

# CITY OF MISSION PLANNING COMMISSION

October 24, 2022

7:00 PM

Powell Community Center, 6200 Martway

## I. Call to Order

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, October 18, 2022. Members also present: Brian Schmid, Robin Dukelow, Megan Cullinane, Cynthia Smith, Stuart Braden and Wayne Snyder. Charlie Troppito and Amy Richards were absent. Also in attendance: Brian Scott, Assistant City Administrator, Kimberly Steffens, Secretary, and Karie Kneller, City Planner.

**Chairman Lee:** It's 7:00 p.m. I'd like to call this meeting to order. The public is invited to participate. If you would like to make a comment, please raise your hand, but stay seated, and we will call you to go to the lectern. Please make sure to be conscientious of others trying to speak. Speak slowly and clearly, and if I need to confirm something that may have been difficult to hear, I will ask for clarification. Please call the roll.

[roll call]

## II. Approval of Minutes from the September 26, 2022

**Chairman Lee:** The first item on the agenda tonight is the approval of the minutes from our September 26, 2022, meeting. Is there anyone that needs to make any changes to the minutes?

**Vice Chair Dukelow moved and Commissioner Cullinane seconded,** a motion to accept the minutes of the September 26, 2022, Planning Commission as presented.

The vote was taken (6-1). **The motion carried.**

## III. New Business

### 1. **Case # 22-30 - Application for Rushton Elementary Final Development Plan. Mike Brown with Incite Design Studio, Mr. Ehnen.**

An application for approval of the final development plan for Rushton Elementary School.

**Chairman Lee:** Next we have an item for the New Business which is Case #22-30. This is an application for the Rushton Elementary Final Development Plan. Ms. Kneller, would you please provide us with the report?

**Ms. Kneller:** Thank you, Mr. Chair. This is Case #22-30, Rushton Elementary School final development plan. The subject property is on the current location of Rushton Elementary, at 6001 West 52<sup>nd</sup> Street. The preliminary development plan was approved by the City Council on August 17, 2022. The preliminary development plan recommended conditions of approval as follows:

- On-street parking shall be maintained in perpetuity by the School District, with a maintenance agreement approved by the School District and the City.
- All lighting proposed with this plan shall be maintained by the School District
- All landscaping proposed with this plan shall be maintained by the School District

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- Signage shall be submitted to the Community Development Department for review prior to approval of construction permit issuance. The applicant submitted a signed maintenance agreement stating that all site improvements shall be maintained by the School District or its designee. Staff will review all sign permit applications for conformance with the Mission Municipal Code prior to installation.

The dumpster enclosure location is the main revision for the final development plan. It was located within the northeast parking lot facing southeast adjacent to the proposed building. The dumpster has been relocated in the final development plan within the same parking lot but is oriented to face west in the southeast corner of the lot. The accessible parking spots, three of them have been moved closer to the proposed building as well, and parking totals are unchanged from the approved preliminary development plan. Evergreen and deciduous landscaping screens the dumpster, and onsite parking lots. The final development plan includes details for grading, erosion, utility, construction, drainage and landscaping with a schedule, and all landscaping specified as native to northeast Kansas.

The plans also include site plan details, roof plan details, building sections and photometrics. The photometrics details specify International Dark Sky standards. All lighting proposed with the preliminary development plan is controlled with photometric control for dawn-to-dusk operation, and full shielding below the lowest horizontal plane shall be specified for fixtures over 1,000 lumens. Streetlights are provided to eliminate on-street parking and [inaudible] are provided in on street parking areas. Final specifications for exterior building lighting will be submitted at the time construction drawings are submitted to the City. Staff recommends that the Planning Commission approve Case #22-20, final development plan for Rushton Elementary.

**Chairman Lee:** [Inaudible]

**Ms. Kneller:** Mr. Chair, your mic is not on. It won't pick up for the minutes.

**Chairman Lee:** Anyone have comments or questions? Okay, if not then I'd entertain a motion.

**Vice Chair Dukelow:** Mr. Chairman, I do have just one comment, not that I think it affects the approval process in any way, and I'm sure that the designers would also note that the sets under sanitary sewer main removal, sheets 2 through 4, show the old site plans.

**Ms. Kneller:** Show the old site plan?

**Vice Chair Dukelow:** Old site plan without the revised parking configuration.

**Ms. Kneller:** Oh, I see. We'll get those corrected with the construction permitting drawings.

**Vice Chair Dukelow:** Thank you. That's all I have.

**Vice Chair Dukelow moved and Commissioner Schmid seconded a motion** to approve Case #22-30, Rushton Elementary, final development plan.

The vote was taken (7-0). **The motion carried.**

**Chairman Lee:** Thank you.

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## 2. Case #22-19, Big Biscuit Site Plan

**Chairman Lee:** The second item tonight will be an application for approval of the Big Biscuit Site Plan. Staff?

**Ms. Kneller:** This is Case #22-19, the Site Plan for Big Biscuit Redevelopment. The subject property is located on the south side of Johnson Drive between Metcalf and Broadmoor Street. This is the former Don Chilitos restaurant that operated on the site previously for about 50 years until closing in December of 2021. The property is zoned M1, General Industrial District, and is within the Form Based Code Overlay. Adjacent properties are also zoned M1. The existing structure, built in 1947, is one story on an approximately three-quarter-acre lot. The existing structure will remain with improvements on all four sides of the building. Certain landscaping improvements and parking lot striping are also proposed with the application, along with a three-foot sidewalk abutting Johnson Drive, a bike rack, and a bench located near a new patio entrance.

The applicant proposes renovation of the building's interior and its exterior facades, including an updated roofline and the removal of the existing mansard roof. There are also canvas awnings, back door access ramp, renovated patio with new fencing, paint and stone. The applicant proposes new landscaping east of the covered patio and surrounding a new monument sign located at the Johnson Drive entrance that consists of various small trees, ground cover and shrubs. The applicant proposes a new dumpster enclosure in the rear, and overhead electrical to the site will be buried during the parking lot improvements. Landscaping will comprise six percent of the total site, leaving 78.4 percent. I'd like to make a caveat here. That is not including the building footprint, so we have approximately 94 percent impervious surface as a whole on the site. The proposal consists of 49 total parking stalls, two of which will be ADA accessible. Exterior façade materials are provided in a table in your staff report. Notably, the total EIFS here is 28.8 percent. There is also glass, brick, stone, and some CMU included in that total percentage.

The Comprehensive Plan 2007 and the draft update designates the property as within the West Gateway Form Based Code District, and according to the Form Based Code, if the cost of renovation for a building within the Form Based Code exceeds ten percent of the appraised value, the developer must request a non-conforming permit for deviations. In this case, the cost of renovations as proposed are anticipated to be more than ten percent of the appraised value, and this redevelopment does not meet the requirements of the Form Based Code due to certain site constraints. Deviations include building height, front setback with parking lot location abutting Johnson Drive and surface parking screening. The proposal requires a Non-conforming Situation Use Permit.

The Johnson Drive Design Guidelines, the proposal maintains the existing building entrance and vehicular access from Johnson Drive. Parking space configuration remains relatively unchanged along Johnson Drive. As stated previously, EIFS comprises 28.8 percent of the total building façade, and is the entirety of the façade within the covered patio. This does not conform with the Design Guidelines. The applicant is updating the roofline and incorporating transparent glass in the proposed renovation in conformance with the Guidelines. Color [inaudible] as indicated on building elevations are consistent

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with the Johnson Drive Corridor, and a new sidewalk that is three feet wide is the minimum width required by ADA standards.

Per Municipal Code, the property is zoned M1, and restaurant is included under this zoning code. Section 425.20 states that one parking space shall be required for every three seats in a restaurant, and Big Biscuit proposes a total count of 210 seats. The required parking spaces for the number of proposed seats is 70 parking spaces. The applicant proposes restriping of the parking lot to include 49 parking spaces, and two of the parking spaces are ADA compliant. The number of parking spaces does not conform with the Municipal Code. The site is constrained and cannot reasonably include more parking to accommodate [inaudible] of the Code, and the Planning Commission may determine that parking is adequate despite nonconformance. Two parking spaces that are ADA compliant are sufficient for ADA access according to the number of proposed parking spaces allotted on the site.

Section 415.30 states that trash bins must be enclosed and screened from view off property by masonry enclosure that shall be maintained by the owner or owner's agent, and materials must be harmonious with the main structure. Staff's analysis that the dumpster as proposed is in conformance with the Municipal Code.

Section 415.110 states that all parking lots containing 25 or more spaces shall include six percent interior landscaping which is reasonably dispersed. Islands must be curbed, and primary landscaping materials shall be trees which provide shade at maturity, with shrubs or ground cover used to complement. Staff's analysis is that the applicant proposes landscaping that covers the minimum six percent coverage area required by the Municipal Code, most of which is located on the east side of the patio structure. Additional landscaping is included surrounding a new monument sign at the Johnson Drive entrance, and landscaped areas are curbed, and primary materials include trees that are 25 to 30 feet at maturity. The trees are native to northeast Kansas. Groundcover is used to complement the landscaping.

Section 515.360 states that all sidewalks shall not be less than four feet wide per Municipal Code for Mission, and located within the public right-of-way. The future intent to widen the sidewalk in this area of Johnson Drive will be considered for this area at the time that the street improvements are made. However, staff has asked for a four-foot width for the sidewalk as per Municipal Code.

Section 425.60 states that access to parking areas and garages must have ingress and egress by means of paved driveways that are a minimum of 30 feet wide. The exiting plat shows an access easement. I'll put that up real quick. This is the plat overlay with the site plan on the aerial imagery through AIMS. The existing plat shows an access easement of 20 feet and does not include access easements between properties for vehicular traffic to access parking spaces in the rear, and some parking spaces on the west do not have adequate access without an access agreement between property owners. Staff recommended to the applicant that they obtain access to the parking areas in question via an access agreement between adjoining property owners.

Staff recommends conditions one through six that are included in your packet. I can go over those if you'd like, but they are included in the staff report in the packet. Staff does

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recommend that the Planning Commission approve Case #22-19, under these conditions for the site plan for Big Biscuit.

**[Mr. Ehnen** preparing presentation]

*Russ Ehnen, architect, appeared before the Planning Commission and made the following comments:*

**Mr. Ehnen:** Thanks for your indulgence in letting me get set up. My name is Russ Ehnen. I am an architect by trade and experience. However, on this particular case I am consultant to owners and development management for Big Biscuit. We do have the President and CEO of Big Biscuit with us tonight as well. I'm going to be straightforward here and kind of jump to the staff recommendations. We don't take any exception to number one, four, five or six. The only two that we have comments on are two and three. And we're certainly glad to go directly to those, or if you would like to discuss the particulars of the overall project in more detail, we're glad to do that as well.

**Chairman Lee:** [inaudible, off mic] If we could get you to move your board just a little bit to the right. That way we could see you.

[inaudible]

[setup of presentation]

**Mr. Ehnen:** Item number two is in regard to access, notarized agreement that's requested. We don't think that that is necessary, and there is nothing in the ordinance or Municipal Code that requires it. We think that the current access easement as recorded suffices for that. Just to orient you, this is the proposed Big Biscuit. The two buildings on either side, Johnson Drive. This is the survey, and also includes the recorded access easement, which is 35 feet from the northwest boundary inboard. We don't believe that that represents the only place you can go within the cross access between these lots. We believe that that is an area that has to be maintained for access, meaning if you are on this lot, you cannot block that off from your neighbors. It doesn't mean that you have to stay in that lane all of the time. That's typically the way access easements where there's cross access allowed. You can clearly see that to the adjacent lot to the west, Lot 1, that that access is maintained currently.

This is an enlargement of the plat document. The plat was recorded in 2009, and the concurring easements, restrictions and covenants for this property are from 1950. If you look at the extension of the arc, you can see that this 35-foot access easement at one time extended to Lot 3. It only went away at right-of-way dedications of the City when Johnson Drive was expanded, so there is a recorded access to Lot 3 already. It just needs updated to be configured to the lot line to the new property. So, we feel a recorded document with the Register of Deeds is the way to go. It's irremovable. If it's some notarized documents which we haven't seen an example of, ownership can change. Other things can impact the control of that access, and we don't think it's good business to put our control outside of a recorded entity, and what we would propose to do is to modify the plat to show [inaudible] that became obsolete when the road was widened. And we also have the survey that shows [inaudible] the way dedications have occurred over the last

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five years. So that would be our preference. We don't disagree with [inaudible] more permanent and cannot [inaudible].

**Vice Chair Dukelow:** Mr. Chairman, I have a question for staff. I guess I'm trying to weigh this. What is the recommendation of the City, and is this something that can be resolved post development plan? After tonight if need be? Can we table this portion of it for it to be resolved this week, or tomorrow?

**Ms. Kneller:** If all conditions are accepted through the Planning Commission this evening, then we would require that before construction permitting is complete that we will require the access agreement between both property owners of Lot 1 and Lot 3. The main issue that staff felt was the crux of this need for an access agreement was that if either Lot 1 or Lot 3 is redeveloped, those access lanes to the parking or Big Biscuit could be completely cut off, theoretically. As long as they had access to their own sites, those lanes that basically run along the property lines now could be cut off. So, the plat itself has an access easement on the north side, but there is no access agreement. We don't need a re-platting of this to show that there is access. We just need an agreement between the property owners that's contractually binding.

**Chairman Lee:** [inaudible, off mic]

[inaudible]

**Mr. Ehnen:** [inaudible] Nobody that owns and operates a business wants to have control of their property in outside hands. You would never want to do that. If you get crossways with your neighbor and they want to make your life difficult, well they can't if it's recorded and if it's platted. So, we think that this is already platted, it just needs to be adjusted, because the access agreement is already there, that we don't need a separate access agreement, and while it may feel better to go get those agreements, we can, but we don't think that they provide anything that's not already platted.

**Comm. Braden:** So, if it was re-platted to show that easement change, since it involves two other properties, who would initiate that and pay for that?

**Mr. Ehnen:** We don't mind getting it re-platted, and it's not actually a re-plat. It's an adjustment. It's a correction. We don't need to do anything on Lot 1. It's already there and correct. The only thing we need to do is adjust Lot 3. When this right-of-way dedication occurred, they did not adjust the plat. It was a clerical error or whatever you want to call it. We'll correct that error, and then there's a recorded plat that has access to the adjacent lots, and you've accomplished what [inaudible].

**Comm. Snyder:** This is hypothetical, and the staff, they mentioned. So, let's say you get the plat, and it's recorded at the [inaudible] one of the, let's say the owner of the site on number three decides to develop cut off your access. What happens in that case?

**Mr. Ehnen:** You have legal [inaudible, off mic]

**Comm. Snyder:** So staff, I have a question. Has there been some...has this been looked at by our Legal Department with regard to this particular issue, and what's the ruling on that?

**Mr. Scott:** Yes, and –

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**Ms. Kneller**: It was our land use attorney who advised to get that development agreement in writing as a contractual legally binding agreement that would follow the property owners. With a replat here, [inaudible]

**Mr. Scott**: Our concern is this Tract A provides access to the properties that are interior to the block – the old [inaudible] Jones property. The building sits pretty close to the property line, and for those that want to access the parking in the back, or deliveries in the back, they're going to have to cross over Lot 1. The owner of Lot 1 probably doesn't care. They've probably been doing that for years. But we're just saying have something in writing. It can be as simple as just a written letter from the owner of Lot 1. If it's notarized and recorded, that's even better, but just something that says, "Yeah, it's signed by us if you drive across our lot." But if the owner of Lot 1 ever decides that's not okay and puts up something to block that, then the applicant will not be able to utilize that to get deliveries or additional parking. So it's really more to protect them than anything else.

**Mr. Ehnen**: [inaudible]

**Comm. Snyder**: Okay, but a contract is legally binding, right? I mean –

**Mr. Ehnen**: [inaudible]

**Comm. Smith**: So will the other property owners have to come before the Planning Commission to get their sites re-platted?

**Ms. Kneller**: If they are willing to do a plat, it would probably be the best way to do it. We thought if we could get this contractually agreed upon by all property owners that that would be the easiest way to go about this at this time, because probably it's a given at this point that they don't have a problem with cross access. But again, staff has a concern that any, let's say for Lot 1, if that property owner decides to demolish that building and build to property lines, then Big Biscuit will lose their access to those parking spots. So yes, an access agreement would probably be the best way of going about it.

**Comm. Smith**: So are the other property owners amenable to doing that?

**Ms. Kneller**: Actually, I think I said that wrong, so I'll step back. The plat would be the best way to go about it. It's a little bit more time and money –

**Comm. Smith**: So are they willing to do that? Because that would take a lot of their time and money to...

**Mr. Ehnen** [inaudible]

**Ms. Kneller**: Yeah, I think, just to be clear, I think that the access easement that we would be looking for is basically straddling 15 feet on either side of the property line between Lot 1 and Lot 2, and additionally, you would need an easement between Lot 2 and Lot 3. I don't think there's 15 feet between, to straddle that property line for access there.

**Mr. Ehnen** [inaudible]

**Comm. Snyder**: Yeah. Question, if you could use that one, for me, if you could use that one right there at the bottom, you could use that one and show exactly what you're talking about. It's pictorial and I could get a better vision of what's going on.

**Mr. Ehnen** [inaudible]

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**Comm. Snyder**: And where is that down there?

**Mr. Ehnen** [inaudible] to redirect that access here to maintain it.

**Comm. Snyder**: And where is it down there?

**Mr. Ehnen** [inaudible]

**Comm. Cullinane**: Karie, can you help me understand what you were saying earlier, if Lot 1 decides to expand or whatever, then they would have an access issue potentially?

**Ms. Kneller**: So theoretically Stags Realty, which owns that property and the building on the property, if he decided to demolish the building that's there currently and build out to property lines, which is feasible with the Form Based Code, that would diminish the ability to use those parking spaces on the west and possibly cause issues with access to parking in the rear. And it depends on what...If you had Lot 3 redeveloped, too. I mean, those property owners can basically build to property lines if they desire at some point in the future. So that was staff's concern, that if that was redeveloped then Big Biscuit would have more of a parking issue than they currently have with this proposal.

**Comm. Cullinane**: Because then it would be blocked more.

**Mr. Ehnen**: [inaudible]

**Comm. Cullinane** : Yeah, I'm just trying to understand all scenarios.

**Mr. Ehnen**: [inaudible]

**Chairman Lee**: Could you put this one up on the - ?

**Comm. Snyder**: So Brian, would the other entities get notified about the administrative adjustment if it were to occur? Would they get notice of what - ?

**Mr. Scott**: Yeah. They should. I'm not aware of any deed restrictions. I couldn't find anything on AIMS when I looked at it closely. If you have that information maybe in your title work –

**Mr. Ehnen**: It's on the survey, and we went through all of that [inaudible] all the right-of-way dedications [inaudible] all of those elements are on there [inaudible]

**Comm. Snyder**: Karie, do we have a legal opinion, but I think what Biscuit is requesting is adequate or can be legally binding?

**Ms. Kneller**: Our land use attorney advised us to have the applicant put together an access agreement with the property owners on either side in this case. We said to him, "Is it sufficient to have an access agreement in writing that's legally binding, or do we need to have this re-platted?" and he said the access agreement would be sufficient in this case, and it would follow the property. I would say that if this development agreement is signed by all parties and we have this recorded in our files and either Lot 3 or Lot 1 wanted to develop all the way to the property lines, we would say, "No, you can't do that. You have this legally binding agreement that you would allow them to access, have enough drive access to access their parking lot."

**Comm. Snyder**: By the way it could possibly end up in...I mean, hypothetically if they wanted to develop it would end up in court anyway.

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**Mr. Ehnen** I would make sure the other neighbors would [inaudible] and I would [inaudible]

**Ms. Kneller:** I think we would be happy with that. Either way, we would be happy with either one, either an access agreement or a re-plat.

**Mr. Ehnen:** We'll do the plat [inaudible]

**Chairman Lee:** Okay, then address item number three.

**Mr. Ehnen:** Number three, the pedestrian way. Johnson Drive [inaudible] six-foot sidewalk that's new at the [inaudible]

**Comm. Snyder:** And where is that?

**Mr. Ehnen:** You can see right here, this is the edge of the street. This is the property line. You can actually see vehicles parking clear out to the curb, so we're taking these four feet from the curb inbound, and we're preserving it for pedestrians, which is basically what your ordinance is, to have a four-foot pedestrian walk.

**Chairman Lee:** So you're saying existing sidewalk?

**Mr. Ehnen:** There's no sidewalk there now. We're just saying that there's no sidewalk here at the Planet Sub building. There's none [inaudible]

**Chairman Lee:** So what you're really saying is rather than paving it you're just re-striping it four foot back.

**Mr. Ehnen:** [inaudible]

**Chairman Lee:** But no concrete work at all, just –

**Mr. Ehnen:** [inaudible]

**Comm. Cullinane:** And remind me again. Are you resurfacing the parking lot?

**Mr. Ehnen:** [inaudible]

**Comm. Cullinane:** So you won't be able to see the existing yellow lines that are there today?

**Mr. Ehnen** [inaudible]

**Comm. Cullinane:** Okay.

**Mr. Ehnen** [inaudible]

**Comm. Snyder:** Why did you want to bring this one to our attention? Was this something that was contrary to staff's recommendation?

**Mr. Ehnen:** No [inaudible]

**Ms. Kneller:** We did actually measure that sidewalk that's labelled Number 5 on the site plan, and I measured it at four feet, but it was labelled at three feet, so we wanted to make sure that whatever we get is four feet of access there. We were under the impression that that sidewalk would be built. It does say three-foot wide pedestrian way for Number 5. I would suggest that with any final revisions that they take this out, the word four, re-

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symbolize it in a way that shows that it's not going to be built, so that that's part of the record.

**Mr. Ehnen:** [inaudible]

**Vice Chair Dukelow:** So currently it's my understanding that the stripes go all the way to the back of the curb.

**Mr. Scott:** Right.

[inaudible]

**Vice Chair Dukelow:** And there are currently no wheel stops?

**Mr. Ehnen:** [inaudible]

**Ms. Kneller:** They're very faint, and there's kind of a broken curb in that area currently.

**Chairman Lee:** Other questions?

**Comm. Snyder:** Yes, so that wasn't the only deviation. There's another deviation with regard to parking, right? So you guys have like 213 seats and there's supposed to be 70 parking spaces, correct?

**Mr. Ehnen:** Yes.

**Comm. Snyder:** And you only have two ADA parking spaces [inaudible] that's like four percent of the parking. Can that at least be, isn't it like eight percent for ADA parking?

**Mr. Ehnen:** [inaudible]

**Comm. Braden:** But I would have to disagree in that we are supposed to have 70 [inaudible] I'm with you. If we can get at least another ADA [inaudible]

**Comm. Snyder:** At least eight percent. You're already getting a deviation from 70 to 49.

**Mr. Ehnen:** That's certainly accurate. [inaudible]

**Ms. Kneller:** Forty-five? Is that right? No, 41 existing onsite.

**Mr. Ehnen:** [inaudible] have 41. We have 210 seats. We increased the number of seats by 15.8 percent. However, we increased the parking by 19.5 percent. So on a [inaudible] basis we're better than we were before. Secondly, [inaudible]

**Comm. Snyder:** I'm not talking about your parking being insufficient. I'm talking about insufficient ADA spaces. What about two?

**Mr. Ehnen:** [inaudible]

**Comm. Snyder:** That wouldn't be a problem with me.

**Comm. Smith:** So, if the restaurant were full, then you would need people to park somewhere else?

**Mr. Ehnen:** [inaudible]

**Comm. Smith:** Well, if it's three friends coming from different places, they would all drive separate.

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**Mr. Ehnen:** [inaudible]

**Comm. Smith:** And it is speculation if you're assuming everyone is going to ride together and carpool.

**Mr. Ehnen:** [inaudible]

**Comm. Schmid:** What I'm hearing you say [inaudible] based on the other [inaudible] basically saying that [inaudible] population per vehicle [inaudible] so that the smaller amount of parking volume is [inaudible] That's kind of what I'm hearing.

**Mr. Ehnen:** [inaudible]

**Comm. Cullinane:** And remind me again. Are you using the existing bike rack, or are you putting in a new bike rack? It's a new bike rack?

**Mr. Ehnen:** [inaudible]

**Comm. Braden:** I'd like to ask staff, what is the 58:06 of ADA basis?

**Ms. Kneller:** He's correct. One space per 25.

**Comm. Braden:** So if he added just one more ADA space, we would be technically in compliance with ADA, fully?

**Ms. Kneller:** Yes.

**Comm. Snyder:** And if we added another, which would be a total of four, which would be one on each side, right? See where it is now? Just one on each side, which would be a total of four.

**Vice Chair Dukelow:** If they added it on the side of the building, the aisle can be where it's currently...Can they share that?

**Mr. Ehnen:** [inaudible]

**Vice Chair Dukelow:** We're talking about adding one, though, and I'm saying that you could use that aisle that's already striped right here.

**Mr. Ehnen:** I'm just not sure that [inaudible]

**Ms. Kneller:** There has to be a two percent or less grade change, slope, and it probably would exceed that in that area. That re-grading. You're talking about the west side, Robin? Where that's already striped? Yeah.

**Mr. Scott:** On the west side?

**Vice Chair Dukelow:** On the site plan there's a number nine on the site plan. It's just a parking count, but it indicates the place that I was suggesting. And I don't know what the grade is there, so...

**Ms. Kneller:** Yeah, you'd be surprised what two percent slope looks like. There's hardly much of a visual change, but the level will pick it up.

**Vice Chair Dukelow:** We don't want any runaway wheelchairs. Okay, so if I understand correctly, we are recommending the addition of one ADA space for a total of three? And staff is comfortable with the access agreement or the re-plate approach to ensure access?

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**Comm. Snyder:** I'd like more discussion on that. I'd like to hold firm on four. There were three, right? Four ADA spaces instead of three. That's what I feel should happen.

**Comm. Cullinane:** Remind me. So what would be the percentage breakdown of three versus four?

**Mr. Ehnen:** [inaudible]

**Ms. Kneller:** They usually do round up. If it's 50 spaces, you'd only need two, right? But if they have 55 spaces, they'd need three. We usually do take that whatever is excess as part of the fraction and round up to the next ADA spot. So, technically yes, three would probably be what's required for 71 stalls.

**Comm. Snyder:** Okay.

**Mr. Ehnen:** [inaudible]

**Ms. Kneller:** I would just say that we'll probably lose one regular parking space, because it's wider and just as a devil's advocate kind of –

**Comm. Snyder:** I'm just an advocate. I think the folks with disability need access just like everybody else, and four spaces as opposed to 40, you will lose, - you've got 49, you lost two more? One more? You know, give the disabled access.

**Comm. Smith:** I have a question on a different issue. The Johnson Drive Design Guidelines are pretty clear on no EIFS and lower than, what is it? Eight feet from the ground and also not more than 25 percent of the façade should be EIFS. And so this would be another variance we'd need to grant.

**Mr. Ehnen:** [inaudible] the Guidelines

**Comm. Smith:** Well, I have it here. It's Section 4-5, I believe, of the Johnson Drive Design Guidelines that I'm looking at.

[inaudible]

**Comm. Smith:** Yeah, it's Section 4-5, and it's...

**Mr. Ehnen** [inaudible] forms and elevations of new buildings [inaudible] also in 4-1 it says primarily, or particularly relevant in the downtown Gateway district. The Form Based Code does not speak [inaudible] every other building [inaudible] we don't believe that either of those two documents as being [inaudible]

**Comm. Smith:** But they're the goals for our city, and I feel like this is not a very good faith effort on Big Biscuit's part to ask for all of these variances, and then to kind of ignore what we have written down and put out that we are trying to achieve.

**Mr. Ehnen** [inaudible]

**Comm. Smith:** Well, I'm just saying pick a different material.

**Mr. Ehnen** [inaudible]

**Chairman Lee:** I guess the question for staff –

**Mr. Scott:** I have a question for the Planning Commission.

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**Chairman Lee**: We certainly have granted deviations, certainly in the Form Based Code area, but I can't recall that we've ever granted a deviation to the amount of EIFS that was used on a lower portion of the building. None that I can recall.

**Vice Chair Dukelow**: The issue with the EIFS below eight feet is that we've found over time that it's not durable. And the only location that I noticed you have EIFS below eight feet on a façade is in the outdoor eating area. Is that accurate? And around the doors.

**Mr. Ehnen**: That's correct.

**Vice Chair Dukelow**: The back of the building is painted. The sides of the building, I believe, are painted. The EIFS only occurs up high, except for in that outdoor eating area.

**Mr. Scott**: I guess that's my question. Because that's a covered outdoor area it's not getting the direct rain, so it wouldn't be potentially soaking up the rain that's hitting ground, which I think is what EIFS does sometimes. It soaks up that water over time and starts to deteriorate.

**Comm. Smith**: One of the concerns, isn't it like if it's a high pedestrian traffic area where it can get a lot of impact from people walking by, and that is the very definition of a high traffic pedestrian –

**Mr. Scott**: Yeah, patio.

**Comm. Smith**: Yeah.

**Mr. Ehnen**: There's a couple of things that we do. One is where we have seating, even though it doesn't show in the drawing, we put a rail, so the chairs and tables don't knock into it. Secondly, up to about three or four feet where we have EIFS that's lower, we have a stronger reinforcing mesh that's specifically designed for pedestrian walkway areas. Because you're right. Untreated EIFS can [inaudible] It's called Panzer mesh. We use Panzer mesh for durability and where there are chairs, we put a rail to absorb. Those are great comments.

**Ms. Kneller**: I believe there is a part in the Johnson Drive Design Guidelines, too, that does speak to that reinforcement if it is below that eight feet, that if it's reinforced that that would be acceptable. I believe that's in the Guidelines as well, as a caveat to that EIFS guideline.

**Comm. Smith**: So I guess I would feel more comfortable if I saw a wall section clarifying that. And also, especially around the front door.

**Mr. Ehnen**: We'll send you product data that shows the high impact version. Be glad to do that.

**Vice Chair Dukelow**: I'll reiterate, around the doorways, that would probably be best a different material if your team can agree to do that.

**Mr. Ehnen**: Yeah, I don't think that that's a problem. We can use a masonry that matches the stone, the decorative stone.

**Vice Chair Dukelow**: I have another question, getting back a little bit to the ADA parking spaces. The elevation looks great. So here, is it the intent of the owner to put up two ADA parking signs right in front of that elevation? Because that –

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**Mr. Ehnen**: We generally put them on the wall, not posts.

**Vice Chair Dukelow**: So you're going to put them on the wall?

**Mr. Ehnen**: Neither of which are particularly attractive, but the posts are always damaged and bent and [inaudible] attractive post, so we would be mounting them on the wall.

**Comm. Cullinane**: Speaking of walls, do you guys have a deal with Charlie Hustle for the KC Heart?

**Mr. Ehnen**: It's available to any business.

**Comm. Cullinane**: Oh, cool. I didn't know that.

**Mr. Ehnen**: And we're seeing more and more often, so it's become a lot of companies' branding.

**Chairman Lee**: Additional questions?

**Mr. Ehnen**: Thank you for your indulgence. I know some of these things are a little bit complicated, and we certainly recognize your desire and commitment to looking out for the interests of Mission. So thank you.

**Vice Chair Dukelow**: I do have one more question, Mr. Chairman. Regarding the landscaped area that's shown on the site plan, which is on the east side of the building adjacent to the outdoor eating area, so then there's also a note that says there would be a proposed screen wall, Note 16. What is that proposed material?

**Mr. Ehnen**: It will probably be like a composite wood look. It's at this location here. In addition to the landscaping there's a pretty...which will do some buffering but there's a pretty good view corridor from Johnson Drive back into this area, and some of the neighbors have trash dumpsters in there and some other generally ugly stuff, and we just thought it would be a good idea to kind of continue that buffering so if the trees are without leaves, you still don't kind of see back into the bowels of the operation.

**Vice Chair Dukelow**: Right. And there's a retaining wall there as well.

**Mr. Ehnen**: That's existing.

**Vice Chair Dukelow**: Along that side, that's existing, so the proposal is to remove the asphalt in that area and put in the landscaping?

**Mr. Ehnen**: Correct and [inaudible] very hardy of the plant materials.

**Vice Chair Dukelow**: I think that's a good...I mean, it's a tradeoff certainly, but with Johnson Drive in flux as it is, it's doesn't seem to add landscaping across the front like you would typically anticipate, so I feel like there's been a tradeoff there, and we'll definitely want to see the landscape somewhere when it's all done.

**Chairman Lee**: Any other questions? Thank you. Do we have anyone from the public who would like to speak? Not seeing anyone, so I'll throw it back to comments.

**Comm. Braden**: Robin, what was the last issue that you brought up?

**Vice Chair Dukelow**: The landscaping that's on the east side of the building. It's noted in the staff report that that is six percent of the site, which is the appropriate amount of

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landscaping that would be required for a site of that size. It's the minimum, but since... You know, of course I'm always like, "Where's the street trees?" "Where's all this stuff?" but if we're going to redo Johnson Drive in four years or in... it doesn't make a lot of sense to... So I feel like there's been a tradeoff there. It seems that maybe they worked with staff and agreed to do that instead of the other. I'm guessing.

**Ms. Kneller:** The site was very constrained, and there wasn't a lot that we could... parking screening and things like that that we would like to see, it's just a constrained site. If we were going to have enough parking.

**Mr. Scott:** It's just difficult to get around the site. You have curbed up walls with landscaping and landscape along the street.

**Comm. Snyder:** Did we ever decide on three or four?

**Comm. Braden:** I'm good with three [inaudible]

**Comm. Cullinane:** I'm in agreement with three, because that's ADA compliant based off of the stalls.

**Comm. Smith:** I would say three as well. Although I am still uncomfortable with the overall lack of parking.

**Chairman Lee:** If there are no other comments, then –

**Comm. Smith:** I have one more comment.

**Chairman Lee:** Sure, go ahead.

**Comm. Smith:** I am a little... I feel like there's a lot of variances and just eking by. On this one and so yeah, I just wanted to put that out there that this one seems to be barely making it.

**Comm. Cullinane:** And while I definitely agree with that, I think because of the challenging location and like the existing and trying to preserve as much of the existing building that there is not just for cost effective but environmental waste in trying to reuse what we have.

**Comm. Smith:** And I guess I do really appreciate that it's not the most beautiful building in the world, but they are preserving something that has been there for a long time and has a long history.

**Chairman Lee:** Do we have a motion?

**Commissioner Braden moved** a motion to approve #22-19 Big Biscuit Site Plan Non-Conforming situation with deviations as noted: Deviation number one, I would not change. Deviation two, I would ask that be changed to "The applicant shall initiate and be financially liable for the amendment to the current plat easement access." Item number three, I would revise that to ensure that the car stops, wheel stops, be installed as noted on [inaudible] to provide a minimum four-foot-wide pedestrian walkway in the right-of-way. Four, leave as is. Five, leave as is. Number six, leave as is, and I would add seven to include chair rail or railing on elevations and [inaudible] at the outdoor dining area and provide us details to include the additional reinforcement prepared for the EIFS below eight feet.

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**Vice Chair Dukelow**: ADA.

**Comm. Braden**: Oh yes, and to increase the ADA parking spaces

**Ms. Kneller**: That's condition eight? So that's a total of three spots for ADA access accessible parking?

**Comm. Braden**: Correct.

**Vice Chair Dukelow** seconded the motion.

The vote was taken (7-0). **The motion passed.**

## IV. Old Business

**Chairman Lee**: Item number four will be old business. Anything on the agenda tonight?

## V. Planning Commission Comments

## VI. Staff Updates

**Mr. Scott**: We'll have a final meeting here. It will be Monday, the 28<sup>th</sup> of November. The primary topic of that will be [inaudible] process right now of buying that building from the current owner. They're wanting to subdivide it, so we'll look at a plat. That might be on the agenda. I won't make promises yet. And then, we may have a rezoning. We talked about rezoning the MS1 Zoning District to address some language issues around drinking establishments. They're planning to have that on the agenda for November. I'm know I'm missing something.

**Ms. Kneller**: Azura Credit Union at the old Runza building has a site plan and proposal for that space, for that site. And Chick-Fil-A has canopies that they would like to add in their drive-through, and they're reconfiguring the stacking in their drive-through and adding some other elements as we requested along with that plan.

**Chairman Lee**: At the Runza, I heard it...Did you say something this morning? I heard some Asian place was -

**Ms. Kneller**: Well, BIBIBop had first submitted a site plan to us, and then withdrew that application. Basically, they weren't willing to make some of the site improvements that staff had suggested, but Azura has provided a site plan that meets a lot of those requirements. It's a credit union, and they will have a drive-through area on the back side.

**Mr. Scott**: That will be a packed agenda, with quite a bit on there, but that will be the last meeting of the year. I think we'll probably have a meeting in January, but nothing firm yet. It's just tentative right now. That's all we have.

**Ms. Kneller**: Has anybody taking the training yet? Any feedback about that? We have until December.

**Mr. Scott**: Yep. December 31<sup>st</sup> is the deadline.

**Comm. Smith**: I wish the app, or the videos, were a little easier to use. I wished I could have rewind a few times, and that was not an option.

**Ms. Kneller**: Some of them let you do that and some of them didn't, I noticed, yeah. And some of the links, because I opened up all the links to save all that information in the

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folders, and some of them didn't work, so I saw that, too. Unless they've fixed something since then. Just one or two of the links.

**Comm. Braden:** I did have a question. It doesn't have anything to do with the Planning Commission, but there was sister something that was happening there forever? I assume that project is dead?

**Ms. Kneller:** I think it's dead.

**Mr. Scott:** Yeah, they weren't able to complete the work on the project so that property is back on the market again for leasing.

**Vice Chair Dukelow:** I'm sorry. What was that comment, Stuart? I couldn't hear you.

**Comm. Cullinane:** Remember that Two Sisters grocery store that was going to go in on Johnson Drive next to the old Red Wing?

**Comm. Braden:** Yeah.

**Comm. Cullinane:** I heard – I mean, this is all rumor – I heard there was just speculation like disagreement I think between the owner and them. So, just something to consider for the future.

**Mr. Scott:** Yeah, he submitted construction drawings, got a permit, started work and then stopped, and that was like two years ago. Not really sure whatever happened, but I saw recently where that entire building is being leased by Colliers. They're marketing it on behalf of the owner, so it's that space, plus the Red Wings, plus two spaces to the left.

**Ms. Kneller:** I did want to mention, too, that I'm working with Planet Sub. The owner of the properties behind Unleashed, Planet Sub basically owns the building for the two tenants – the Headless Hands Tattoo and Planet Sub – and we're working on an agreement between Unleashed and Planet Sub. Planet Sub is very amenable to working with them for a dumpster enclosure and negotiating at this point to see if Unleashed will provide some extra per month for the use of those parking spaces that would be taken up by their dumpster enclosure. We're in the middle of those negotiations right now with them, and it's kind of...we'll just wait and see. We've asked our land use attorney to draw up an MOU, and we're coming to terms on that just so we can get that conversation started and then have a permanent, legally binding agreement between the two owners for future access to that dumpster location for Unleashed. We'll see how those talks go. Because that was part of the conditions of approval for Unleashed, was to move that dumpster from the front of their building, and this is kind of our solution to that, and Planet Sub seems very open to the idea.

**Comm. Cullinane:** Because Unleashed hasn't come for final approval, right? Development plan?

**Ms. Kneller:** No, since it was just a site plan, it just goes to Planning Commission, and you all approved, so they have submitted their construction permitting documents to us now, and they're going through a process to get those approved for permitting. It's a slow process is what I'm understanding, to get everything squared away on that.

**Vice Chair Dukelow:** And how's Planning Sustainable Places?

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**Ms. Kneller:** I haven't heard anything more on it yet. It was all approved, so I think the next step is that MARC will be contacting us, and I believe they draw up the RFP for that. We get to form the committee to choose the consultants for that. Supposedly by the end of quarter two of next year is when we should have that plan complete, so I'm hoping that they get those RFPs out soon or amend that. In fact, I was going to contact Beth Dawson at MARC today, or this week at some point, to try to get just an update on that process and what our next steps are.

**VI. ADJOURNMENT**

**Comm. Snyder moved and Vice Chair Dukelow seconded, a motion to adjourn.**

The vote was taken (7-0). **The motion passed.**

The meeting adjourned at 8:32 P.M.

\_\_\_\_\_  
Mike Lee, Chair

**ATTEST:**

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Kimberly Steffens, Secretary