

**City of Leawood  
Planning Commission Minutes**

June 27, 2006  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive

**CALL TO ORDER/ROLL CALL:** Henderson, Perkins (absent), Jackson, Rohlf, Conrad, Munson, Williams, Elkins, Reynolds

**APPROVAL OF THE AGENDA:** Rohlf stated case 30-06, One Nineteen, has been continued to the July 11, 2006 meeting. A motion to approve the revised agenda was made by Henderson and seconded by Williams. Motion approved unanimously.

**APPROVAL OF THE MINUTES:** Approval of the minutes from the May 23, 2006 meeting. A motion to approve the May 23, 2006 minutes was made by Jackson and seconded by Henderson. Motion approved unanimously.

**CONTINUED TO THE JULY 11, 2006 MEETING:**

**CASE 30-06 ONE NINETEEN** Request for approval of a rezoning from SD-CR (Planned General Retail) to MXD (Mixed-Use Development District) and preliminary site plan. Located south of 119th Street and east of Roe Avenue. **Public hearing**

**CASE 42-06 CALIFORNIA PIZZA KITCHEN** Request for approval of a final site plan. Located north of 117th Street and east of Nall Avenue.

**CONTINUED TO THE JULY 25, 2006 MEETING:**

**CASE 41-06 CORNERSTONE – CLADDAGH IRISH PUB** Request for approval of a final site plan. Located at the southeast corner of 135th Street and Nall Avenue within the Cornerstone of Leawood development.

**CASE 08-06 LDO AMENDMENT - SECTION 16-2-9.2 NON-RESIDENTIAL USES** Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

**CASE 09-06 LDO AMENDMENT - SECTION 16-3-9 DEVIATIONS** Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

**CONSENT AGENDA:**

**CASE 40-06 STATE LINE OFFICE BUILDING – SIGN** Request for approval of a final site plan. Located at 12730 State Line Road.

**CASE 44-06 PARK PLACE** Request for approval of a final plat. Located at the southeast corner of Nall Avenue and Town Center Drive.

A motion to approve the consent agenda was made by Henderson and seconded by Williams. Motion approved unanimously.

**NEW BUSINESS:**

**CASE 39-06 MADDEN MCFARLAND INTERIORS** Request for approval of a preliminary site plan and preliminary plat. Located of 135th Street and west of State Line Road.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is Bernie Madden. The applicant is requesting approval of a preliminary site plan and plat for the construction of a 3,616 sq. ft. building addition. The applicant is also requesting to

change the exterior building materials on the existing building. This property is located south of 135<sup>th</sup> Street and west of State Line Road. The proposed building addition is two stories with an addition to the basement. The main entrance to the building is to the north, off of 135<sup>th</sup> Street. Parking is proposed on the north, east and south sides of the building. The existing building is 7,517 sq. ft. The applicant is proposing a 48% increase in the building area, for a total of 11,133 sq. ft. Per the LDO, any change above 5% is considered a major change and requires a preliminary plan approval. An attached trash enclosure is proposed at the southwest corner of the building. The applicant is proposing to use the existing monument sign. The applicant is requesting a number of deviations with this project. Per the LDO, the minimum structure setback is 40 ft. along public rights-of-way. The applicant is proposing an exterior setback of 33.25 ft. along the east property line. The required exterior parking setback along public rights-of-way is 25 ft. The applicant is proposing 15 ft. along the north property line. The required minimum interior parking setback is 10 ft. The applicant is proposing an interior parking setback of 3 ft. along the west property line and 5.5 ft. along the south property line. Per the LDO, no more than 40% of any side boundary line that fronts onto a public street may be developed as parking areas or paved areas. This project does not meet that requirement along State Line Road. The applicant is requesting a deviation for that. Per the LDO, within the SD-CR zoning district, the minimum area for development is ten acres, however, the City is in the process of amending this requirement and therefore the size of the property is not an issue with this project. Staff is not supportive of the deviations, due to the number of deviations being requested and also the insufficient site area to accommodate both the building addition and the required number of parking spaces. Staff is recommending approval of this case with the stipulations stated in the staff report.

Lambers stated he does not support this application. He believes it would be a grave mistake to allow the expansion to occur. This project has nothing that is consistent with the corridor design guidelines and would be inappropriate to be expanded. This is a gateway into the City that the City has been very concerned about trying to distinguish between Missouri and Kansas. He believes the applicant should be allowed to exist in the existing facility for as long as they desire, but an expansion would be a grave mistake.

Rohlf asked if there is a plan approved for relocation of the Madden McFarland building. Joseph stated they were approved for a final plan of a two-story building near 133<sup>rd</sup> Street and State Line Road. Rohlf asked when that was. Joseph stated about two years ago.

Rohlf stated she has quite a few concerns in regard to the number of setback deviations the applicant is requesting.

Conrad asked the status of the development to the southwest of this location. Joseph stated they have a final plan approval for 100,000 sq. ft. of retail space. Conrad stated he would like to know if this piece of property was integrated into that plan. *Joseph showed the approved site plan for the property to the southwest.* Henderson stated there is a "for sale" sign on that property. Joseph stated that property is separate from the property under discussion tonight.

Henderson asked if the existing areas would need to be equipped with a fire sprinkler system. Lambers stated, no, just the new areas.

Jackson asked what number five refers to in the applicant's letter in regard to the 135<sup>th</sup> Street guidelines. Joseph stated it is talking about the bulkness of the building. The applicant tried to break up the façade so there are variations within the building. Williams asked what was intended for controlling bulk within the goals of the 135<sup>th</sup> Street corridor. Lambers stated big-box retailers were discouraged from coming into Leawood as a result of that requirement. 60,000 sq. ft. was considered to be the largest and that would be approved on a very limited basis. Williams asked the size of the Price Chopper. Klein stated the Price Chopper building is about 45,000 sq. ft. and then it has additional square footage that is attached that wraps around the north and east sides. Williams asked the total square footage of the proposed Madden McFarland building. Joseph stated 11,133 sq. ft. Williams stated this would not be a big-box store. He then asked if it is in keeping with the size and scale of the other projects seen along 135<sup>th</sup> Street. Joseph stated that is correct.

Williams asked for some background as to the trees they are trying to save and how that plays into the deviations they are requesting. *Joseph showed the plan with the landscaping.* He then stated there is one tree that the applicant would like to

save. If they took out that tree then they could add two or three more parking spaces. Williams asked where they put those parking spaces. Joseph stated those are being land banked.

Williams asked where the dimension is taken from for the calculations of the 51% street exposure. Joseph stated he offsets 90 ft. from the east property line, draw a line through there, and then takes the length of the paved areas versus the building footprint and also the unpaved areas. Williams asked if it goes to the full north property line. Joseph stated, yes. Williams asked how long this company has been at this location. Joseph stated since 1975.

Reynolds asked if the existing parking at the southwest corner was there before there were setback requirements. Joseph stated that is correct.

Munson asked if the driveway off of 135<sup>th</sup> Street currently exists. Joseph stated, yes. Munson asked if it is a right-in, right-out. Joseph stated, yes.

Williams asked if the southern entrance is through someone else's property. Joseph stated, yes. They have an access easement. Williams then asked when the 135<sup>th</sup> Street Corridor Guidelines were adopted. Klein stated he believes 1996 or 1997. Williams stated that would have been approximately 20 years after this business opened in Leawood.

**Applicant presentation:** Presentation by Ron Stallbaumer of Wendlandt and Stallbaumer Architects. Madden McFarland Interiors is recognized as a respected and exemplary commercial and residential design studio and a long-established Leawood business. Madden McFarland was founded in 1920 and has been at the present location since 1975. This design is driven by tradition. Three years ago Madden McFarland proposed constructing a new building in Leawood at 128<sup>th</sup> Street and State Line Road. That plan received preliminary and final approval from the Planning Commission and Council, however, prior to moving forward with construction of the building, Madden McFarland polled both customers and employees and the poll showed that they overwhelmingly preferred the current location and building. Subsequently, Madden McFarland has made a commitment to maintain the tradition and stay at their current location. Meetings with Planning Staff and design work on this project began in October of 2005. In March of 2006 the applicant presented two development schemes for the updated parking layout. The first scheme showed parking that was within the parking setback but eliminated the tree to the south of the building. *Stallbaumer showed a photo of the existing tree.* The second scheme, which was preferred by staff and is proposed tonight, spares the tree, but encroaches the setback. During the months that this project was being developed, it was the applicant's understanding that staff supported the project and they were told staff would work with us on the deviations in order to save the tree and make the project possible. The applicant learned that staff did not support the project with the arrival of the staff report faxed on June 6<sup>th</sup>. The applicant's intention was to present a project that was in full support of staff. Based on meetings, conversations and sketched options considered in the past several months Stallbaumer thought they were on that path. He has no issues with staff. He has worked mostly with Jeff Joseph and he has been quite accommodating and very professional and supportive through the process. The proposed project expands the building on three levels, adding 3,316 sq. ft. The proposed expansion on the southeast corner will encroach the building setback by 6 ft. 9 inches. The trapezoid shaped encroachment is 79 sq. ft. in area and part of the largest new showroom in the building and will also provide areas for samples in the basement and office space on the second floor. The owners have determined that the project would not be worth doing without that part of the expansion. The east face of the proposed expansion is aligned with the east face of the existing building. Two grade-level area ways are proposed along the east and one on the south to provide natural light into the lower level. The applicant believes granting the deviation will not adversely affect the neighboring property given the alignment with the existing wall plane, streetscape, change in grade and adjacency to Ward Parkway. There are four deviations requested for existing and proposed parking. The proposed parking to the south includes 10 standard spaces, one accessible space and four land banked spaces. Only the southern edge of this lot is over the parking setback. The southern edge is aligned and in the same location as the existing parking, but does not extend as far to the east. The proposed parking layout on the south eliminates 198 sq. ft. of existing parking currently encroaching the parking setback. The applicant believes that granting this deviation will not adversely affect neighboring property because of the buffering provided by the existing tract to the south, proposed landscaping and berms. This will actually reduce the parking setback encroachment at that area. The second deviation requested for the parking occurs along the west side of the property. Nine spaces currently exist and they are asking for two additional spaces to be added, aligning with the existing nine. The applicant believes granting this deviation

will not adversely affect neighboring property because it is adjacent to commercial property and parking has yet to be constructed at Leawood Market Center. The 11 spaces will be screened by a 3-ft. tall, two-rail fence in addition to landscaping consisting of spiria and holly. There will also be several feet of elevation change from the west parking to the proposed parking at Leawood Market Center. The third deviation request for parking is at the northeast corner of the existing parking lot. This is an existing parking area. It is not being modified or changed. The parking area was within the parking setback until the right-of-way and utility easements were introduced along the north and northeast corner as requested by Public Works in response to this preliminary site plan and plat submittal. Due to those changes, the property line moved in 10 ft. The fourth deviation requested for parking is for the LDO's parking development design standard 16-4-5.3, item number 4. The applicant is in excess of the 40 % maximum and 90-ft. depth along there. Stallbaumer's calculations are a little bit less than staff's. Stallbaumer came up with 48.6 %. A deviation is requested for the 10-acre minimum to develop as well. In response to the staff report, the north drive will be widened to 24 ft. With that, all of the drives will meet the LDO size requirements. Based on the area of the building, 39 to 50 parking spaces are required. The proposed site development includes 30 standard spaces, two accessible spaces and four land-banked spaces. Based on the owner's experience, 30 standard spaces should provide adequate parking. The owner has estimated the average number of clients at one time is about 4 to 6 and average number of employees at one time is 12. Other site improvements include the 6-ft. wide walk along 135<sup>th</sup> Street and a 4-ft. walk that provides public pedestrian access to the building. The 135<sup>th</sup> Street walk is a requirement of the 135<sup>th</sup> Street guidelines and the other walk is to meet an ADA requirement. A fence is proposed along the west property line. This fence will be just less than 3-ft. tall and will be constructed of 6 by 6 cedar posts spaced approximately 12 ft. on center with two four by four horizontal rails. The fence will be painted white and will serve as a buffer to the undeveloped land to the west. The proposed landscaping improvement includes an addition of 56 deciduous evergreen and ornamental trees to the existing seven trees, the addition of 300 shrubs to the existing 57 shrubs and the addition of 100 ornamental grasses and perennials as required by the LDO. Also proposed is an attached masonry trash enclosure with decorative metal gates. The building was originally constructed in 1958. It will be updated with new masonry veneer, siding, windows and roof. The shutters and doors will be stained mahogany. The east and south elevations will be improved the most significantly. The north elevation changes the least. The intent was for the north elevation to remain recognizable. The site's proposed project increases and improves the drives and parking. Although it may not be compliant with the parking setback, this layout reduces the amount of encroachment to the south and preserves a very large tree. Parking lot lighting is provided, storm water is collected, new walks are provided and remaining utilities will be placed underground. The already well landscaped property will be improved with the addition of numerous trees, shrubs, ornamental grasses and perennials. The building has improved to meet the needs of the owner by way of expansion and overall renovation, not only in terms of area, but the building improvements include increased occupant safety due to added and updated exiting from the building as well as the introduction of sprinklers in the new areas at a minimum. The building will be made accessible both on the lower level and first floor with adjacent accessible parking spaces and accessible entrances into the building. Accessible restrooms and accessible routes will also be provided on those floors. Within the constraints of the site and the existing conditions, they feel this is a reasonable solution. *Stallbaumer showed the current site plan next to the proposed site plan.* The changes to the site are not really significant and the deviations required for this project are related to existing conditions.

Henderson stated many of the features that the applicant has stated as positive for the location were given by the applicant as features that were not so positive as an argument for moving north on State Line Road a few years ago. Over five years ago there was a proposal that was requested and approved and it was never built. Then a second request came before the City a couple of years ago and it was approved. Staff has listed several different specific objections to the deviations requested. According to staff, the lot is too small to include the ordinance-required parking. Staff has suggested approval with stipulations. The Commission has spent a great deal of time over the years since the 135<sup>th</sup> Street Corridor was adopted looking at the entryways into Leawood. This is one of the key intersections in which people come into Leawood. In the discussion of the land to the south of this property, we were concerned about another bank and we had proposals from a big box, both of which we felt did not portray Leawood as we would envision Leawood. This seems to be a down the hill addition to a nearly 50-year-old house that has been renovated several times for retail and/or commercial interests. It is a debatable issue of whether or not this is a good opening to the presentation of Leawood. Staff has said the deviations should not be approved for very good reasons and he is not impressed that the applicant has answered the concerns staff has about those deviations. This is not the kind of proposal that he would be anticipating for this location.

Bernie Madden stated his company is a law-abiding citizen and has been since 1975. The only reason they are doing this is to beautify and create a better image for Madden McFarland and Leawood. He does not need to do this to make more money. They are not going to tear it down and put up a new building, because that would put them out of business. The purpose of them remodeling was to make it look more beautiful. They do not need to remodel to stay in business. Their customers like them just the way they are. If this is declined, it's no big deal. 17,000 sq. ft. has already been taken out of the front of this property. Trees were torn out for sewer lines. They did all of the things they were asked to do. Prior to Mr. Lambers statement earlier, Madden had been told by the City Officials for many years that they were considered a signature location and a signature store. Up until today he believed they were one of the signature stores in Leawood. If they had made the provisions to build the columns on the east side, as one enters into Leawood, it would have been even more beautiful, but that would require another four or five feet on property they could not do. They will live with what the Commission and Council decides, but he asked that the Commission be patient as Madden has been very patient over the years as the road has been worked on.

Williams asked if there are 36 parking spaces planned. Stallbaumer stated there are four spaces that are land banked. Joseph stated the LDO requires a minimum of 39 spaces. Williams asked if the City is requiring them to put in more parking than they need. Joseph stated, per the requirement from the LDO. Williams stated oftentimes the City is asking for less parking than the applicant proposes.

Reynolds asked the ratio for required parking. Joseph stated 3.5 to 4.5 spaces per 1,000 sq. ft. Reynolds then asked what ratio the applicant is proposing. Joseph stated 3.2. Reynolds then asked how land banked parking spaces work. Joseph stated if they decide to put in the parking spaces then they would need to go to the City Council to get it approved and then they would need to remove the tree.

Williams asked for a description of the roofing material. Stallbaumer stated the material they are proposing is a Grand Manor 50-year roof, Class A ICC rated roof. Williams asked if staff is saying that roof is not acceptable because it is a commercial operation. Joseph stated, yes, but also that particular roof is not on the approved list for roofing materials. Also, the LDO does not allow for composition shingles on commercial projects. Stallbaumer stated this is the same roofing material the applicant was proposing for the building three years ago. Joseph stated staff is recommending the concrete tile due to the fact that Leawood Market Center has a lot of buildings with concrete tile roofs and that would help this building to blend in with the rest of the development. Williams asked if the applicant is adding a new roof structure on this building. Stallbaumer stated the building is being totally renovated. The front of it will remain similar, but it is being enlarged mainly on the southeast corner. They are trying to integrate the addition and pull it together. They are adding new masonry at the base of it, they are integrating that with the trash enclosure, all new roof, all new windows and new siding. It will be a very bright and sharp building when it is completed. Williams asked if the applicant could change the roof structure to accommodate the weight of the concrete roof tile. Stallbaumer stated, yes, but it has more to do with the style of the building and the language of the architecture. Putting concrete tile on this type of building is not right. The next thing they would be stepping up to would be a slate roof, which is significantly more expensive. He is not sure it matches the architectural style of the building. Leawood's ordinance states composition roofs need to look like a wood roof. This roof does not. It is a classier roof, with a slick looking material. Williams asked the color of the proposed roof. Stallbaumer stated "black pearl". Klein stated the black color has specifically not been put on the list. There have been a number of requests for the black color on residential houses. It has always been the City's policy that black would not be allowed. The intention was to have the look of the cedar shake shingles. The LDO allows for more color variation for certain shingles, such as the Grand Manor, which has a wider shadow line. It is true that the applicant was requesting this material with their last application, but he thinks that staff was also recommending using a different roof as well. Staff is in the process of modifying the ordinance to make it clearer. Williams asked if they would be allowed to use a dark colored synthetic slate. Klein stated, yes, because it is a commercial building.

*Stallbaumer showed some photos of some homes that currently have the roofing material the applicant is proposing.* Reynolds asked to see the materials board. *Stallbaumer showed and described the materials board.* Williams asked if there is a lot of light reflectance. Stallbaumer stated, yes, because of the granules in it has a shadow line and also gives it depth.

Rohlf asked if it is the applicant's feeling that if this does not get approved then they would not do any of the remodeling to the existing building. Stallbaumer stated she would need to ask Madden that question. Rohlf then asked if the applicant has no intention of revising the plan to meet staff's recommendations. Stallbaumer stated the applicant has spent a lot of time looking at this project and has considered many different things and they decided to take that footprint of the building. It is the breaking point to make it worth doing. In regard to the deviations, they are all existing conditions. They are reducing the encroachment on the south side. It is not that close to the existing property. Stallbaumer thinks the applicant has done something that is fairly reasonable and sensitive to the existing conditions. Rohlf stated these are fairly significant deviations. She is not as concerned about the parking requirement, but she does have some concerns about the other deviations. She is not sure how to reach a medium.

Conrad asked if there is a curb cut on Kenneth Road at the south entrance. Madden stated there is not one. Conrad asked how one would exit the property if they wanted to go north onto State Line Road. Madden stated it is a right in, right out at the south entrance. It is also a right-in, right-out on 135<sup>th</sup> Street. Conrad asked if Public Works would allow for any other type of entrance at this location if it were a new development, considering the proximity to the intersection. Lambers stated in an ideal world we would merge this piece of land with the tract to the west. The original plan was that when they merged they would lose their driveway and it would be moved further to the west to get more separation from the intersection. We have to look at this as it is. Conrad stated when Leawood Market Center was presented there was much discussion on how it could be integrated with this tract of land. That was not possible. His feeling at that point in time was that it was a well established business; however, he never envisioned making any changes to it that would increase density. It makes a difficult entrance and egress situation that we would not normally have. He believes it should stay as a functioning business, but if they make any modifications to it then it should be in compliance with the 135<sup>th</sup> Street Corridor. He is concerned about the access. In its current configuration at Madden McFarland Interiors, it will not have the volume, but it could in the future be a different type of commercial business that would need more parking and would have a very restricted egress situation. He is not supportive of the changes. If they do make changes they should be in compliance.

Henderson asked for a description of the proposed erosion control device. Lambers stated it is a silt fence. The applicant constructs it and then the City makes sure it is maintained.

Henderson asked why stipulation number 20 states the plan shall lapse in two years instead of the usual five years. Joseph stated it is two years for preliminary plan and five years for final plan.

**Public hearing: With no one present to speak at the public hearing, a motion to close the public hearing was made by Henderson and seconded by Williams. Motion to close approved unanimously.**

Williams stated Madden McFarland has been in this location for a long time, has been a good business and a good neighbor, is an icon in Leawood, and he would prefer to see them stay in a remodeled state at this location rather than having a Cheeseburger in Paradise come in to be an entrance to Leawood. Several of the deviations they have asked for are a result of existing conditions on the site. This building was built before any of these restrictions were put into place. In his opinion, these deviations do not hurt this property or the adjacent property. They are working off of what has been presented as existing parking lot lines and setbacks that they have for over 40 years. He understands that there are new rules and regulations, but in the scheme of things, these appear to be minor deviations, versus if this was a new development. In regard to the 51% of parking along a major street, we have had these discussions with other projects along 135<sup>th</sup> Street and the solution to the problem was to build 3-ft. high berms and landscaping and then have parking that is parallel to the street. He thinks that is a far more obtrusive presentation to the street than what is seen on this plan. None of it runs parallel and it gives a lot of variation to the land and creates lots of pleasant spaces to be viewed as one is driving by the property instead of a continuous row of trees or shrubs or a berm trying to hide rows of cars. He is supportive of the variation of the 51% percent. He is supportive of the deviations for the parking as well. He then asked if the City is going to tell a long-time business at this location that 20 years after they came into business we do not want them to be a cornerstone to Leawood. He thinks it is unfair to them and unfair to Leawood. A reference was made to a quasi-box store and a couple of pad sites. He then asked if that would be an improvement to the entrance into Leawood. There is supposed to be a corner feature at Cornerstone. There is a restaurant behind that. There is a big parking lot behind that corner feature. We still do not know what that corner feature is going to be because it has not been submitted. He would

see Madden McFarland in a remodeled, expanded, and improved landscaped corner to be as good as a corner statement into Leawood as we have seen to date. He is supportive of what they want to do.

Reynolds stated he agrees with Williams in that he is comfortable with the spirit of the project. He thinks it is very attractive. It has the unfortunate aspect that it violates quite a few of our legal requirements and he is concerned that it might set a precedent. He does not have a problem with some of the deviations. He thinks the roof is acceptable. It is a residential looking building with a commercial use. He is a little concerned with the parking ratio because if this was ever sold to another commercial user he believes there could be issues with people not being able to park appropriately as well as the traffic issues. The spirit seems appropriate. It seems like it would not have been that tough to comply with the setbacks and still have the quality. He would have liked the applicant to have looked for other areas for parking spaces and other ways to do the building addition without violating the setbacks.

Williams asked Reynolds where he would propose the applicant put in more parking without causing a deviation. Reynolds stated there could be parallel parking spaces along the drive that comes in from the north. Williams stated this is a remodel situation and he does not think that anyone would argue that this is a difficult site. He thinks the issue is that this is a remodel and not raw, undeveloped land. It would be hard to justify a new development putting the parking lot within 2 ft. of the property line because there would not be anything existing as in this case. It would not happen. This has been there for 30 or 40 years. He then asked who that would impact. In regard to the deviation on the south end, there is already parking at that end and they are changing the configuration, pulling it away from State Line Road and improving the situation. It does not change the existing setback on the south end of the property.

Munson stated he feels this would not detract from an entrance to Leawood. This is much better than what is on the Missouri side, even with the deviations requested and the fact that it misses the mark at several areas. He still feels it would be better than what is on the other side. Williams agreed with Munson. He then asked what the City wants for this corner. In all the years he has been on the Commission he has never heard anyone address specifically what it is that we want for that corner. Certainly the development immediately to the west of this does not fit the bill.

Henderson stated it is important to separate out the fact that an establishment is already here when they are not significantly renovated, but once a significant renovation occurs then it is done in the present and not in the past. The bar of expectation has changed. The City has changed and has certain kinds of expectations. He is not convinced that the proposal, as presented, is what he would vote for. Williams asked what Henderson would like to see to make it a proposal that he would vote for. Henderson stated he does not believe Williams would like to hear his answer. Conrad stated he would like to see a project that supports the ordinance and that supports the parking requirement that might be needed in the future. The entrances and exits to this parcel are not something that, if this was currently vacant, these proposals would not be allowed from a safety standpoint. At some point he thinks that when an old building is renovated, it should be brought up to code. The two parking spots on the west side are debatable. He sees it as a bigger picture, not even introducing the "entrance to Leawood" issue. He is supportive of fixing it, but he thinks they are trying to put too much on this property.

Williams stated they are asking for less parking that we would require. Their FAR is below what is allowed for the site. The height is lower than what would be allowed for the site. He has worked with many cities in regard to existing buildings and in most cases, as long as the setbacks are not intrusive or detrimental to adjacent property owners, then those get approved.

Madden stated if someone were to purchase his property they would bulldoze the building and lower the property by six feet. His is a unique business and he does not believe another retail establishment would make it there. He cannot imagine someone else using the building for another reason. He and his family plans on staying there.

Jackson stated she agrees that she cannot see anyone else using this building for another purpose. They would need to come back before this Body again to propose any significant changes and we would have that opportunity again.

Reynolds asked how the Commission decides on granting the deviances as requested. Joseph stated as far as the parking deviation is concerned, we went down 19 ft. from the 25 ft. requirement and that is the lowest that has been allowed and that is at Ironhorse Centre. Reynolds asked about the parking ratio. Joseph stated usually deviations are given for something

that the applicant gives back, such as open space or some of the bonus features. Reynolds asked if some of those items were offered to the applicant and they decided not to pursue. Joseph stated he does not believe there is any space on this site to provide for bonus features. Reynolds asked if it was clear to the applicant that they were not in compliance as far as setbacks. Joseph stated, yes. They did save the existing tree, which is how they are allowed to land bank the four parking spaces.

Conrad suggested only putting in 20 parking spaces in order to have green space. Madden stated his concern is safety for his customers. Conrad stated if the applicant is going to be allowed to have a significant amount of deviations, then why not further reduce the parking, rearrange some things and then maybe they'll meet the setbacks. From a planning standpoint, we need to take into account what the future may bring.

**A motion to approve was made by Munson with staff's recommendations.** Conrad asked if the applicant believes they can comply with the setback requirements. Rohlf stated she did not get any indication from the applicant that they were willing to change the proposal. **There was no second to the motion. Munson withdrew his motion.** Rohlf suggested either amending or deleting the stipulations. If Munson's motion had been approved, then it would basically be a denial to the applicant.

**A motion to approve was made by Williams keeping stipulations 1, 2, 3, 4, 6, 7, 8, 9, 10 through 21, revising stipulation number 5 to allow the following: a 40-ft. setback deviation to allow the deviation as requested by the applicant, the exterior parking setback of 25 ft. to allow the deviation of 15 ft. off of 135<sup>th</sup> Street, the minimum interior parking setback of 10 ft. to allow the requested deviation to 3 ft., to allow for the 48 and 51% of paved area along State Line Road. As he understands it, the issue of the 10-acre rule is not an issue for this development.** Rohlf asked if Williams is proposing to keep stipulation number 7. **Williams amended his motion revise stipulation number 7 to allow the parking to the requested 36 parking spaces. Reynolds seconded the motion. He then made an amendment to the motion to remove stipulation number 6, regarding the roofing material. Their recommended roofing material is acceptable. Amendment to the motion approved 4-3. Williams, Reynolds, Jackson, Elkins for. Henderson, Conrad and Munson against. Motion approved 4-3. Williams, Reynolds, Jackson, Elkins for. Henderson, Conrad and Munson against.**

*Conrad recused himself from the following case.*

**CASE 43-06 WINSTEAD'S** Request for approval of a final site plan. Located at the southeast corner of 135th Street and Briar within the Cornerstone of Leawood development.

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a final site plan for the approval of the existing signage on the building. The sign consists of white letters that internally illuminated. This case was originally approved for final site plan in March of 2005 and with that application the applicant submitted signage. The reason for the confusion is that at the time of the proposal the proposed signage appeared to be white with white illumination. *Klein showed photos of what was submitted during the original final plan application.* During approval it was assumed that they would glow white, but the applicant has stated all of their signs glow green. *Klein showed some photos of the existing sign.* The applicant is requesting approval of the green illumination behind white letters with tonight's application.

Henderson asked if there are any other glowing neon signs in Leawood. Klein clarified that this sign is not exposed neon. These are internally illuminated letters and we have many internally illuminated signs in Leawood. The sign is not uncommon, just the green neon illuminating the white letters. Reynolds asked if this would have been denied with the original application if we thought it was green. Lambers stated we don't know. It is up to the Commission and Council. The applicant had already ordered the sign with green neon backing and he allowed them to install the sign in order to get them temporary occupancy with the understanding that he would come back to get approval for the sign. The applicant agreed that whatever the decision made by the City, he would comply. Reynolds asked if there is anything in the sign ordinance that does not allow colored neon backing. Lambers stated, no.

**Applicant presentation:** Presentation by Nabil Haddad, the owner of Winstead's. He did not mean to be deceptive. All of the signs in Winstead's are that color, covered by white plexiglass that shows white in the daytime and then when the lights are turned on it shows green at night. It still looks white at dusk. He has a letter from the developer that states the existing signage is acceptable. He showed a picture of the Cheeseburger in Paradise sign compared to the Winstead's sign.

**A motion to approve was made by Williams and seconded by Munson. Motion approved unanimously.**

**ELECTION OF OFFICERS:**

Henderson made a motion to re-elect Rohlf as chair because she presides well, she does her homework and treats the Commissioners and the public with respect. Williams agreed. Motion seconded by Reynolds. Motion approved unanimously.

Conrad made a motion to re-elect Munson as vice-chair. Motion seconded by Henderson. Motion approved unanimously.

Rohlf stated case 30-06 has been continued to July 11<sup>th</sup>. She then asked staff to include in the Commission's packets any information that might be helpful in regard to other tall buildings that have been approved. Lambers stated he will have the City's aerial truck out at the One Nineteen site prior to the July 11<sup>th</sup> meeting for the Commission to drive by and see how high the height would be that they are proposing. We do not know what they will be proposing with the application, but right now they are proposing 107 ft. Rohlf stated she feels it would be helpful to have sight lines from residential developments. Klein stated the applicant had told people at the interact meeting that they would provide sight lines from various properties. He then stated that he could provide the Commission with the height of other buildings that have been approved in Leawood.

**Meeting adjourned.**

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Lisa K. Rohlf, Chairman