primrose Daycare on the northwest corner of 137th and Linden has areas of semicircular landscaping around a drive. The fencing is 5-6 feet from the property line. Staff probably tried to screen to add a softness. It is along 137th Street, which is a public street. In this case, the parking and landscaping go along Roe Avenue, which will help soften it from the public right-of-way. I know there was a question about parking. This was approved in 2000. The current ordinance went into effect in 2003, adopted in 2002. At the time Plaza Pointe came through, they were required to have a minimum of five parking spaces per 1,000. That was citywide with office and retail. In this case now, since we’re in the current ordinance, we have a minimum and maximum. We have 3.5-4.5 within the SD-CR district, which this is part of. This development has both office and retail.

Chairman Elkins: Thank you. Among the standards for approval are the requirement that the proposed use not be detrimental to the public health, safety, or general welfare of the city. In some of the public comments, there was concern expressed about the safety issues relating to children and parents entering and exiting this proposed school. In addition, we’re directed to determine that the proposed use is operated in a manner that is compatible with the surrounding uses. Can you comment a little bit on staff’s take on those two standards?

Mr. Klein: As far as the location within Parkway Plaza, a lot of the circulation will go through common area parking. Even if you’re at Primrose Daycare, there is a chance you’ll be traversing to the north to 136th Street. It is not uncommon for this development. Staff is looking at the fact that parking is adjacent to the fence, and there really isn’t too much of a barrier between the drive aisle and the parking to the east. That is the reason
the 2’ wall was important to staff. With regard to cars going parallel to that, the 2’ wall would help protect there as well.

**Chairman Elkins:** Thank you. Other questions for Mr. Klein? Mr. Horney, I have a question for you, and then I want you to have the last comment before the commission makes a decision. We’ve talked a bit about the license that your client’s business is required to have to operate the school. Does that license have a term? Is it renewed annually? What is the term of the initial license that you’ll get from the State of Kansas?

**Mr. Horney:** I’d rather have the tenant answer.

Jocelyn Scotty, VP of Schools for Higher Ground and Guidepost, 100 Orchard, Suite 200, Lake Forest, CA, appeared via Zoom and made the following comments:

**Ms. Scotty:** Every state is different, so I’m going to apologize in advance. I don’t know the length of time for Kansas. We have a whole compliance team that does all of our licensing for all of our schools to make sure we are renewing and are being successful in all of the licensing we pursue.

**Chairman Elkins:** I’m just curious as a data point for us. Typically, in the states you are aware of, are the licenses for multiple years, or do they have to be renewed annually?

**Ms. Scotty:** Typically, they’re for multiple years, or sometimes, we might need to renew a license if there is a change in leadership.

**Chairman Elkins:** Any other questions for the applicant? Mr. Horney, do you have anything to add?

**Mr. Horney:** I guess I appreciate you guys spending the time to listen to us and allow us to answer questions. I would say we did our best to address the concerns of our nearby neighbors. We certainly don’t want to go into a situation where we’re making our nearby neighbors, that we’re going to be part of an association with, unhappy but at the same time, we believe that this is a great use for the area. We believe its additive for the City of Leawood. Unfortunately, I don’t know if there’s anything we can do to address the underlying concerns of a couple of the residents. I guess we did our best, and I believe we have done the best to satisfy the Planning Commission. I appreciate your time. If you have anything else, let me know.

**Chairman Elkins:** Thank you. That moves us on to a discussion of the application. Are there commissioners who wish to be heard on this?

**Comm. Coleman:** In my time on the commission, I cannot remember a period where all the neighbors for a new development were very much against a project, including the property manager as well. With that, I feel for the tenants. This is a big change for the area with the shared parking, but I also do want to point out that there’s a very big parking lot to the southwest, which has an intended use for the three existing buildings in
that quadrant. While it’s not ideal and not directly in front of the building, it’s a short walk. I think it’s a viable alternative if there is less parking directly in front of the buildings, especially for staff. I could see them very easily parking in that lot and walking in. I’ve had much longer walks for my jobs. With that, it meets our guidelines. While the tenants and other owners may not see that this is a good use of the facility, it does meet everything of our LDO. It meets our requirements. I think it’s a good addition. Obviously, there’s a great need in this area for good quality daycare. I would think they would meet that need. I think it’s a good use of the land and of that building.

Mr. Bowdy: Would I have the ability to interject a correction?

Chairman Elkins: We’ve closed the Public Hearing. I apologize for that.

Mr. Bowdy: There’s a misunderstanding of the parking to the Prevail building. That is private property. It is not common area.

Chairman Elkins: Is there a cross easement to that parking?

Mr. Lang: Yes, there is for the entire development.

Chairman Elkins: Thank you. The point I would interject for the commission’s consideration is that the public and neighbors in particular have raised questions about the impact that this use might have on their use of their property and the property they’ve enjoyed since, in some cases, the beginning of the project and also have raised a question about public safety with respect to both the use of the playground as it’s configured and to the parking, ingress, and egress from the building. One regulatory tool we have available is the ability, if we think there is a substantial question, of shortening the length of the Special Use Permit and revisiting that after some appropriate time, balancing appropriately the impact on the applicant and their substantial investment but also giving the city the opportunity to revisit the actual impact sooner than 20 years. At this point in time, all we really have is speculation about what we think might happen. One opportunity might be to limit the term of the Special Use Permit to five or seven years and give us a chance to revisit later on. I don’t know that I’m advocating that, but I raise it as a possibility. Other comments?

Comm. McGurren: I agree with what has been said. The thing that made me feel better about the conversation we had during the Public Hearing as compared to the subsequent insights was not only that it met the LDO and that staff was in favor, but that the State of Kansas will provide a license and will only do so after having had their onsite review and full assessment, obviously to the intent of protecting children on the property. To me, that’s another support mechanism. Your idea of having a shorter time frame and reassessment does seem reasonable.

Comm. Block: With all due respect, I don’t like the idea. I think that it is a significant capital investment, and I think we either approve it or don’t. I think shortening that time and giving an unknown in five years shouldn’t be a factor.
Chairman Elkins: Frankly, that was one of the questions I asked about the term of their license because it would make sense to tie the Special Use Permit to the term of their license. It’s unfortunate they’re not in a position to share the term of that license. Other comments?

Comm. Peterson: I do agree with Commissioner Block. I don’t think we should consider shortening the term of the Special Use Permit from 20 years primarily because the State of Kansas ultimately could close them down within months if they wish to. If there is any hazard to the children or any violation of state law, I would hope the State of Kansas would step in and take appropriate action. I am somewhat confused. I’ve been in that area many times before, especially because of Sydney’s Spa. There appears to be, to the south and west, a reasonable amount of parking available. I do not know what the peak times are because the times I’ve been there are probably not peak times; however, the large area to the west of Dr. Tally’s building and Sydney’s Spa is one that I was not aware was not a common area. It is fairly significant. Getting back to Commissioner Block’s point, I don’t see any reason to shorten the time period on the Special Use Permit. Frankly, if something goes seriously wrong, the most important thing would be the safety of the children. The school wants to protect the license with the State of Kansas and do everything in their power to continue operation. Otherwise, this is going to be a very expensive project for them. That’s really the bulk of what I would like to say. I personally propose to support this.

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

A motion to recommend approval of CASE 68-20 – PLAZA POINTE – GUIDEPOST MONTESSORI – Request for approval of a Special Use Permit, Preliminary Plan, and Final Plan, for a Daycare/Montessori, located south of 135th Street and west of Roe Avenue – with the elimination of Stipulation No. 9 - was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

Chairman Elkins: Thank you to the applicant and to the public.

Adjourning for a five-minute recess

NEW BUSINESS:
CASE 70-20 – VILLA DE FONTANA – Request for approval of a Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 ((Planned Cluster Attached Residential District)(6,000 Sq. Ft. Per Dwelling)) to RP-2 ((Planned Cluster Detached Residential District )(6,000 Sq. Ft. Per Dwelling)), Preliminary Plan, and Preliminary Plat, located south of 135th Street and east of Roe Avenue. PUBLIC HEARING

Staff Presentation:
City Planner Grant Lang made the following presentation:
ORDINANCE NO. __________

ORDINANCE APPROVING A SPECIAL USE PERMIT, PRELIMINARY PLAN, AND FINAL PLAN FOR PLAZA POINTE – GUIDEPOST MONTESSORI, LOCATED SOUTH OF 135TH STREET AND WEST OF ROE AVENUE. (PC CASE 68-20)

WHEREAS, the applicant submitted a request for approval of a Special Use Permit, Preliminary Plan, and Final Plan for a Montessori school;

WHEREAS, the Planning Commission reviewed the application on September 22, 2020 and recommends approval of Case 68-20 with certain stipulations; and

WHEREAS, the Planning Commission’s recommendation was presented to the Governing Body on October 19, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION 1. APPROVAL OF PRELIMINARY PLAN AND FINAL PLAN GRANTED. Pursuant to Sections 16-3-10 and 16-3-11 of the Leawood Development Ordinance, permission is hereby granted to use the following property, in the manner set forth in the Preliminary Plan and Final Plan, on file with the Leawood Planning Department, 4800 Town Center Drive, Leawood, Kansas, 66211, and in accordance with Section 16-2-6.3 of the Leawood Development Ordinance, subject to the stipulations set forth herein, and subject to all other laws and regulations:

Lot 8, Plaza Pointe, a subdivision in the City of Leawood, Johnson County, Kansas.

SECTION 2. SPECIAL USE PERMIT GRANTED. Pursuant to Section 16-4-3 of the Leawood Development Ordinance, permission is hereby granted to use property described Section 1 above as a Montessori school in accordance with the provisions herein and in accordance with the City’s ordinances, and subject to the conditions and stipulations set forth below.

SECTION 3. CONDITIONS AND STIPULATIONS. Approvals of the preliminary plan, final plan, and special use permit granted herein, are hereby approved and adopted subject to the following conditions and stipulations:

1. The project is limited to the Plaza Pointe development, Guidepost Montessori and the construction of two playgrounds, and rearranging of parking areas.
2. Prior to Governing Body consideration, open area shall consist of 30% living material; and shown on plans.
3. Prior to Governing Body consideration, fencing shall be updated to remain consistent within the Plaza Pointe development; and shown on plans.
4. Prior to Governing Body consideration, curb height surrounding all playgrounds shall be increased, reducing the risk of vehicular accidents; and shown on plans.
5. All playground equipment shall meet all ASTM (American Society for Testing and Material) 1487 and CPSC (U.S. Consumer Product Safety Commission) current standards.

6. Per Section 16-4-3.6 of the Leawood Development Ordinance, this Special Use Permit shall have a duration of twenty (20) years from approval by the Governing Body, after which shall terminate if no new Special Use Permit is applied for and granted by the City of Leawood Governing Body.

7. A Special Use Permit for Guidepost Montessori shall be issued to Higher Ground Education Inc.

8. In the event the allowed use is discontinued for a period of three months or more, the Special Use shall be determined abandoned, and this permit shall become null and void.

9. Per the Leawood Development Ordinance, where pedestrian routes intersect vehicular access routes, the material of the pedestrian route shall be enhanced and differentiated from the vehicular paving material to match existing crosswalks within the Plaza Pointe development.

10. Per the Leawood Development Ordinance, all landscaped areas shall be irrigated.

11. The approved final landscape plan shall contain the following statements:
   a. All trees shall be callipered and undersized trees shall be rejected.
   b. All hedges shall be trimmed to maintain a solid hedge appearance.
   c. All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   d. Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   e. All landscaped open space shall consist of a minimum of 60% living materials.

12. A letter, signed and sealed by a Kansas registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

13. No construction shall be allowed between the hours of 9:00 p.m. to 7:00 a.m. and not on Sundays.

14. A sign permit from the Planning Department shall be obtained prior to installation of any signs.

15. The applicant shall obtain all approvals and permits from the Public Works Department, per the public works memo on file with the City of Leawood Planning and Development Department (Exhibit A), prior to issuance of a building permit.

16. Development rights under this approval shall vest in accordance with K.S.A. 12-764.

17. The conditions and stipulations of the preliminary plan approval remain in full force and effect except to the extent expressly modified herein.

18. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood including the Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through eighteen.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication as required by law.
PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Kelly Varner, City Clerk

APPROVED AS TO FORM:

Marcia L. Knight, Assistant City Attorney
Memo

To: Mayor and City Council
From: Mark A. Klein, Planning Official
CC: Scott Lambers, City Administrator
Richard Coleman, Director of Community Development

Date of Meeting: October 19, 2020
Date of Memo: October 6, 2020
Re: The Planning Commission recommends approval of unanimously (7-0) Case 75-20, Leawood Development Ordinance Amendment to Section 16-2-6.3, SD-CR (Planned General Retail)

The amendment proposes to increase the allowed maximum height of buildings within the SD-CR zoning district.

Currently, the Leawood Development Ordinance allows for buildings to have a maximum height of 50’. The proposed change to the Leawood Development Ordinance will allow for buildings to go up to a height of 65’ as long as for every foot in height that is increased, an additional 10’ is added to the setback on all sides for that particular structure/building.

If an applicant were to propose a building with the SD-CR zoning district with a height of 65’, the building will have to be setback 150’ from all property lines.

CHANGES MADE BY PLANNING COMMISSION:
- None
A) with noted exceptions. The intended purpose is to provide for neighborhood shopping centers properly landscaped to ensure open space and promote compatibility to surrounding neighborhoods.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in the SD-NCR district as specified in the Table of Uses are permitted in the SD-NCR District. All uses and any erection, construction, relocation, or alteration of any structure or building in the SD-NCR District, are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

<table>
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<tr>
<th>Requirement</th>
<th>Minimum Distance/Area</th>
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<tr>
<td>Front Yard Setback:</td>
<td>Structures: 40 feet&lt;br&gt;Surface Parking (Loading and Service Areas Prohibited): 25 feet</td>
</tr>
<tr>
<td>Side Yard Setback:</td>
<td>Structures: 40 feet&lt;br&gt;Surface Parking, Loading, and Service Areas: 25 feet</td>
</tr>
<tr>
<td>Interior Property Line Setback</td>
<td>Structures: 10 feet&lt;br&gt;Surface Parking, Loading, and Service Areas: 10 feet</td>
</tr>
<tr>
<td>Rear Yard Setback:</td>
<td>Structures: 40 feet&lt;br&gt;Surface parking, Loading, and Service Areas: 25 feet</td>
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<tr>
<td>Building Setback from residential</td>
<td>75 feet from property zoned, used, or master-planned for residential use</td>
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<td>Open Space</td>
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<td>Minimum Acres</td>
<td>10 acres per development, provided however that an applicant may seek a deviation as set forth in Section 16-3-9 of the Leawood Development Ordinance</td>
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<td>Floor Area Ratio</td>
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<tr>
<td>Height Limit:</td>
<td>40 feet</td>
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(Ord. 2366, 11-3-08[m1])

**16-2-6.3 SD-CR (Planned General Retail)**
A) **General Purpose and Description:** Property zoned and developed as SD-CR Planned General Retail shall be to provide for general retail business uses within the City. This district is designed to serve the motoring public or uses involving vehicular traffic and requiring areas bounded by a major street system for their most beneficial operation and which generally are larger in area and more intense in their operation than other retail districts.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in the SD-CR district as specified in the Table of Uses are permitted in the SD-CR District. All uses and any erection, construction, relocation or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

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<td>Height Limit:</td>
<td>Up to 65 feet; provided that structures between 50’ and 65’ must have an additional 10 feet of setback on all sides for each additional foot (or portion of foot) above 50 feet, 60-feet</td>
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(Ord. 2367, 11-3-08[m2])
CALL TO ORDER/ROLL CALL: McGurren, Coleman, Bock, Stevens, Hunter, Peterson, Elkins. Joined after the meeting began: Belzer. Absent: Hoyt

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

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

MEETING STATEMENT:

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

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

Electronic copies of tonight’s agenda are available on the City’s website at www.Leawood.org under Government / Planning Commission / Agendas & Minutes. Because this meeting is being live-streamed, all parties must state their name and title each time they speak. This will ensure an accurate record and make it clear for those listening only. This applies to all commissioners, staff, applicants and members of the
Ms. Knight: You can consider and deny it. The October 12th Governing Body meeting is a special meeting. I don’t know that it’s set specifically for this case; it was just due to the backlog.

Chairman Elkins: Mr. Petersen, would you ask that the record that was made on the Preliminary Plan be included as the record for Case 81-20?

Mr. Petersen: I so request; thank you.

Chairman Elkins: The chair notes that the record made for Case 70-20 shall become the record for Case 81-20 as well.

A motion to recommend denial of CASE 81-20 – VILLA DE FONTANA – Request for approval of a Final Plan and Final Plat, located south of 135th Street and east of Roe Avenue – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

A motion to extend the meeting for an additional 30 minutes was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

CASE 75-20 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.3, SD-CR (Planned General Retail) - Request for approval of an amendment to the Leawood Development Ordinance, pertaining to building heights within SD-CR (Planned General Retail). PUBLIC HEARING

Staff Presentation:
City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: You may remember from the August 11 work session that we talked about LDO amendments. This is one we discussed, which is the increase in height to the SD-CR building heights. Previously, in the work session, we showed examples, including an additional 1 foot and 2 feet per 1 foot of height for a building. After the comments we received from the Planning Commission, we thought maybe the setback was too small, so we increased that from 1 foot to 10 feet on each side per 1 foot in height. The LDO amendment we’re bringing forward would allow a building to up to a height of 65 feet, but it would increase the setback to 150 feet. We are available for questions.

Comm. Coleman: What is the reason for increasing the height of the buildings from 50 feet to 65 feet?

Mr. Sanchez: We have heard from developers, such as in the next case, that some want taller buildings in existing SD-CR developments. Staff thought it would be okay if this taller building is not near a close-knit neighborhood, or if it is a true SD-CR retail area
and is already set back far enough, the taller building may be acceptable in that range. That is why we even pushed it out to 10 feet. If a developer wants a 65’ tall building, it will require a lot of room to do that.

Comm. Coleman: Are there any 50’ structures in Leawood now?

Mr. Sanchez: Within Park Place, there are a lot, but that’s mixed-use. Mark may be able to answer better if there are others.

Mr. Klein: Within SD-CR, the tallest one I’m aware of is the Restoration Hardware, which is about 49 feet. There are buildings that are taller in SD-O (Planned Office), which is allowed to go to six stories and 90 feet. MX-D also allows up to 90 feet.

Comm. Coleman: Are the tallest buildings in the city in Park Place, then?

Mr. Klein: Yes.

Comm. Coleman: It’s about 90 feet?

Mr. Klein: Yes, but parapets aren’t included in the height, so it may even be a bit taller than that.

Comm. Coleman: How many stories is 65 feet?

Mr. Sanchez: It is around 4-5 stories, depending on how thick the floors have to be.

Comm. Coleman: How many SD-CR zoning areas are there in the city?

Mr. Sanchez: Maybe 7-10, but I would have to look at a map to give an exact number.

Comm. Coleman: They’re variously spread out from 151st Street?

Mr. Sanchez: They are spread out throughout the city. Because the developer has to have so much of a setback, it is not plausible to do within the smaller SD-CR developments, and that was really the intent.

Comm. Coleman: Which SD-CR areas is this a viable option for?

Mr. Sanchez: Town Center Plaza makes sense. Town Center Crossing may be able to utilize this as well, but we would have to check the setbacks.

Comm. Coleman: Anywhere else in the city?

Mr. Sanchez: There might be, but I would have to look.
Comm. Stevens: I think you answered this in the opening statements, but I had a conflict or wanted to make sure I understood the difference between what’s listed in the memo and the approved changes in the bulk regulation chart. In the example, if a developer wanted to build to the max, the memo indicates the building will have to have a setback of 150 feet from the property line. I think what we’re really saying is that’s an additive of 150 feet to the original setbacks to the property lines in the bulk regulations.

Mr. Sanchez: Correct, and we want to clarify that it is an additive.

Chairman Elkins: Thank you. Other questions? Because this is a proposed amendment to the LDO, a Public Hearing is required.

Public Hearing

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

Chairman Elkins: That takes us to discussion of the proposed amendment. Are there comments?

Comm. Coleman: One of my questions to Mr. Sanchez was about the SD-CR areas. I have absolutely no problem putting a tall building in Town Center, and I think it’s appropriate. I would have a problem putting it in more of a residential area. This is a concern if we throw it out for all SD-CR, even though it may not be practical in the area. I just don’t want to open a can of worms and have a developer come in down the road, wanting to put something in the area that really shouldn’t be in the area. I’d like to tighten it to just allow it in Town Center Plaza or something more specific instead of the whole SD-CR category or at least have some assurances that it is not viable in those areas that are more residential.

Chairman Elkins: Would that be spot zoning effectively? I don’t have an answer to that.

Comm. Coleman: If we get clarification or confirmation that a developer can’t have that kind of setback in one of the SD-CR developments, I’d be more comfortable with it.

Comm. McGurren: Your point is interesting. I thought about Ranchmart North and wondered about the bank in the back corner and if there is plenty of room there to have a setback in addition to 150 feet that would be quite visible to the homes on the cul de sac behind Cure of Ars. That would be a good example in my mind. I can see a scenario that would merit a limit or a justification that disqualified that situation and only allowed it in the two Town Center options.

Mr. Sanchez: If this gets continued, we can bring it back to the Planning Commission with a study for each SD-CR zoning that we have to show you where 150 feet plus the setbacks would be. We want to note that this does affect the next case on the docket.
Comm. Block: When we talked about this in the work session, my recollection was there were other situations that were 1-2 feet per 1 foot of height. This goes all the way to 10 feet to account for things like you’re talking about. It probably wouldn’t even apply to Ranchmart North because of the room needed. I’m comfortable with the 10 feet. I think the calculation was to push it back far enough away from the residential areas in close proximity that the sight line would not be as daunting. I’m supportive.

Comm. Coleman: I’m in support of the ordinance; I just think maybe before it gets to Governing Body that it gets researched a bit more for them. They’re going to read our minutes and understand our concerns, and you could have the answer ready for them.

Chairman Elkins: Good thought. Is there a motion?

A motion to recommend approval of CASE 75-20 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.3, SD-CR (Planned General Retail) - Request for approval of an amendment to the Leawood Development Ordinance, pertaining to building heights within SD-CR (Planned General Retail) – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Peterson.

CASE 64-20 – TOWN CENTER PLAZA – FIRST ASCENT (CLIMBING/HEALTH CLUB) – Request for approval of a Preliminary Plan, located north of 119th Street and west of Roe Avenue. PUBLIC HEARING

Staff Presentation:
Assistant Director made the following presentation:

Mr. Klein: This is Case 64-20 – Town Center Plaza – First Ascent (Climbing Health Club) – Request for approval of a Preliminary Plan, located north of 119th Street and west of Roe Avenue. This will remove five existing tenant spaces and construct a 64’ tall rock-climbing / health club. The square footage of the building will be 24,719 square feet. It is located directly east of Bravo Italian restaurant on the north elevation. The eastern half will go up to 64 feet. Another portion to the west will stay at about 32 feet. It does meet the setback discussed and approved in the previous application. I would like to change Stipulation No. 1 to refer to approval of a health club rather than the name Ascent. Staff is recommending approval of this application, and I’ll be happy to answer questions.

Chairman Elkins: Questions for Mr. Klein?

Comm. McGurren: My question relates to the nice aerial shot that shows the proposed location. Based on the height and the new setback, this doesn’t appear to show it back any farther than Bravo on the front of the proposed building. Should it be different?
ORDINANCE NO. __________

ORDINANCE AMENDING SECTION 16-2-6.3 OF THE LEAWOOD DEVELOPMENT ORDINANCE ENTITLED “SD-CR (PLANNED GENERAL RETAIL)” AND REPEALING EXISTING SECTION 16-2-6.3 AND OTHER SECTIONS IN CONFLICT HEREWITH. (PC 75-20)

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: Section 16-2-6.3 of the Leawood Development Ordinance is hereby amended to read as follows:

16-2-6.3 SD-CR (Planned General Retail)

A) General Purpose and Description: Property zoned and developed as SD-CR Planned General Retail shall be to provide for general retail business uses within the City. This district is designed to serve the motoring public or uses involving vehicular traffic and requiring areas bounded by a major street system for their most beneficial operation and which generally are larger in area and more intense in their operation than other retail districts.

B) Principal Permitted, Planned and Special Uses: Only the uses set forth as authorized in the SD-CR district as specified in the Table of Uses are permitted in the SD-CR District. All uses and any erection, construction, relocation or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) Accessory Uses: Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) Bulk Regulations:

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(Ord. 2367, 11-3-08)

SECTION TWO: This ordinance shall be construed as follows:

A. Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Savings Clause. The repeal of Ordinance sections, as provided herein below shall not affect any rights acquired, fees, fines, penalties, forfeitures or liabilities incurred there under, or actions involving any of the provisions of said Ordinances or parts thereof. Said Ordinance repealed is hereby continued in force and effect after the passage, approval, and publications of this Ordinance for the purposes of such rights, fees, fines, penalties, forfeitures, liabilities and actions therefore.

C. Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of this proposed Ordinance set out herein, or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the portions of this Code or other Ordinances.

SECTION THREE: That existing LDO Section 16-2-6.3 and other provisions in conflict herewith are hereby repealed.

SECTION FOUR: This ordinance shall take effect and be in force from and after publication in accordance with law.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

__________________________
Kelly L. Varner, City Clerk
APPROVED AS TO FORM:

__________________________
Marcia L. Knight, Assistant City Attorney
Staff recommends that the stipulation below be added to this application regarding the screening of the service area to the east of the proposed building. This will require an override of the Planning Commission's recommendation.

Per the Leawood Development Ordinance, at the time of Final Plan the service area to the east of the proposed building shall be screened from view.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission recommends approval unanimously (7-0) of Case 64-20, Town Center Plaza – First Ascent, request for approval of a Preliminary Plan, with the following stipulations:

1. The project is limited to the construction of a 24,719 sq. ft., 64' tall building for a Health Club.
2. This application is subject to change, depending the result of approval for Case 75-20 regarding height tolerance within the SD-CR zoning district.
3. The project shall comply with the design guidelines for Town Center Plaza.
4. The applicant shall be responsible for:
   a) A park impact fee in the amount of $.15/square foot of finished floor area is required prior to issuance of a building permit, estimated at current date to be ($.15 x Sq.ft.). This amount is subject to change by Ordinance.
   b) A public art impact fee or a piece of public art shall be required. Approval of the design and location of the art will need to go before the Arts Council, Planning Commission, and be approved by the Governing Body at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.15/square foot of finished floor area prior to issuance of a building permit, estimated at current date to be $3,707.85 ($ .15 X Sq.ft.). This amount is subject to change by Ordinance.
5. Materials used within the project must meet the Leawood Development Ordinance.
6. All buildings within this development shall conform to the architectural type, style, and scale of the buildings approved by the Governing Body at final plan.
7. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities, meter banks and air conditioning units, shall be painted to blend with the building and screened from public view with landscaping or with an architectural treatment compatible with the building structure.
8. All utility boxes, not otherwise approved with the final development plan, with a height of less than 56 inches, a footprint of 15 sq.ft. in area or less, or a pad footprint of 15 sq.ft. in area or less, shall be installed only with the prior approval of the Director of Community Development as being in compliance with the Leawood Development Ordinance.
9. All utility boxes, not otherwise approved with the final development plan, with a height of 55 inches or greater, a footprint greater than 15 sq.ft. in area, or a pad footprint greater than 15 sq.ft. in area, shall
be installed only with the prior recommendation of the Planning Commission as being in compliance with the Leawood Development Ordinance based on review of a site plan containing such final development plan information as may be required by the City, and approved by the Governing Body. The City may impose conditions on approval, including but not limited to duration or renewal requirements, where the circumstances are sufficiently unusual to warrant the conditions.

10. All rooftop equipment shall be screened from the public view with an architectural treatment, which is compatible with the building architecture. The height of the screen shall be at least as tall as the utilities being screened.

11. Per the Leawood Development Ordinance, all landscaped areas shall be irrigated.

12. The approved final landscape plan shall contain the following statements:
   a) All hedges shall be trimmed to maintain a solid hedge appearance.
   b) All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   c) Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   d) All landscaped open space shall consist of a minimum of 60% living materials.

13. A letter, signed and sealed by a Kansas Registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

14. Materials boards shall be submitted at the time of Final Plan application.

15. A model shall be submitted at the time of final plan application.

16. A sign permit from the Planning Department shall be obtained prior to installation of any signs.

17. The Owner/Applicant must establish a funding mechanism to maintain, repair and/or replace all common areas and common area improvements including, but not limited to, streets, walls, and storm water system improvements. The mechanism will include a deed restriction running with each lot in the development that will mandate that each owner must contribute to the funding for such maintenance, repair and/or replacement and that each lot owner is jointly and severally liable for such maintenance, repair and/or replacement, and that the failure to maintain, repair or replace such common areas or common area improvements may result in the City of Leawood maintaining, repairing and replacing said common areas and/or improvements, and the cost incurred by the City of Leawood will be jointly and severally assessed against each lot, and will be the responsibility of the owner(s) of such lot.

18. A cross access/parking easement for the entire development shall be recorded with the Johnson County Registrar of Deeds prior to issuance of a building permit.

19. This preliminary plan approval shall lapse in two years, if construction on the project has not begun or if such construction is not being diligently pursued; provided, however, that the developer may request a hearing before the City Council to request an extension of this time period. The City Council may grant one such extension for a maximum of 12 months for good cause shown by the developer.

20. The conditions and stipulations of the preliminary plan approval remain in full force and effect except to the extent expressly modified herein.

21. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood including the Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through twenty-one.
PLANNING COMMISSION CHANGES TO STIPULATIONS:

- The Planning Commission changed Stipulation #1 to replace “First Ascent” with “Health Club”.

  From:
  The project is limited to the construction of a 24,719 sq. ft., 64' tall building for First Ascent.

  To:
  The project is limited to the construction of a 24,719 sq. ft., 64' tall building for a Health Club.

APPLICANT:

- The applicant is John Petersen with Polsinelli.
- The property is owned by Leawood TCP, LLC.
- The architect is Mark Poltorek with RDL Architects.

REQUEST:

- The applicant is requesting approval of a Preliminary Plan for removal of five existing tenant spaces, and will construct a 64’ high Rock Climbing Health Club (24,719 sq. ft.), on the eastern/north side end of the main retail center of Town Center Crossing, in the SD-CR zoning district.
- No other changes are proposed with this application.

ZONING:

- The property is currently zoned SD-CR (Planned General Retail).

COMPREHENSIVE PLAN:

- The Comprehensive Plan designates this property as Retail.

LOCATION:

SURROUNDING ZONING:

- North Directly north of 117th Street is Park Place development, zoned MXD (Mixed Use District), Directly north of Town Center Drive is the City of Leawood City Hall and the Johnson County Public Library, zoned RP-4 (Planned Cluster District, previous LDO (Leawood Development Ordinance)
- South Directly south of 119th Street is Hawthorne Plaza (a commercial development), and
assisted living center, and single family residential all in the City of Overland Park.

- East  Directly east of Roe Avenue is Camelot Court, zoned SD-CR (Planned General Retail).
- West  Directly west is Nall Avenue, an arterial street, and the T-Mobile campus in the City of Overland Park, zoned CP-O (Commercial Office)

SITE PLAN COMMENTS:
- The proposal calls for a 24,719 sq. ft. of construction for a Rock Climbing Health Club.
- The project is located on the eastern/north side end of the main retail center of Town Center Plaza.
- The applicant is proposing the removal of five existing tenant spaces, and will construct a 64’ tall Rock Climbing Health Club.
- The primary entrance is on the northwest corner of the north elevation.
- The project will extend to 64’ in height along the eastern elevation, the remaining portions of the structure will be 32’ in height
- Existing parking, sidewalks, landscaping will remain with this project.
- The existing metal archway found on Cedar Street, between site and Bravo restaurant will be removed, along with the existing archway at the entrance of service area.

ELEVATIONS:
- The applicant has provided preliminary elevations for proposed building. Elevations are reviewed and approved at the time of final site plan application.
- Building is proposed to be 64’ in height along the eastern elevation, the remaining portions of the structure will be 32’ in height
- Insulated concrete panels in colors; Pediment, Alabaster, Crushed Ice, and Acier, along with insulated metal panels make up the majority of the exterior facade.
- Large windows constructed of 1” low “E” insulated glass, along the north/west façade, allow for a look inside to the rock climbing equipment/walls, south/east façade do not include windows.
- Metal composite canopy in color Osage Orange, provide an accent above the entry/exit doors
- Aluminum storefront system to match façade.

BULK REGULATIONS:
- The following table outlines the required and provided regulations for the SD-CR Zoning District:

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<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Compliance</th>
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<tr>
<td>Front Setback</td>
<td>40’</td>
<td>280’</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Setback</td>
<td>40’</td>
<td>530’</td>
<td>Complies</td>
</tr>
<tr>
<td>Interior Property Line</td>
<td>10’</td>
<td>0’</td>
<td>Approved Deviation</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>40’</td>
<td>40’</td>
<td>Complies</td>
</tr>
<tr>
<td>Height</td>
<td>50’</td>
<td>64’</td>
<td>LDO CASE 75-20</td>
</tr>
</tbody>
</table>

SIGNAGE:
- Signage for First Ascent will be approved administratively through a separate application.
- Town Center Plaza has sign criteria approved by the Governing Body.

LIGHTING:
- No lighting is proposed with the Preliminary Plan.
LANDSCAPING
- Existing landscaping will remain in place.
- No additional changes to the landscaping are proposed.

INTERACT:
- An Interact meeting was held on August 12, 2020. A meeting summary and sign-in sheet are attached.

IMPACT FEES:
- Park Impact Fee
  - The applicant shall be responsible for a Park Impact Fee prior to the building permit in the amount of $0.15 per sq. of building area. This amount is subject to change by Ordinance.
- Public Art Fee
  - The applicant shall be responsible for a Park Impact Fee prior to building permit in the amount of $0.15 per sq. of building area. This amount is subject to change by Ordinance.

GOLDEN CRITERIA:
The character of the neighborhood:
The area is characterized by a collector street 117th Street, Park Place zoned MXD (Mixed Use District); major arterial 119th Street, Hawthorne Plaza (a retail shopping center), assisted living, and single family housing zoned R-1 (Single Family Residential) all within the City of Overland Park.; a major arterial Roe Avenue is Camelot Court, zoned SD-CR (Planned General Retail); major arterial Nall Avenue is the City of Overland Park, zoned CP-O (Commercial Office)

The zoning and uses of properties nearby:
- North Directly north of 117th Street is Park Place development, zoned MXD (Mixed Use District). Directly north of Town Center Drive is the City of Leawood City Hall and the Johnson County Public Library, zoned RP-4 (Planned Cluster Residential District, previous LDO (Leawood Development Ordinance)
- South Directly south of 119th Street is Hawthorne Plaza (a commercial development), and assisted living center, and single family residential all in the City of Overland Park.,
- East Directly east of Roe Avenue is Camelot Court, zoned SD-CR (Planned General Retail).
- West Directly west is Nall Avenue, an arterial street, and the T-Mobile campus in the City of Overland Park, zoned CP-O (Commercial Office)

The Suitability of the subject property for uses to which it has been restricted:
Due to the mix of uses within the surrounding area and the fact that the property is adjacent to two major arterial and collector streets, the property is suitable for a health club.

The time for which the property has been vacant:
The site is currently not vacant. It is within the Town Center Plaza regional shopping center that began construction at this location in 1995.

The extent to which removal of the restrictions will detrimentally affect nearby property:
Although the site is suitable for a health club, stipulations are necessary to ensure a high quality project that fits with the surrounding uses.
The relative gain to the public health, safety, and welfare due to the denial of the application as compared to the hardship imposed, if any, as a result of denial of the application:
Denial of the application will not result in a relative gain to the public health, safety, or welfare. The addition of a health club will provide opportunities to increase and promote health, safety, and will increase the welfare of residents.

The recommendation of the permanent staff:
City Staff recommends approval with the stipulations stated in the staff report.

Conformance to the adopted master plan of the City of Leawood:
The proposed application conforms to the Comprehensive Plan for the City of Leawood.

STAFF COMMENT:
- This application is dependent on the approval of Case 75-20, Leawood Development Ordinance amendment proposing to change the maximum height within the SD-CR district from 50’ to 65’.
  (Stipulation #2).
TO: Grant Lang

FROM: Jarrett Hawley

DATE: August 20, 2020

SUBJECT: Town Center Plaza First Ascent

The Leawood Fire Department has no objections or recommendations on Case 64-20 at this time.

Jarrett Hawley
Deputy Chief
Leawood Fire Department
Town Center Plaza – First Ascent PDP
August 12, 2020 Interact Meeting

Attendance:
Stephen Harris – Washington Prime Group
Starr Korner – Washington Prime Group
Jacqueline Shrum – Property Manager
Jon Shepherd – First Ascent
John Petersen/Amy Grant, Polsinelli PC

This meeting was held via Zoom and began at 6:00 p.m. At 6:15 p.m. the meeting was concluded as none of the invitees attended the meeting.
FIRST ASCENT CLIMBING | LEAWOOD, KANSAS | ELEVATION

The drawings, specifications, above-mentioned, and information provided herein are the exclusive property of the architect and are subject to all laws and regulations applicable to such drawings and specifications. The information furnished shall not be reproduced, duplicated, or transmitted in any form or by any means without the written consent of the architect. Any unauthorized use or reproduction thereof is strictly prohibited.
FIRST ASCENT CLIMBING | LEAWOOD, KANSAS | ELEVATION

The proposed specifications, unless stated otherwise, are based on drawings prepared by the architect and are subject to change. This document and the plans and specifications it contains are not to be used for bidding or contract purposes. The plans and specifications are subject to change without notice. The plans and specifications are intended to be used by the contractor and to provide guidance for the construction of the project. The contractor shall be responsible for the accuracy and completeness of the plans and specifications as used on the project. The plans and specifications are not intended to be used for any other purpose than the construction of the project as described herein.
CALL TO ORDER/Roll Call: McGurren, Coleman, Bock, Stevens, Hunter, Peterson, Elkins joined after the meeting began: Belzer. Absent: Hoyt

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

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

MEETING STATEMENT:

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

Public comments will only be accepted during the public hearing portion of each agenda item where a public hearing is required. The City encourages the public to submit comments in writing prior to the public hearing by emailing comments to pcpubliccomments@leawood.org. Written public comments received at least 24 hours prior to the meeting will be distributed to members of the Planning Commission. Those wishing to appear remotely using the Zoom format media, should register at pcpubliccomments@leawood.org on or before Friday, September 18th at 5:00 pm. Individuals who contacted the Planning Department in advance to provide public comments will be called upon by name.

Electronic copies of tonight’s agenda are available on the City’s website at www.Leawood.org under Government / Planning Commission / Agendas & Minutes. Because this meeting is being live-streamed, all parties must state their name and title each time they speak. This will ensure an accurate record and make it clear for those listening only. This applies to all commissioners, staff, applicants and members of the
Comm. Block: When we talked about this in the work session, my recollection was there were other situations that were 1-2 feet per 1 foot of height. This goes all the way to 10 feet to account for things like you’re talking about. It probably wouldn’t even apply to Ranchmart North because of the room needed. I’m comfortable with the 10 feet. I think the calculation was to push it back far enough away from the residential areas in close proximity that the sight line would not be as daunting. I’m supportive.

Comm. Coleman: I’m in support of the ordinance; I just think maybe before it gets to Governing Body that it gets researched a bit more for them. They’re going to read our minutes and understand our concerns, and you could have the answer ready for them.

Chairman Elkins: Good thought. Is there a motion?

A motion to recommend approval of CASE 75-20 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.3, SD-CR (Planned General Retail) - Request for approval of an amendment to the Leawood Development Ordinance, pertaining to building heights within SD-CR (Planned General Retail) – was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Peterson.

CASE 64-20 – TOWN CENTER PLAZA – FIRST ASCENT (CLIMBING/HEALTH CLUB) – Request for approval of a Preliminary Plan, located north of 119th Street and west of Roe Avenue. PUBLIC HEARING

Staff Presentation:
Planning Official made the following presentation:

Mr. Klein: This is Case 64-20 – Town Center Plaza – First Ascent (Climbing Health Club) – Request for approval of a Preliminary Plan, located north of 119th Street and west of Roe Avenue. This will remove five existing tenant spaces and construct a 64’ tall rock-climbing / health club. The square footage of the building will be 24,719 square feet. It is located directly east of Bravo Italian restaurant on the north elevation. The eastern half will go up to 64 feet. Another portion to the west will stay at about 32 feet. It does meet the setback discussed and approved in the previous application. I would like to change Stipulation No. 1 to refer to approval of a health club rather than the name Ascent. Staff is recommending approval of this application, and I’ll be happy to answer questions.

Chairman Elkins: Questions for Mr. Klein?

Comm. McGurren: My question relates to the nice aerial shot that shows the proposed location. Based on the height and the new setback, this doesn’t appear to show it back any farther than Bravo on the front of the proposed building. Should it be different?
Mr. Klein: The setback for the main center is already pretty substantial and goes well beyond the required setback for the development. The exterior property line is by Town Center Drive.

Comm. McGurren: So, because this is in a large facility, the height of the building will be dramatically higher but no farther from the people driving by on that side street or walking in front of it? It will sit on the exact same property that exists today? In a sense, there is no benefit to seeing a whole bunch of additional landscaping or sidewalks or whatever the case may be because the building is not going to be set back.

Mr. Klein: Correct. Right now, the building is almost 500 feet from Town Center Drive. The building will be about 14 feet taller than the limitation. It’s so far back that it really wouldn’t have an impact as far as planting additional trees.

Comm. Coleman: The setback is from the property line all the way over by Hereford House.

Comm. McGurren: I understand, but at the same time, the city is allowing additional height that has no consequence based on the hugeness of this particular development. I was thinking there was a give-and-take or visible adjustment. The setback is obviously appropriately figured out. It seems surprising.

Mr. Sanchez: Staff would like to add that we discussed green space in the work session. The issue is it’s hard to calculate those types of numbers when discussing height and square footage. It made it a whole lot harder to try to make a calculation.

Comm. McGurren: I was thinking that we are going to potentially allow the character of the development to look very different. There is no brick on this. It will be dramatically higher and substantially different than what was built to begin with. I just assumed there would be an offsetting benefit somewhere. Thank you.

Comm. Coleman: I’m not familiar with all the retail there now. I know Kim’s Tailor was in the road between. What is currently there, and what will be demolished?

Mr. Klein: Kim’s Tailor is in there. Z Gallery used to be in that location.

Mr. Lang: Kansas Sampler used to be there.

Comm. Coleman: Commissioner McGurren brought up a good point about the building looking vastly different than the shopping center. I’m not complaining. I am all for repurposing the shopping center because, as we all know, retail is struggling now, and if we can get a business in there, I’m more than happy to do it. I’m just wondering if there was more of an effort to try to make it look like the other existing buildings? It’s really going to stick out next to all the other brick.
Mr. Klein: They have not given elevations because it is a Preliminary Plan. There is still time for conversation with the applicant. Staff is supportive based on the fact that it provides additional opportunities. The site is large enough. I don’t think we’re looking at the LDO as a bonusing kind of thing; it is more ensuring that any site where the extra height is allowed is actually large enough to meet those setbacks. You’re going to see some future applications that have to do with design guidelines for Town Center Plaza and Town Center Crossing.

Chairman Elkins: Other questions? If not, Mr. Petersen, please proceed.

Applicant Presentation:
John Petersen,

Mr. Petersen: First Ascent is a critical find for Town Center Plaza, and we’d really like to get a vote on it tonight. They are a national retailer and are in demand all over the country. We want to keep them here. Architecture is a Final Plan issue, as is stated in the Staff Report. Very quickly, I have Steve Harris, VP of Development from First Washington; John Shepard, Co-founder of First Ascent; John Zentmyer, CFO of First Ascent; and our architect. I’m going to run through some slides. You have the location just east of Bravo before it was vacated. Staff has given the size. We’re going to work on the architecture with staff as we come back with a Final Plan. It is different. That’s what retail is today. If we had time for Steve Harris to get on as manager of First Washington’s properties all over the US, you’d hear that. We want eclectic impact, places that bring a buzz, people that bring excitement, particularly on the north side of this center. We want tasteful but not all the same. That’s what we’re bringing. I remember sitting there when Crate & Barrel came in. Everybody wondered about it, and what’s evolved is Apple and an eclectic feel in probably one of the coolest shopping centers in all of Kansas City. All the materials meet LDO standards, and again, they’ll be addressed in more detail at Final Plan. First Ascent is buzzed about coming to Town Center with climbing, fitness, community. Climbing is the fastest-growing sport in the US. It will be in the 2021 Olympic Games. This is not a wall in the back of Dick’s Sporting Goods. This is sophisticated. It is for people who are serious climbers and in events all over the US with the desire to be an Olympian. It is 64 feet because it is the required height for Olympic competition. It’s also climbing for fitness buffs, and they want to be part of a fitness center. Another element is that it is a fun event. Families come to try it out. People come from all over to enjoy the opportunities. People are dedicated, and they are part of a community. They stay and eat and shop. Retail is experience today. Tie it in with health and fitness. We think this is a great plan. We’d ask you to move this on to City Council for approval. We would very much appreciate a vote tonight to stay within the timeline. Thank you.

Chairman Elkins: Questions for Mr. Petersen? This does require 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 roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Peterson.

Chairman Elkins: Comments regarding the case?

Comm Coleman: I am definitely in favor of this development. Not that it has to be brick, but I would ask the applicant to complement the existing structure of Town Center.

Comm. Block: I concur.


A motion to recommend approval of CASE 64-20 – TOWN CENTER PLAZA – FIRST ASCENT (CLIMBING/HEALTH CLUB) – Request for approval of a Preliminary Plan, located north of 119th Street and west of Roe Avenue – was made by Coleman; seconded by Block.

Mr. Klein: As far as the change to Stipulation No. 1, it would change out “First Ascent” to “Health Club.”

Motion amended to replace “First Ascent” with “Health Club” by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

A motion to continue Cases 74-20, 66-20, and 67-20 to the next available Planning Commission meeting was made by Coleman; seconded by McGurren. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Hunter, Belzer, Coleman, Block, Stevens, Peterson.

CASE 74-20 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-3-3, ADMINISTRATIVE APPROVALS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to Tenant Finishes. PUBLIC HEARING - Continued to the next Planning Commission meeting

CASE 66-20 – TOWN CENTER CROSSING – REVISED DESIGN GUIDELINES – Request for approval of a Revised Final Plan, located south of 119th Street and east of Roe Avenue. Continued to the next Planning Commission meeting

CASE 67-20 – TOWN CENTER PLAZA – REVISED DESIGN GUIDELINES – Request for approval of a Revised Final Plan, located north of 119th Street and west of Roe Avenue. Continued to the next Planning Commission meeting
ORDINANCE NO.____________

ORDINANCE APPROVING A PRELIMINARY PLAN FOR TOWN CENTER PLAZA – FIRST ASCENT (CLIMBING/HEALTH CLUB), LOCATED NORTH OF 119TH STREET AND WEST OF ROE AVENUE. (PC CASE 64-20)

WHEREAS, the applicant submitted a request for approval of a Preliminary Plan;

WHEREAS, such request for approval was submitted to the Planning Commission on September 22, 2020;

WHEREAS, the Planning Commission reviewed the application and recommended approval with certain stipulations; and

WHEREAS, the Planning Commission’s recommendation was presented to the Governing Body on October 19, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION 1. APPROVAL OF PRELIMINARY PLAN GRANTED. Pursuant to Sections 16-3-10 of the Leawood Development Ordinance, permission is hereby granted to use the following property, in the manner set forth in the Preliminary Plan on file with the Leawood Planning Department, 4800 Town Center Drive, Leawood, Kansas, 66211, and in accordance with Section 16-2-6.3 of the Leawood Development Ordinance, subject to the stipulations set forth in Section 2, and subject to all other laws and regulations:

Legal Description:

Lot 12, Town Center Plaza Second Plat, a subdivision in Leawood, Johnson County, Kansas

SECTION 2. CONDITIONS AND STIPULATIONS. The Preliminary Plan referenced in Section 1 above is hereby approved and adopted subject to the following stipulations:

1. The project is limited to the construction of a 24,719 sq. ft., 64’ tall building for a health club.
2. This application is subject to change, depending the result of approval for Case 75-20 regarding height tolerance within the SD-CR zoning district.
3. The project shall comply with the design guidelines for Town Center Plaza.
4. The applicant shall be responsible for:
   a) A park impact fee in the amount of $.15/square foot of finished floor area is required prior to issuance of a building permit, estimated at current date to be ($0.15 x Sq.ft.). This amount is subject to change by Ordinance.
   b) A public art impact fee or a piece of public art shall be required. Approval of the design and location of the art will need to go before the Arts Council, Planning Commission, and be approved by the Governing Body at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.15/square foot of
finished floor area prior to issuance of a building permit, estimated at current date to be $3,707.85 ($1.15 X Sq.ft.). This amount is subject to change by Ordinance.

5. Materials used within the project must meet the Leawood Development Ordinance.

6. All buildings within this development shall conform to the architectural type, style, and scale of the buildings approved by the Governing Body at final plan.

7. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities, meter banks and air conditioning units, shall be painted to blend with the building and screened from public view with landscaping or with an architectural treatment compatible with the building structure.

8. All utility boxes, not otherwise approved with the final development plan, with a height of less than 56 inches, a footprint of 15 sq.ft. in area or less, or a pad footprint of 15 sq.ft. in area or less, shall be installed only with the prior approval of the Director of Community Development as being in compliance with the Leawood Development Ordinance.

9. All utility boxes, not otherwise approved with the final development plan, with a height of 55 inches or greater, a footprint greater than 15 sq.ft. in area, or a pad footprint greater than 15 sq.ft. in area, shall be installed only with the prior recommendation of the Planning Commission as being in compliance with the Leawood Development Ordinance based on review of a site plan containing such final development plan information as may be required by the City, and approved by the Governing Body. The City may impose conditions on approval, including but not limited to duration or renewal requirements, where the circumstances are sufficiently unusual to warrant the conditions.

10. All rooftop equipment shall be screened from the public view with an architectural treatment, which is compatible with the building architecture. The height of the screen shall be at least as tall as the utilities being screened.

11. Per the Leawood Development Ordinance, all landscaped areas shall be irrigated.

12. The approved final landscape plan shall contain the following statements:
   a) All hedges shall be trimmed to maintain a solid hedge appearance.
   b) All plant identification tags shall remain until issuance of a Final Certificate of Occupancy.
   c) Any deviation to the approved final landscape plan shall require the written approval of the landscape architect and the City of Leawood, prior to installation.
   d) All landscaped open space shall consist of a minimum of 60% living materials.

13. A letter, signed and sealed by a Kansas Registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.

14. Materials boards shall be submitted at the time of Final Plan application.

15. A model shall be submitted at the time of final plan application.

16. A sign permit from the Planning Department shall be obtained prior to installation of any signs.

17. The Owner/Applicant must establish a funding mechanism to maintain, repair and/or replace all common areas and common area improvements including, but not limited to, streets, walls, and storm water system improvements. The mechanism will include a deed restriction running with each lot in the development that will mandate that each owner must contribute to the funding for such maintenance, repair and/or replacement and that each lot owner is jointly and severally liable for such maintenance, repair and/or replacement, and that the failure to maintain, repair or replace such common areas or
common area improvements may result in the City of Leawood maintaining, repairing
and replacing said common areas and/or improvements, and the cost incurred by the City
of Leawood will be jointly and severally assessed against each lot, and will be the
responsibility of the owner(s) of such lot.

18. A cross access/parking easement for the entire development shall be recorded with the
Johnson County Registrar of Deeds prior to issuance of a building permit.

19. This preliminary plan approval shall lapse in two years, if construction on the project has
not begun or if such construction is not being diligently pursued; provided, however, that
the developer may request a hearing before the City Council to request an extension of
this time period. The City Council may grant one such extension for a maximum of 12
months for good cause shown by the developer.

20. The conditions and stipulations of the preliminary plan approval remain in full force and
effect except to the extent expressly modified herein.

21. In addition to the stipulations listed in this report, the developer/property owner agrees to
abide by all ordinances of the City of Leawood including the Leawood Development
Ordinance, unless a deviation has been granted, and to execute a statement
acknowledging in writing that they agree to stipulations one through twenty-one.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in force from and
after its publication as required by law.

PASSED by the Governing Body this 19th day of October, 2020.

APPROVED by the Mayor this 19th day of October, 2020.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Kelly L. Varner, City Clerk

APPROVED AS TO FORM:

Marcia L. Knight, Assistant City Attorney