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MINUTES OF THE PLANNING COMMISSION MEETING
August 27, 2018

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, August 27, 2018. Members also present: Stuart Braden, Brad Davidson, Jami Casper, Robin Dukelow, Burton Taylor, Charlie Troppito, Pete Christiansen and Frank Bruce. Also in attendance: Brian Scott, Assistant City Administrator, and Martha Sumrall, City Clerk.

Approval of Minutes from the July 30, 2018 Meeting

Comm. Braden moved and Comm. Dukelow seconded a motion to approve the minutes of the July 30, 2018, Planning Commission meeting.

The vote was taken (9-0). The **motion carried**.

Case # 18-09 Public Hearing - Preliminary Site Development Plan for 5438 Johnson Drive

Mr. Scott: The item before you tonight is a preliminary development plan for 5438 Johnson Drive. You all are probably familiar with this property. It's at the northeast corner of Johnson Drive and Nall and currently the site of the former Pride Cleaners facility. The building itself was built in the 1950s. I'm not sure how long it's been owned by Pride. In asking staff, it seems like it's been owned for quite a while. People remember that as being a Pride Cleaners for a long time. There is some thought that it might have been a gas station at one time, when it was first built. The building was built in 1950. It's currently zoned MS1 and actually lies in the East Gateway overlay district. Properties to the north are zoned MS2 with single-family homes there currently. The west is MS1, BP, convenience store, gas station on the other side of Nall. To the south is MS2 Main Street District, and that's the Mission Mart center and Kinko's office retailer. To the east is MS1 Main Street District 1, and that's Sully's Pub and restaurant.

The property itself is 11,564 square feet, just a little over a quarter of an acre. The building itself is 1,412 square feet. As I said, it was a Pride Cleaners, which closed as a retail operation earlier this year, back in the winter. The ownership is associated with Pride Cleaners and they are interested in demolishing that current structure and building an investment property. They have hired KEM Studio, an architectural firm, to design a structure that would maximize that site. So, the design before you tonight is a 4,420 square foot building that is built to the lot line on Johnson Drive, as well as Nall, with on-street parking both on Johnson Drive and Nall. There are four off-street parking spaces at the back of that lot. They are not sure at this point what the final use of the building will be. It obviously will have to be retail or service to comply with the zoning and the Johnson Drive guidelines. They're thinking possibly a one-story building, maybe a two-story building. A two-story building would obviously have residential and offices on the second floor. It's dependent on the land and the final design. They are proposing a building that is 28 feet in height at that location, which would essentially be a two-story building.

It does conform with the intent of the Main Street 1 District. The maximum height for buildings in Main Street 1 District are three stories and/or 45 feet. Front build-to line is zero. The side yard built-to line is also zero where the side yard abuts a public street. There is no rear yard setback required in the MS1.

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There are no parking requirements in the MS1 zoning district. On street parking may be constructed where adequate right-of-way is available, subject to good traffic-engineering design principles. No portion of any paved parking area that is hereafter constructed shall be permitted within six feet of a street line or lot line. Any parking and loading provided on private property shall be paved, striped, contain landscaping and screening as required in Chapter 415, Article III, Section 414.060. That actually does not comply because there are less than 25 parking spaces. There're only four off-street parking spaces at this location.

This also meets the intent of the East Gateway Overlay District. The property falls within this district. The overlay district generally prohibits any automotive-related uses, including sale or repair of vehicles. Though a specific tenant for this building has not yet been identified, the design of the proposed structure does not lend itself to such use.

Turning to the Johnson Drive Guidelines, the Johnson Drive Design Guidelines provide a wide range of recommended and required design elements applicable to the development. These include streetscaping and the relationship of buildings and their exterior facades to public streets, as well as building materials and screening. Many of these details are not required at the time of preliminary site development plan review, but will be fully evaluated with the final site development plan.

The proposed structure is shown filling in the corner at the intersection of two public streets, with a small amount of parking in the rear. Sidewalk width has been identified as eight (8) feet, which is in keeping with the design guidelines and Johnson Drive infrastructure improvements in place already. Room is limited for trees and other landscape elements, unfortunately, but there is possibility for landscaping with planter boxes strategically located around the building. The design is a more modern architectural theme with strong horizontal and vertical lines that partition the two street facades of the buildings. Inset, full-length windows are proposed on both facades, providing views into the building and allowing for a visual interplay between the interior of the building and the streetscape. The entrance to the structure will be at the corner of Johnson Drive and Nall Avenue, providing a focal point at the intersection. An inset courtyard is proposed along the Nall Avenue side of the building, which will further enhance the pedestrian orientation of the building and provide for activity along the sidewalk. The proposed building materials and architectural style are reflected in the design sketch shown on page seven of the applicant's submittal. A beige brick is proposed for the facade.

In terms of off-street public improvements, an existing fire hydrant along Nall Avenue in front of the building is proposed to be relocated to the north within acceptable standards provided by the Fire District and Johnson County Water One. The existing alleyway behind the building is approximately twelve feet in width, currently. The applicant is proposing to widen this alley to approximately twenty-five (25) feet. The brush that currently exists in this area will need to be cleared away, and an access agreement with the property owners to the east completed in order to accomplish this. This would allow for those on the east to be able to access...There is no alley, really. It's probably all (inaudible) property lines. Sometimes people think it's a City alley, and it's not. So, that would need an access agreement to allow those to the east to be able to access across their property and get out to Nall.

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A privacy fence along the back of the alley where the property adjoins a residential property will also be required. A sanitary sewer line currently exists to the east of the property within the Nall Avenue right-of-way. It is proposed that this development will connect to this line with the appropriate permits from Johnson County Wastewater. A detailed site survey will be required with the final site development plan showing all dimensions of the site, utilities and easements, and proposed improvements. Signs will be part of the final development site plan. As a mixed-use development, the subject property is encouraged to establish a private sign criteria to accomplish this.

Stormwater Management. The subject property generally drains southeasterly. There is an existing storm sewer along Johnson Drive. There is currently a storm sewer inlet in front of the property along Johnson Drive. The amount of overall impervious surface that is currently present will change little with the proposed development. A stormwater study will need to be completed, and final design plans will need to indicate proper stormwater management in accordance with the BMP.

Finally, the Mission Sustainability Commission has developed a rating and certification system. The applicant will be asked to submit their proposal to the Sustainability Commission for rating prior to submission of the final site development plan.

This does meet all the considerations of site plans under 440.160 in the City's Municipal Zoning Code. Staff does make a recommendation, with the following conditions:

1. Detailed site survey will be required with the final site development plan indicating site dimensions; building dimensions; on-street and off-street parking dimensions; dimensions of interior traffic ways; sidewalk width; placement and dimensions for all off-site, public improvements, landscape and streetscape improvements; and dedication of public-right-of way.
2. Detailed building drawings will be required with the final site development plan indicating dimensions, number of stories, materials, and finishings.
3. Private sign criteria plan will be required with the final site development plan.
4. A final traffic study and final stormwater drainage design plan must be submitted for review with the final site development plan. The appropriate text, maps, drawings and tables must be included.
5. Staff reserves the right to provide additional comments or stipulations on development plans until all traffic or storm drainage related concerns have been addressed.

And there is an item 6 that I added that I don't have in my draft, but it's in your packet. It pertains to Phase 1 environmental study being done on the property to identify potential contaminants from the dry cleaning establishment that was there.

I believe the applicants are here tonight. I'd invite them to make comments or share about their application.

Chair Lee: Please step forward and identify yourself.

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Brad Satterwhite, Partner, KEM Studio, Mike Schwaller, Architect, KEM Studio, Jeff Rouse, JKM Equities, all introduced themselves.

Mr. Satterwhite: Thank you for the report and overview. I think that is all consistent with what we are trying to do, to give you a short background from the owner's perspective, which at this stage is to try to put forth the basics of the planning approach to gain some level of approval in this preliminary stage, so that we can continue to market the site to the types of uses that were outlined by Mr. Scott. So, that's where we are today. That's why some of the things will still need to be vetted out in the final development plan as to the exact materials and details.

The only real clarifications that I have relative to what was in the report is that the intent is for either a two-story building or a one story use with a two-story volume structure. So, whether that ranges between 20 and 28 feet, the intent is to stay consistent with the streets along Johnson Drive. For example, just to the west where Mission Repair is, is about 28 feet in total height from the base to the top of the parapet. So, we would be looking in that range or a foot or two higher. The other thing is that they are not affiliated with Pride Cleaners. Pride Cleaners occupied the space, but they are not part of the ownership group. That's the second point.

The third one, I know we're trying to gain an understanding of the dedication of right-of-way relative to both Johnson Drive and Nall Avenue as the owner tries to navigate, not what's required by planning - which the plans that are in place as far as no parking and a mixed-use shared parking development is fantastic, but more from what would be required from a market standpoint, a lending standpoint, relative to tenants going in there. Mr. Rouse may have a couple questions relative to the nuance of that.

Beyond that, the last thing I would say is really trying to encompass all the things that are outlined in this area of the development plans relative to quality materials, real materials, pedestrian/human interaction at the street level, responding to the environment to create spaces that, they want to be outside the building as well as inside the building, and really solidify what is a really fantastic corner at Johnson Drive and Nall, giving it more presence than it has today. So, I'm happy to field any questions from you all.

Comm. Troppito: I have some questions. This isn't necessarily architecturally-related. And staff can also chime in. What's the timeframe for this project?

Mr. Rouse: Yeah, so, also to clarify some of the overview. So, Pride's is actually, they are still there. They are occupying that space currently, and they are projected to be there until the end of October. So, we're starting to get close to winter. We've not secured a tenant. We need to get this phase of it, this conceptual site plan, make sure we get the proper feedback from the Commission and from the City in terms of what we would be allowed before we can really go forward and market this property toward prospective tenants. Figure out what their design needs are, their building needs, and try to come up with an agreement that is financially feasible from a rate of return type of calculation. In a perfect world, we would like to be able to get to that approval. There is demolition that needs to be done, remediation that needs to be done there, which I can go into further detail if you need. But, we're looking at potentially breaking ground in the spring, and then,

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if we can secure a tenant, having something there early summer, middle of next summer. I think that's a realistic timeline.

Comm. Troppito: How is this project going to be financed? Is there going to be a loan from a financial institution? Or are you self-financing?

Mr. Rouse: We own the land; we don't have any debt on the land right now. So, we would be taking out a loan from a financial institution.

Comm. Troppito: Okay. Are you aware of any existing adverse environmental conditions affecting this property?

Mr. Rouse: Yes, I am.

Comm. Troppito: What are they?

Mr. Rouse: So, as the staff report mentioned, it was originally constructed as a gas station. It has been a dry cleaners, I'm not sure the exact timeframe, but for many, many years. And there is existing contamination in the ground, below the surface, that is part of the dry cleaning. It has been accepted into the dry cleaning fund. The deductible for the dry cleaning fund has been paid. So, the cost of cleaning up that dry cleaning contamination is completely handled by the State of Kansas, Department of Health and Environment.

Comm. Troppito: You have a separate fund?

Mr. Rouse: The fund is solvent. The fund has money, and we are in it. It is our understanding from conversations that we've had with the State of Kansas that if the building is removed as part of a redevelopment process, they would take that opportunity to perform the clean-up that needs to be done. We would not be able to secure our financing or a tenant that would be able to support that kind of building unless there is a clean environmental condition.

Comm. Troppito: Are you aware of any past environmental site assessments done on this property? Phase 1 or Phase 2?

Mr. Rouse: We had Phase 1 and Phase 2 completed when we purchased the property in 2012.

Comm. Troppito: And were these submitted as part of your application?

Mr. Rouse: No, they were not

Comm. Troppito: Was it mentioned to staff? Why I'm asking the question is there are several environmental-related statements in the staff report that I think add that dimension (inaudible) staff comments (inaudible) different.

Mr. Satterwhite: The architect was not aware of the environmental studies done, so we went with what...

Comm. Troppito: And you weren't asked.

Mr. Rouse: And we weren't asked.

Comm. Troppito: Thank you. That's all the questions I have at this point.

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Comm. Davidson: I'm curious about the easement on the north side of the property, or the business to the east, I guess is using it, and they need access to the back of that, their business, I assume. So, I guess that has been, just like a handshake-type of agreement that they can access on the back of your property as it sits at this point in time?

Mr. Rouse: There is a written agreement. There is a written access agreement that they have the right over that north part of the property.

Comm. Davidson: Is that the triangle that's there that's highlighted on the back side of the property? Right there.

Mr. Rouse: Yeah, that is it there. And that would be maintained. Within the conceptual site plan, that would be maintained. That was actually another point about the staff report. It talked about that there would need to be an agreement in place. There is already one in place.

Comm. Davidson: Okay, because Brian said that there needs to be one in place, and my question was, what's in place currently because of what's going on. That answers my question.

Chair Lee: Any additional questions at this time for the applicant? Thank you.

[Chair Lee opened the public hearing.]

Cindy Rubiare, 5825 Nall, appeared before the Planning Commission and made the following comments:

Ms. Rubiare: My maiden name is Bryant. The Bryant's have owned the house on the north end of this property since the 1930s. Currently, one of us is living there. I'm in and out of there daily. Just housekeeping stuff. That site was formerly a gas station. Mission puts out this booklet. This booklet is from May 2016. That's a picture of the first gas station in Mission, at the corner of Johnson Drive and Nall. So, just FYI, yeah, there was a gas station a long time ago.

I haven't gone through the entire plan in front of you, but from what I saw, it mentions a sidewalk along both Johnson Drive and Nall. I can tell you that no sidewalk exists on the east side of Nall from Johnson Drive to 58th, right in front of the house we own. So, I'm not sure what sidewalk they are referring to. It would be nice if there was, but there is not. They mentioned on-street parking on both streets. From personal experience, I can tell you that backing out of our driveway onto Nall is perilous. People turn right there quickly at Johnson Drive and Nall. People come out of the gas station, sometimes quickly without signaling. So, if I want to back out, I have to be real careful. I haven't been hit yet. I just want you all to take that into account. I know they want parking. I know every business in Mission wants more parking. It would be a selling point for them to be able to provide more. I think that's something that has to be considered.

I'm also concerned about light and noise pollution. They have nobody lined up to move into what they want to build, but when they do, I'm concerned about potential light and noise problems. The family member who lives in that house is already putting up with some light and noise from Sully's Bar, which is right next to the drycleaners, across the

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alley from us. There used to be noise from the BP gas station. They used to have music at their pumps 24 hours, and at night, they got a little loud unless you asked them to turn it down. Which they would do, and then they would turn it right back up.

I'm also concerned. I know you all don't know what's going to come into that place in the future, what you are building for. I am very concerned that Mission would allow another bar there. Besides Sully's Bar, there just east of their property, I know a new microbrewery has been approved just west of us on Johnson Drive. The Peanut Bar and Grill is one block south and two blocks east of us. The Lucky Brewgrill is about three blocks east of us on Johnson Drive. I'm concerned that Mission might not want to concentrate bars in that area. Now, it might not affect too many people besides us. We're the only house affected on this proposal, but it's still our house, and we still have someone living there.

With the way things go, we understand business, we understand what may not be feasible is for us to have a house there forever. We have been approached by Pride Cleaners, the owners of this property, asking if we would like to sell. We said no, we just did some remodeling. We're not interested in selling. Somebody is living there. They said, in case we did, what did you want for it. Parking. Parking. Which we've heard before. Beverly, who owns the business a little farther east of here...I can't think of the name, it's a beauty supply place. Beverly, the owner, has approached us in the past, asking if they could buy our property. We said no. What do you want it for? Parking. I know Mission needs more parking but, again, we still live there, and we still like living there. That's all I've got. I appreciate the opportunity to talk to you. Thank you.

Chair Lee: Anyone else who would like to speak?

[Chair Lee closed the public hearing.]

Com. Davidson: I've got one. Could the applicant maybe, even though they might not be in complete design with that home the lady just spoke about, and to your property, of what that easement area and stuff, how that's going to be landscaped or buffered in any way?

Mr. Satterwhite: Well, we would be increasing...Currently, it's 12 feet between their property line and the alley, I guess the south side of the alley. We would be doubling that, from 12 feet to around 25 feet. We've also included plans for a privacy fence. Whether or not that's a high fence or something more substantial, we can talk about that. But we want to separate ourselves from the single-family residences to the north.

Comm. Davidson: That 12-foot easement that is in place now, you're going to double it? But there still has to be, I guess vehicle access within that easement. Basically, it's going to have a basically 12-foot-wide alley with an additional 10 or 12 foot type landscape buffer, or something like that?

Mr. Satterwhite: If you work your way dimensionally from this back property line, the drive will increase to 25 feet from the 12. Then, the depth of a parking stall, and then, a sidewalk between the parking stall and the building, so that when getting out of the car, you can walk between the building and the car (inaudible). So, the building that we're proposing right now would align with this edge right here of this adjacent building, very close to that (inaudible). We haven't talked, from a specific development plan, about other additional

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buffers with plant material in front of the fence or between the buildings, but to the extent that we...

[crosstalk]

Mr. Rouse: And I will say, I want to thank you for coming out tonight. We've had lots of discussions with the family of that house, have been very open about what we're trying to do there, which is that, you know, we see ourselves as, we want to be good stewards. We want to build something that the City of Mission wants. We want to build something that, the benefit is helpful to reinvigorating that entire corridor. That's my wife and I, that's our goal. We don't want to build a suburban retail center that doesn't jive with the guidelines of the plan. So, we're willing to work with the family and provide an appropriate buffer that will allow them to stay in the house peacefully as long as they want to stay there.

Ms. Rubiare: I can tell you, too, we have bushes that separate our property from that alley that runs kind of east west. And the people that operate the bar now added a patio in the back. It helps a lot because it restricts the number of cars that park back there, that run through our bushes, and that have backed into a fence that is no longer... It's gone because it's just gotten broken so badly by getting backed into. Now, that doesn't happen so much, but I'm just warning you, if you put a fence in, here's what's going to happen.

Chair Lee: We have closed the public hearing.

Comm. Troppito: I have a question of staff. That's really hard for me to see. Could you dim the lights a little bit? It's hard to read that print. That's better, thank you.

Comm. Davidson: I just have one comment about the parking along Nall. I totally agree with you as far as that's, the parking there, you know, on the west side of the building on Nall, I live just up Nall and know how people drive. I know how they drive on Johnson Drive, as well. And we have slim parking all along Johnson Drive. That's why I requested the speed limit to go from 30 to 25, and I really think it needs to be 20. I think all the speed limits along Johnson Drive and all these angled parking situations need to be slowed down and enforced. Because I do know people come around Johnson Drive, taking the turn and going north on Nall, you're backing out of a stall, and I'm just saying, that's a concern I think can be addressed. But I understand your comment regarding that situation. There's not a lot of space, a lot of square footage on this property, so property is tough to get. That's just a comment.

Comm. Bruce: Do you have any idea what type of business you are targeting?

Mr. Rouse: Well, we've gotten a lot of interest from a microbrewery like the ones that are going in down the street. We've had some interest from a medical office, dental. We've tried to get more of a full-service type of restaurant because we thought that with the visibility of the corner, that would be ideal. But, the fact of the matter is, even with this design, if part of it was maximized, maximized parking, we still wouldn't have nearly as much parking as any kind of restaurant is going to want. So, we've scaled back to some of the other retail uses that don't need as much parking. But that's the interest that we've had. But, until we get to the conceptual site plan approval, or at least good guidance from the City, it's really hard for us to push it because it is a challenging site. A lot of the tenants

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and brokers have just said, "Oh, you don't have enough parking." That's the initial reaction. So, we've got to get to this phase, and then, we can really get the marketing to find the right tenant.

Comm. Dukelow: Mr. Chairman, if there are no further questions, I'll make a motion.

Comm. Troppito: I was going to ask staff to bring up the presentation in relation to the motions made.

Mr. Scott: PowerPoint? (Attached)

Comm. Troppito: Yes. Assuming it's going to...

[crosstalk]

Comm. Troppito: I'm not sure what happened to your resolution settings. Basically, what you are seeing here are the results of some work I did on this myself, observations I made as a result of a site visit, and some follow-up on line. This is an aerial view, it's consistent with what you've seen already, so let's go onto the next slide, please. You're not going to be able to read the narrative on the left side. This is a view of the back side, actually the easterly-facing view. You see the red arrow there. I made a site visit on Saturday, 8/25, and what's behind that fence is a small metal dumpster, and it contains bagged materials, some of which you can see are related to dry cleaners. There's also bagged and unbagged materials around the dumpster, laying on the ground. So, you know, it's hazardous waste in there of an unknown type. And I always wanted to get in there and figure out what it was. That would be the job of the environmental assessor to do.

But, I will point out that it may contain, or may have contained in the past, potentially hazardous waste that would be consistent with its use as a dry cleaning business. And such hazardous waste includes such things as contaminated rags and spent filters from dry cleaning equipment. Again, that's the job of the environmental assessor to determine. Go onto the next slide, please.

This one is probably difficult to read. It's a search I did of the USEPA online databases, which confirms that Pride Cleaners is a registered hazardous waste generator at this location. So, that confirms that hazardous waste has been generated here on the site. Next slide, please.

This is a Sanborn map extract that I did. At this point, it's old news tonight because...Thank you, ma'am, for presenting the magazine article. This was just another confirmation that that was, in fact, used as a gasoline service station. This map is from 1963. Sanborn actually used a process of conducting environmental site assessments, one of the documents that's reviewed by an environmental assessor, to review the past site history. Can we go onto the next one?

I took a picture here. Again, this is hard for you to see on that screen, I realize, but the red arrow points to what appeared to me to be a sealed and welded top of a stand pipe that's usually associated with an underground storage tank. This is usually for a known - in this case, unknown - hazardous material and liquids. This is at the northeast corner of the property. That's something that an environmental assessor would look at and review and make a finding from there. But, what I was saying, whether it's a (inaudible) oil tank,

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or whatever kind of tank it is, that would certainly be consistent with past use as a gasoline service station. Go onto the next slide.

So, I did some other EPA records search. That indicates that there is no record on file - that I can find anyway - of any underground storage tanks registered for that site. There's no record of underground storage tanks as being properly removed from the site. The lack of these records is inconsistent with past use of this site as a gasoline service station, which raises questions. Lack of such records could also indicate the UST's are there, are still in place, and more investigation and assessment should be performed for the use as a gasoline service station, apart from anything to do with what's going on with the site in connection to being a dry cleaning establishment. Next slide.

This is a KDHE database search results. Basically, it confirms what is already stated, that there has been a Phase II environmental site assessment performed for this property; that significant environmental contamination has been found; that remediation is required; and, that remediations listed in the database as being active. Next slide.

Groundwater contamination is confirmed. The site has known groundwater contamination from dry cleaning use as confirmed by a Phase II environmental site assessment. The current extent to which contamination has spread is undetermined at this point. There's a screen shot of the record, of the search I did. And, an expanded site assessment has been proposed, presumably to determine the scope and extent of both on-site and off-site contamination. That's the purpose of the Phase II environmental assessment. Not just contamination on the property, but has it spread off site, too. Next page, please.

So, here are some conclusions that I'm offering to you. If you look on the right, there's a picture of the potential of PCE - Perchloroethylene - for on-site and off-site contamination, how it plumes and spread, how it can go into, potentially sanitary sewers and stormwater sewers, groundwater. On-site and publicly -available data indicates substantive information indicating: That environmental contamination is confirmed to exist as a result of past land use as a dry cleaning establishment; that potential undetermined environmental contamination may also exist from past use as a gasoline service station; the presence of either an existing UST On the site or a UST that could have been removed without being reported as required, which in either case requires further environmental assessment; the scope and extent of known and unknown contamination; in other words, the contamination plume to the subject property and to off-site properties is unknown at this point, requiring further investigation in the form of a Phase I and Phase II environmental study and assessment. Lastly, that Phase I and II ESA's should be conducted in accordance with accepted and required ASTM standards to assure that they are properly conducted. In other words, that they are consistent with standard methodologies and conducted by qualified environmental professionals as described in the relevant ASTM standards.

Mr. Chair, that's the conclusion of my report. I am available for questions. If there are no questions, Ms. Dukelow can proceed with her motion. Well, one other thing. Can you bring up the proposed amendments? There are two I am making to staff recommendations as a result of these findings. One is an amended stipulation 6, which is to specify that the (inaudible) Phase I is conducted by (inaudible) investigation of the entire site history, not just the site history of the cleaners. Basically, 7 says if the Phase I

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Environmental assessment recommends further environmental inquiry in the form of a Phase II environmental site assessment, and such assessment shall be conducted in compliance with ASTM Standard Practice E1903-11 for environmental site assessments: Phase II environmental site assessment process and will need to be completed and submitted with the final site development plan. I'd be happy to second the motion as long as it contains the amendment to stipulation 6 and the addition of stipulation 7.

Comm. Christiansen: Mr. Chairman, I have a question. The owners acknowledge that the health department (inaudible) Kansas State Health Department to mitigate the site. These phases that we're calling in, why are we being so explicit with the certain standards? It's a federal law that they have to abide by. It states that the Kansas Health Department requires them to meet that. I don't see the need to explicitly state that ASTM standard for each phase when the owners acknowledge it, there is a state, Kansas State Health Department, there's a fund for it, and they still have to go through the mitigation process, so if they do find a tank, they have to deal with it. But in this preliminary setting, I don't think that's necessary for this approval. The owner is looking to get direction from us as a Planning Commission as what they want to see there. The final site plan will come, and we can make those adjustments then. If there is a tank on site, by federal law, they have to deal with it. Same with the contaminants in the ground. So, by pinning these so early on, it's almost like we're scaring away business. What they're looking for is guidance on what they want to build, and what they want to see there. The neighbors, they're willing to work with us and the City to build and develop a property that's going to help this city grow. And that's why I don't think these stipulations are necessary for this plan approval.

Comm. Troppito: I'd like to respond to that. Six is there because staff recommended a Phase I environmental site assessment. It wasn't really required, but the way it was phrased, it didn't really require that it be done in a certain way. Now, in my experience with past environmental business is that there is a lot of people out there doing Phase I environmental assessments that haven't been historically, they are not in compliance with the standards. They're performed by people who really do not have the qualifications to perform (inaudible). So, I just want to tighten that up and make sure that what we get as a part of our decision process is a quality document, which will be done by professional standards in the way it should be done. That tightens that up. So, it doesn't really add anything except to what staff is already bringing in here in item 6, except to simply say that it needs to be done in conformance with the standards. And, it also needs to include complete site history. The reason for that is that the assessment conducted by KDHE appears to be only done in connection with its use as a dry cleaning store. The other reason for that is the applicant indicated that their intent is to have this commence (inaudible). Well, every financial institution that I know of is going to require this ASTM, Phase I conducted by ASTM standards. So, we're not really requiring anything that they aren't going to require anyway.

Now, number 7 recommends if this (inaudible). I look at 6 as more of a clarification. Seven is an addition, and the way it reads is that if the Phase I requires further environmental inquiry, it too shall be conducted with ASTM standard practices. And it will need to be completed and submitted with the final site development plan. So, if you're Phase I (inaudible) Phase II, well, why would we not want to see that?

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Comm. Christiansen: Well, why do we need to have this tonight? Why not have it with the final site development plan?

Comm. Troppito: Well, this is a follow-up by staff, and if it's the consensus of the Commission, we should leave in reference to 6 to begin with. In the staff report.

Comm. Dukelow: It's my understanding that if a Phase I environmental assessment per ASTM standards comes back with indications of contamination, then it is, the owner is required to perform a Phase II assessment. And any site remediation that would be required as a result of those assessments would also be required. You're not going to get footings and foundations in if there's tanks under there. Believe me. They're (inaudible) site. They're not going to be able to build on a tank.

Comm. Troppito: I understand.

Comm. Christiansen: Mr. Chairman, are we sure that this ASTM standard is applicable by law for us? This might be a question for staff. Can we require this phase if it's not...? That might be outside of our jurisdiction, to even be discussing this.

Mr. Scott: I don't know exactly what's applicable by law. Frankly, this is a little over my head. I was aware of the nature of the property. That's why I asked for Phase I to at least demonstrate if there are any environmental contaminants on the property, and if there is, Phase II would kick in, and all those issues would have to be addressed before any construction occurs on the property. Whether it's ASTM, or any other standard, frankly, I don't know. We would do a review, our engineering staff would do a review of the environmental report that was submitted by the applicant. They would be looking for acceptable standards. But I can't speak to what that is.

Comm. Troppito: My question for you, is staff's recommendation 6, the way it reads now: *A Phase I Environmental Site Assessment will need to be completed and report submitted with the Final Site Development Plan.* So, that raises the question - Why is it even in there to begin with? Where did this recommendation come from? From the city attorney? You?

Mr. Scott: It's myself. It's based on my limited knowledge of the property. Obviously, it was a dry cleaning establishment. I'm aware of dry cleaning contaminants, etc.

Comm. Troppito: And you felt it was necessary.

Mr. Scott: Yeah. And I also had heard that there was a convenience store. Thank you for the information that confirmed that. Or a gas station, excuse me. So, that was my requirement. I'm not opposed to any of this, if that's the direction the commission wants to go.

Comm. Davidson: Mr. Chairman and Brian, maybe...And I understand Charlie's concern, or whatever. Charlie, what if the City required this ASTM inspection to be from a licensed ASTM company or inspector? I think that would...Basically what I'm hearing Charlie saying, that's his concern. Because I know you can find an inspector anywhere. So, make sure that they comply with ASTM.

Comm. Troppito: Well, the standards themselves define any (inaudible) environmental systems. That's one of the reasons the standards exist. And includes but not limited to licensed professional engineer, and licensed professional geologist. Can include

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professionals with environmental science degrees, (inaudible) who worked under a licensed professional for 10 years. So, the standards are there for a reason. Just to guarantee that you get a professional, quality report that can be relied upon. And that's what I presume we would want as a part of our decision-making process, and City Council would want as a part of their decision-making process. Something that you could count on. And those specifications provide for that. That's why they are there.

Comm. Christiansen: Mr. Chairman, I'm not opposed to the due process of having the site mitigated and all the proper testing done. What I am more concerned about is these are state and federal standards that are law. What I'm asking is - and this might be directed to staff - are we even allowed to require this as part of the Planning Commission? I mean, we can make recommendations on, more of a generic as a Phase I, but if our law doesn't specifically call for the ASTM standard, I'm by no means an environmental engineer, so I'm just not comfortable with being so explicit as to name an exact standard when the state law and federal law dictates that.

Chair Lee: I always (inaudible) there's some language in there that indicates (inaudible)

Comm. Braden: Correct.

[crosstalk]

Comm. Christiansen: If we stipulate this and they come back and state or federal law requires a different one - and I'm not sure how many there are, different types of tests, and they come back with one that's required by law and not by this point...You know, I'm just saying, let's not be so specific as to...Let's just call it, you know, the way it was written originally I think is sufficient, and let the state law and federal law on mitigating those contaminants, if they are found, to tell them, you know, there's already a fund in place to mitigate it. Let's just leave it at that. There's no reason to get into these details, especially on a preliminary site plan. If we feel it is necessary on a final site plan, let's address it then.

Comm. Troppito: Well, this is directly (inaudible).

Comm. Davidson: But we're still allowed to make more comments per the final site plan.

Comm. Dukelow: As an example, I mean, I agree with what my fellow commissioner just said, and I think of this is almost analogous with specifying the (inaudible) of the concrete. Or, specifying the steel, or anything else. I think we've probably gotten into too much detail with this.

Comm. Troppito: [Inaudible.]

Unidentified: Would the applicant want to speak on...?

Chair Lee: I don't think.... (inaudible)

Comm. Dukelow: Mr. Chairman, I will make a motion, if that would be agreeable. I make a motion to recommend approval of the preliminary site development plan for Case No. 18-09, 5438 Johnson Drive, to the City Council, with the following stipulations:

1. Detailed site survey will be required with the final site development plan indicating site dimensions; building dimensions; on-street and off-street

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- parking dimensions; dimensions of interior traffic ways; sidewalk width; placement and dimensions for all off-site, public improvements, landscape and streetscape improvements; and dedication of public-right-of way.
2. Detailed building drawings will be required with the final site development plan indicating dimensions, number of stories, materials, and finishings.
 3. Private sign criteria plan will be required with the final site development plan.
 4. A final traffic study and final stormwater drainage design plan must be submitted for review with the final site development plan. The appropriate text, maps, drawings and tables must be included.
 5. Staff reserves the right to provide additional comments or stipulations on development plans until all traffic or storm drainage related concerns have been addressed.
 6. A Phase I Environmental Site Assessment **and required subsequent assessments** will need to be completed and report submitted with the Final Site Development Plan.

Mr. Braden: Second.

Chair Lee: Call the roll, please.

Comm. Troppito: [Inaudible] amendment. Motion to amend.

Ms. Dukelow: So we will...?

[crosstalk]

Ms. Dukelow: We vote on the amendment, and then, back to the original motion?

[crosstalk]

Comm. Troppito: The motion to amend is to accept what she proposed for item 6, and environmental assessments must include investigation and complete site history of all land uses of this site, including operation as a gasoline filling station. (Inaudible).

Ms. Dukelow: So that was your... [crosstalk]. I'll second your proposed amendment.

Chair Lee: Make sure everyone is clear, we are voting on the amendment first, and then we'll vote on the original motion. Call the roll, please.

The vote was taken (9-0). The **motion carried**.

Comm. Troppito: Mr. Chairman, I have a motion.

[crosstalk]

Chair Lee: That was your...

[crosstalk]

Chair Lee: We're back to the original motion.

The vote was taken (9-0). The **motion carried**.

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Comm. Troppito: Motion to add stipulation 7, rephrased as: *If the Phase I Environmental Site Assessment recommends further environmental inquiry...*

Unidentified: I don't think we can do that, Chair.

[crosstalk]

Chair Lee: Okay. Thank you. Item 4, do we have any old business? Any PC comments? [None].

Staff Update

Staff provided an update and announced there will be no meeting in September. Comm. Dukelow asked for an update on the car wash and the redevelopment of office buildings. Mr. Scott reported that nothing new has happened on either of those projects.

ADJOURNMENT

With no other agenda items, **Comm. Christiansen moved and Comm. Braden seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at 8:10 P.M.

Mike Lee, Chair

ATTEST:

Martha Sumrall, Secretary