

**City of Leawood  
Planning Commission Minutes**

**March 25, 2008  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive**

**CALL TO ORDER/ROLL CALL:** Shaw, Roberson, Jackson, Conrad, Rohlf, Munson, Williams, Elkins, and Heiman.

**APPROVAL OF THE AGENDA:** Chair Rohlf noted a revised agenda with the relocation of Case 21-87, Mitzy London's, to the Consent Agenda. **A motion to approve the revised agenda was made by Elkins and seconded by Roberson. Motion approved unanimously.**

**APPROVAL OF MINUTES:** Chair Rohlf explained that there is a backlog of previous minutes that were never approved with three sets being on this agenda.

Approval of the minutes from the April 11, 2006 meeting. **A motion to approve the April 11, 2006 minutes was made by Williams, seconded by Roberson. Motion approved unanimously.**

Approval of the minutes from the July 18, 2006 meeting. **A motion to approve the July 18, 2006 minutes was made by Williams, seconded by Roberson. Motion approved unanimously.**

Approval of the minutes from the November 27, 2006 meeting. **A motion to approve the November 27, 2006 minutes was made by Williams, seconded by Roberson. Motion approved unanimously.**

Approval of the minutes from the March 11, 2008 meeting. **A motion to approve March 11, 2008 minutes was made by Roberson, seconded by Williams. The motion was approved unanimously.**

**CONTINUED TO THE MAY 13, 2008 MEETING:**

CASE 08-06 LEAWOOD DEVELOPMENT ORDINANCE 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 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-3-9 DEVIATIONS Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 53-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.7 (RP-4 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 55-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.2 (RP-A5 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 56-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 (R-1 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 57-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.4 (RP-1 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 73-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-5.10.1 (RP-2 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 58-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.5 HOME OCC. Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 66-07 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-5.7 PARKING LOT CONST. STANDARD. Request for approval of an ordinance to the Leawood Development Ordinance. **PUBLIC HEARING**

**CONSENT AGENDA:**

CASE 18-08 – PARK PLACE THIRD PLAT – Request for approval of a final plat; located at the northeast corner of 117<sup>th</sup> Street and Nall Avenue.

CASE 22-08 – HAZELWOOD FIFTH PLAT – Request for approval of a final plat; located at 11701 Pawnee Lane.

CASE 24-08 – MONARCH REAL PROPERTIES - Request for approval of a final plan, located at 135<sup>th</sup> Street and Roe Ave.

CASE 21-08 – MITZY LONDON'S – Request for approval of a final plan; located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue.

**On motion of Jackson, seconded by Munson, the Consent Agenda was approved following a unanimous vote.**

**NEW BUSINESS:**

CASE 23-08 – CHURCH OF NATIVITY – Request for a rezoning, special use permit, preliminary plan, preliminary plat, final plan, and final plat; located north of the intersection of 119<sup>th</sup> Street and Mission Road. **PUBLIC HEARING**

Comm. Heiman: Madam Chair, for various reasons, I will be recusing myself from this process. *Commissioner Heiman left the Council Chambers.*

**Staff Presentation:**

Senior Planner Jeff Joseph provided the following presentation:

Mr. Joseph: Madam Chair and members of the Commission, this is Case 23-08, Church of the Nativity. The applicant is Dan Koenig with Church of the Nativity. The applicant is requesting approval of a rezoning from AG (Agriculture) and RP-1 (Planned Single-Family Residential) to R-1 (Planned Single-Family Low Density Residential), preliminary plat, preliminary plan, and final plan as well as a special use permit for the church and school to allow the construction of a 14,234 sq. ft. school addition and 5,955 sq. ft. church addition. The property is located close to the intersection of 119<sup>th</sup> Street and Mission Road. The Comprehensive Plan shows this area as Institutional. The proposed building additions will be composed primarily of limestone and cast stone as well as stucco. The materials will match what is on the existing buildings. The church addition will include an adoration chapel, an office addition, an entry portico, and a gazebo. There are 394 parking spaces proposed for the overall project, which includes existing as well as proposed. The bell tower shown on the southwest corner was approved by the Planning Commission and City Council in 1997, so the tower is not part of this application at all.

Staff is recommending approval of Case 23-08 with the stipulations stated in the Staff Report. There is also a memo placed upon the dais from the Fire Marshal. If you have any questions, I would be happy to answer them.

Chair Rohlf: Does anyone have questions for Staff this evening?

Comm. Elkins: Jeff, I have a question about the zoning change. I have to admit, I have not gone back and looked at the ordinance but given the Planned Single-Family Residential use proposed use for this particular property, it seems counter-intuitive to me. Can you elaborate a little on other alternative zonings that are available and why this is the right zoning given this use?

Mr. Joseph: A school or church can go into any zoning district with a special use permit. In this case, we have residential surrounding it and they primarily have one big lot that was residential. There are two lots that are Agriculture [AG]. We thought the best strategy would be to combine it into just one lot, which will be the residential zoning.

Comm. Elkins: In your presentation, did you mention that a portion of it had previously been Institutional zoning?

Mr. Joseph: Yes, that is the Comprehensive Plan. The Master Plan shows it as Institutional. It should be a church or a school.

Comm. Elkins: Is Institutional a category of zoning that is available to us?

Mr. Joseph: No, it's just in the Comprehensive Plan.

Chair Rohlf: Does anyone else have questions for Staff? Then we will hear from the applicant.

**Applicant Presentation:**

James Taylor, 12505 Sherwood, Leawood, KS, representing the Archdiocese of Kansas City, Kansas, and the parish of the Church of the Nativity appeared before the Planning Commission and made the following comments:

Mr. Taylor: Tonight, I have with me Pastor Ron Livojevch as well as other members of the council. I would like to give you an overview of why the Church of the Nativity is before you tonight. The plan that has been derived from many, many weeks of deliberation by a steering committee was developed from what is perceived to be the last 20 years of history for the Church of the Nativity. The present parish was in existence approximately 20 years ago. The complex was built about 15-16 years ago at 119<sup>th</sup> Street and Mission Road. We have found that we need to have other additions made to the parish to serve our needs. The Staff has already mentioned those particular items and I would like to elaborate on the needs that we have found should be addressed, primarily in the worship services that are on campus; which, with your approval and the City Council's approval, we hope to construct within the next five years. Those phases will be identified as our consultant speaks later on in this presentation.

The parish consists of approximately 2,100 families, which is in a border area of Metcalf on the west; I-435 on the north; State Line Road on the east; and 135<sup>th</sup> Street on the south. This is the parish area that we serve the catholic community. We are bordered by other parishes: St. Michael's the Arc Angel, Curé of Ars, and others. Generally speaking, as was pointed out by Commissioner Elkins, the majority of the present zoning on the property is R-1. The ball fields that lay to the west of the complex are split into two lots and are used for soccer and football. They were never rezoned from agricultural use. In our presentation tonight and in our application, we are trying to clean up all the zoning patterns to make it all R-1 zoning with a special use permit to allow construction of the complex in compliance with the existing complex within the R-1 district.

We have a campus that is bordered by 119<sup>th</sup> Street on the south with residential property on the north and east. To the west, there is the creek and a park area that is owned by the City. (*Referring to site plan drawings.*) With that, I would like to have our consultant, David Livingood, walk through the complex and visualize how we think the next 20 years will be. Thank you.

David Livingood with Treanor Architects, Lawrence, Kansas, provided a computerized virtual model presentation and display boards of the project and made the following comments:

Mr. Livingood: I would like to brief you a little bit on how the campus is expanding. As Mr. Taylor commented, the majority of this is not to accommodate future growth but is more to accommodate needs that have occurred over the last 20 years as the church has grown in its ministry. For orientation purposes (*referring to a display board*), this is 119<sup>th</sup> Street and Mission Road with an existing drive that comes into the campus. There is a second drive on the east side that primarily services the church. The first is the primary entrance for the school for drop-off and pick-up purposes. This area is the existing church with the parish school back behind. What we are looking at with an increase in administrative needs, is this addition (*referring to the building labeled "church"*), which is the office addition in the northwest corner of the church.

There is a small pocket directly to the north where we are looking at a small addition for an adoration chapel. This is about a 1,000 sq. ft addition. Both of these functions currently happen within the existing space, so it is a matter of accommodating more space. Also, part of the goal of this project is an interior renovation that will involve the parish hall and how to improve it to meet the needs of the congregation. For different events that happen, this includes the proposal of a plaza/patio area to the west of the existing lower level on the parish hall. If you're not familiar, this is a split entry church on the east with an upper level and the west being on a lower level. All of these functions happen on the west side of the building coming from the west parking lot. The gazebo is an outdoor cooking kitchen. The bell tower, as stated, has been previously approved.

Looking at the school, the paving that you see are the existing drives for the most part. The students are picked up here. The students are currently located here (*referring to areas of the building labeled "school"*). This is an activity center with students in a lower level of the existing school. The goal with the proposed addition would be to get the students below grade up into a space where there would be windows. The addition is three stories with each floor being about 4,800 sq. ft. This is the existing playground and play fields (*referring to labeled sites on the display board*). This is the area where we are looking at for the rezoning aspect as this property was purchased in several different lots. One other item I might point out is an existing grotto on the campus, which is where the office addition will be located. We are proposing that it be relocated over this way (*to the northwest*) with a walk that goes down to the lower level of the school.

The materials proposed would match the existing church with copper roofs and stone (*referring to elevations of the church building*). This is the west elevation with the entrance into the parish hall. This is the office addition that you see here. Lightly shadowed on the side is the bell tower. Moving around the north elevation is the office again and the adoration chapel. This begins to pick up a portico, which I am sorry that I failed to call out on the site plan. Primarily, currently as you leave the church, you walk directly outside from the vestibule. There is no kind of overhang or awning for that. We will have a covered entryway with a skylight to let light in. The east elevation of the church shows the portico extending out. Again, the materials match the existing building. This is the adoration chapel with the bell tower on the south. Back around to the south elevation is the bell tower, the portico, the outdoor cooking kitchen, and the office addition.

Looking at the elevations of the school, again we are picking up many of the themes on the existing buildings with matching materials of stucco and limestone. Window configuration is somewhat unique to the existing west elevation and will be picked up in the same manner. They are actually set back at a 45-degree angle. On the south elevation is the trash enclosure that will be associated with the school. Looking at the west, there are three stories. On the east, the grade picks up and we actually have two stories on this configuration, which becomes an entrance into the building.

*Mr. Livingood then presented a virtual model of the proposed project.*

Mr. Taylor: Members of the Commission, what we are asking for in summation is your recommendation of approval for the school addition, the addition of an adoration chapel, the addition of an office area, an outdoor kitchen, and portico. This would be a preliminary and final approval that we are requesting. We also have before you an application for a revised preliminary plan for the east parking lot. We are not asking for final approval on that. We are also asking for the two lots that are presently used as athletic fields to be rezoned as R-1. This summarizes our petition at this time. We would be happy to answer any questions.

Chair Rohlf: Is there phasing planned for these additions?

Mr. Taylor: Yes. The first phase would be inclusive of the school addition, the administration offices, the outside kitchen, and the portico. I think that is correct. The second phase would be the addition of the adoration chapel and the parking lot to the east.

Chair Rohlf: Is that a timetable that will begin in a year or two?

Mr. Taylor: We are planning for it to begin this summer, based on yours and the City's Council's approval, and will be over the next 4-5 years.

Chair Rohlf: Could you help me a little bit with this outdoor kitchen/gazebo. It appears that this may be something that we will have to grant a deviation on.

Mr. Taylor: We decided on this in lieu of doing a full-size kitchen inside. We have one group, the Knights of Columbus, who have events such as fish-fries on Friday evenings at the church. They have done this particularly over the last six weeks. We decided that it would be better to serve that type of food by cooking it outside instead of going into the interior kitchen as it would require a great deal of mechanical systems for ventilation, fire protection, and things of that nature. We don't have a need for a full-size kitchen for most of our events such as weddings and other ceremonies that are catered. We really just need a warming kitchen. So, we decided to offset the expense and the demand to have an outside kitchen facility. I think that has been approved here in the past for residential uses, so you might say we are piggy-backing on this concept.

Chair Rohlf: Jeff, could you help me? Are you classifying this as an outdoor kitchen or as a gazebo?

Mr. Joseph: Actually, we are considering it as an outdoor kitchen. Again, it is only for residential uses. This is a special case as we have never had this for a church before. The Staff is supportive of the request. The only issue is that it is limited to 15-ft. in height while the proposed structure is 23-ft. Staff is supportive of the deviation and the concept.

Chair Rohlf: I'm not sure what the height differential would do to the concept as far as your needs for the kitchen are concerned.

Mr. Taylor: I think it's an architectural design feature on a scale that is in relationship to the other structures that are being added. There is an architectural fenestration.

Chair Rohlf: You feel like you need the 23-ft.?

Mr. Taylor: At this present time, yes. The 23-ft. is scaled down by two roof levels with a cupola on top of a lower roof. It's not all one height at 23-ft. as it is scaled down.

Comm. Roberson: Can you explain to me the choice of the location as to why it is in, what I would consider, the front of the church along 119<sup>th</sup> Street?

Mr. Taylor: Actually, the front of the church is on the east side.

Comm. Roberson: I understand that, but this is probably the most public view.

Mr. Taylor: You're referring to the gazebo?

Comm. Roberson: Yes.

Mr. Taylor: Actually, the gazebo is not in view from the street as there is a berm.

Comm. Roberson: You can't see it even at 23-ft.?

Mr. Taylor: With the site line, you would have to strain to see it from a car.

Comm. Roberson: In terms of use of the gazebo, is it just designed for cooking or will you have seating around it for activities outside?

Mr. Taylor: One of the areas that have not been explained is that adjacent to the gazebo, which would be the west side of the church, there is a patio planned for outside events when the weather permits.

Comm. Roberson: The patio is on the lower level?

Mr. Taylor: Yes, the same as the gazebo. Boy Scouts, Girl Scouts, and other types of groups can use this for activities such as cookouts and things of that nature.

Comm. Roberson: What is the reason for the location?

Mr. Taylor: It is really outside the new location of the kitchen, which will be right inside the door to the main structure.

Comm. Roberson: There is an existing kitchen inside?

Mr. Taylor: There will be. We have an existing kitchen in a different location. We are relocating the kitchen to be adjacent to the outdoor kitchen location, so there will be a flow between the two.

Comm. Williams: What is the diameter of the gazebo?

Mr. Taylor: I will refer to our consultant on that.

Mr. Livingood: It is currently 16-ft.

Mr. Taylor: It's an eight-sided structure.

Chair Rohlf: In quickly looking over the stipulations, we have just a few on landscaping.

Mr. Taylor: We have two comments regarding the stipulations. I believe in the Staff Report, it states non-illuminated exterior signage. The proposed signage is illuminated, so this would be one correction that we would request. Secondly, we will ask that the condition of burying the overhead lines on 119<sup>th</sup> Street be deferred for a period of time, which I believe is Stipulation No. 19. We have discussed this item with Staff and would like to address the City Council with the deferment.

Mr. Lambers: It is correct that this would not be under the jurisdiction of the Planning Commission.

Chair Rohlf: This case does require a Public Hearing. Is there anyone in the audience who wishes to speak about this case? If so, please raise your hand.

**As there were no individuals present to speak, a motion to close the Public Hearing was made by Roberson, seconded by Jackson. The motion was approved unanimously.**

Comm. Conrad: I would like to see where the illuminated sign is being proposed.

Mr. Livingood: We have two signs since the church and the school both have separate addresses. We are proposing one in this location (*referring to the southeast corner of the church lot on the site plan drawing*), and one in this area for the school as it is the primary entrance for the school (*the east side of the drive leading to the school*). The illumination is a ground-mounted illumination and not an internally lit sign.

Mr. Joseph: They are allowed to do that but we need the details of the light fixtures. They will need to submit them to the Planning Staff for review.

Chair Rohlf: There's not a stipulation specifically about lighting?

Mr. Joseph: If it is externally illuminated, they are allowed to do this for monument signs.

Comm. Conrad: So, there's not a stipulation that the applicant has issue with in respect to the lighting of the signs?

Mr. Livingood: No, it wasn't a stipulation. Within the Staff Comments, there is reference to a non-illuminated sign.

Comm. Williams: So, the only stipulation we are talking about being an issue is No. 19?

Chair Rohlf: Right, and we would just leave that alone. Do you have any thoughts on this outdoor kitchen/gazebo regarding the height?

Comm. Williams: In looking at it and understanding the width, I think the height/width ratio is fine. The comment about it being largely out of view from 119<sup>th</sup> Street is helpful.

Mr. Lambers: The 15-ft. limitation really envisioned being next to a residence and trying to maintain an appropriate scale. Staff doesn't object to the deviation given the height of this building.

Chair Rohlf: I don't think there is a specific stipulation regarding the height.

Mr. Joseph: Once you approve the deviation, it is included in the case.

**A motion to recommend approval of Case 23-08, Church of the Nativity, request for rezoning, special use permit, preliminary plan, preliminary plat, final plan, and final plat with the attached 26 stipulations was made by Jackson; seconded by Roberson.**

**The motion was approved following a unanimous vote.**

*Commissioner Heiman returned to the Council Chambers.*

CASE 09-08 - BI-STATE CENTENNIAL PARK DESIGN GUIDELINES – Request for approval of a final plan; located at 143<sup>rd</sup> Street and Kenneth Road.

**Staff Presentation:**

Senior Planner Jeff Joseph provided the following presentation:

Mr. Joseph: Madam Chair and members of the Planning Commission, this is Case 09-08, Bi-State Centennial Park Design Guidelines. The applicant is Richard Sailors. I would like to highlight some of the main issues that were talked about during the Work Session that was held two weeks ago. Under Staff Comment No. 3, it was decided at that time that the wording, "has limited contact with the general public" will be taken out of the statement. On No. 4, it was decided that the applicant may request additional percentage up to 90% based on the proposed use of the building or for a specific tenant. The applicant agrees to No. 5. On No. 9, the applicant is requesting the use of some of the prohibited materials, which are the jumbo brick and metal panels within the Flex Transition Zone. Staff is supportive of this. On No. 13, the applicant may request approval of a detached trash enclosure based on the proposed use of a building or specific to a building design.

Also, the applicant has agreed that a minimum of 40% of the buildings will be constructed of masonry within the Kenneth Road corridor and 20% within the Flex Transition Zone. The applicant is also requesting that downspouts be concealed on three sides for the Kenneth Road corridor with only the front side concealed within the Flex Transition Zone. The applicant has also agreed to meet the sign regulations as listed in the Leawood Development Ordinance [LDO]. There is also a memo from the applicant included in your packet, which is the second page. Statement No. 5a deals with trash enclosures and Staff would like for the applicant to remove the words "when possible" from the statement. With that, Staff is recommending approval of Case 09-08 with the stipulations stated in the report. If you have any questions, I would be happy to answer them.

Chair Rohlf: Have we reached a consensus on the Items of Concern that are listed?

Mr. Joseph: Actually, most of them have been taken care of except for the light fixtures. They need to provide cut sheets of the light fixtures.

Chair Rohlf: Then, they are in agreement with everything that we discussed last time?

Mr. Joseph: Correct.

Chair Rohlf: So, some additions still need to be made to the attached guidelines?

Mr. Joseph: Correct. They need to submit the new revised guidelines to us.

Chair Rohlf: What are the items that will change? Are they the ones that are outlined in the Items of Concern?

Mr. Joseph: The statements that are noted "needs to be included in the design guidelines" all need to be changed and added.

Chair Rohlf: These are still directives in the Staff Report?

Mr. Joseph: Correct.

Comm. Williams: After our meeting on this a couple of weeks ago, we had talked a little about the stucco panel. Were you able to get a bigger sample?

Mr. Joseph: The only thing we have is the brochure of that panel. They haven't submitted any materials. They may have brought it this evening.

Comm. Jackson: I am confused as to whether this is in a form that we can recommend approval of at this point and time. If you are asking for changes in their memo, do we need a stipulation added to reflect this?

Mr. Joseph: Stipulation No. 1 states that they need to submit a revised set of design guidelines to Staff outlining all of the comments and direction given by the Planning Commission and the City Council.

Comm. Jackson: If we recommend approval of this with the stipulations as written, it covers all of the things that Staff is concerned with?

Mr. Joseph: Correct. All of the items and comments in the record will be included.

**Applicant Presentation:**

On behalf of the applicant, Greg Musil, 9225 Indian Creek Parkway, Overland Park, KS, made the following comments:

Mr. Musil: We very much appreciate the long time you spent with us two weeks ago during the Work Session. I think we came up with reasonable compromises on a lot of issues. The one thing we didn't resolve at that time was the percentage of masonry for the two levels, but now we have agreed to 40/20 that was suggested in that meeting. I think we are in agreement with Staff on everything in here. We appreciate Staff's recommendations and accept the five stipulations. We would be happy to stand for any questions.

Chair Rohlf: You'll be able to deliver a revised set of guidelines incorporating the many changes?

Mr. Musil: We will have to do that before we go to the City Council so that they will have a full set of what you have recommended.

Chair Rohlf: You'll have plenty of time to get these revised before the next City Council meeting?

Mr. Lambers: Yes.

Comm. Elkins: Just one comment stemming from Comm. Jackson's statement. As a matter of process and for future reference, I would have preferred that we have this in the form of what is being proposed as the design guidelines with an attached memo identifying the changes. It's a little awkward this way. I have no objection to it and think I understand what I'm approving; but, I think if I had what is being proposed as a final set of design guidelines, it would make it easier. Having said that, I certainly have no objection.

**A motion to approve Case 09-08, Bi-State Centennial Park Design Guidelines, request for approval of a final plan, located at 143<sup>rd</sup> Street and Kenneth Road, was made by Elkins; seconded by Williams.**

**The motion passed following a unanimous vote.**

Chair Rohlf: Before we move to our next two cases, will these design guidelines have any impact on the Staff Reports?

Mr. Joseph: No. They are actually proposing more than what is outlined in the design guidelines.

CASE 128-07 – BI STATE BUSINESS PARK LOT 17- PARS ENGINEERING BUILDING – Request for approval of a preliminary plan; located north of 143<sup>rd</sup> Street and east of Kenneth Road. **PUBLIC HEARING**

Chair Rohlf: I believe we have a memo on the dais for some additional stipulations for this case as well as a memo from Fire Marshal Gene Hunter.

**Staff Presentation:**

Senior Planner Jeff Joseph made the following comments:

Mr. Joseph: Madam Chair and members of the Commission, this is Case 128-07, Bi-State Business Park, Lot 17, Pars Engineering Building. The applicant is Rafie Hamidpour.

The applicant is requesting approval of a preliminary site plan for the construction of a one-story (with a basement), 10,396 sq. ft. office/warehouse building on 0.66 acres for an FAR of 0.36. The project is located within the Bi-State Business Park just west of the existing newly built warehouse building, just east of Cambridge, and north of 141<sup>st</sup> Terrace. The parking for the building is proposed on the west and north sides of the building. The entrance for the building is also located on the west side. The proposed building will be composed of mainly EIFS and masonry.

One of the concerns that Staff has is that the applicant is proposing an FAR of 0.36, which is more than the maximum allowed by the Leawood Development Ordinance of 0.25. The applicant is requesting that the additional FAR be allowed since the basement will be used only for storage purposes. Also, the applicant is actually proposing 17 parking spaces rather than the 14 stated in the Staff Report, which would be in compliance with the LDO. Right now, they are proposing a parking ratio of 3.3 parking spaces. You will also find a couple of memos on the dais. Staff would like to add a couple of stipulations with this project. With that, Staff is recommending approval of case 128-07 with the stipulations stated in the Staff Report. If you have any questions, I would be happy to answer them.

Chair Rohlf: The two outstanding deviations that we have now is the FAR issue and the 40% of any site boundary?

Mr. Joseph: Correct.

Chair Rohlf: The parking has been resolved?

Mr. Joseph: Yes, the parking has been resolved.

Comm. Conrad: Is this a full basement?

Mr. Joseph: It's shown as a full basement, yes. Again, on the other existing building, they also proposed a basement and Staff included the entire building area. In that case, the lot area was much bigger than this area, which is why the FAR is so high on this lot.

Comm. Conrad: I know that this situation has come up before and a lot of times it is partial basements and limited access. Given the fact that the parking is short of what it should be anyway, are we maybe asking for issues in the future when this tenant doesn't own or occupy the building. Should we consider this space as one that could be potentially occupied?

Mr. Lambers: We have reviewed that. There is the possibility for additional parking to be placed on the east side of the building. When we initially evaluated this, we missed the three parking spaces that were later identified. Our anticipation was that we would bank those areas for future parking if it became necessary. We believe that if the tenant should change and additional parking is necessary, they could come back with a final plan and achieve this on the side of the building. The lot size is what is really driving the FAR. Percentage-wise it may seem a lot but it's really not based upon square footage, which is why Staff is recommending approval.

Comm. Conrad: If this was a one-story building, how many spaces would we need?

Mr. Joseph: Fifteen spaces. A one-story would be 5,100 sq. ft. The minimum requirement is three spaces per 1,000 sq. ft.

Comm. Conrad: The spaces would be on the south side of the building?

Mr. Joseph: That's where the open space is right now.

Mr. Lambers: Correct.

Chair Rohlf: Mr. Lambers, I note that there is a stipulation limiting the FAR to 0.25.

Mr. Joseph: If the Planning Commission approves the deviation request, we can take the stipulation out.

**Applicant Presentation:**

Rafie Hamidpour appeared before the Planning Commission and made the following comments:

Mr. Hamidpour: We agree with the Staff recommendations. If you have any questions, we would be happy to answer them. This is a small single story building on a 28,807 sq. ft. pad site (*referring to a site plan drawing*). We've worked with Staff on the access points. In the parking lot, there are three spaces on the north side of the building and 14 spaces on the west side. There is no parking on the south side as we are trying to keep an architectural view from 141<sup>st</sup> Terrace. We have to make improvements to the architectural design on the front of the building. The main door is on the west side of the building. The first floor will be used 100% by us. We already have a 4,500 sq. ft. building on 75<sup>th</sup> Street and Metcalf Avenue, so we will use this building for ourselves when it is finished. The basement is for archive files and storing construction management equipment such as orange cones and barricades. There will be no other use for the basement. As you see, there are no windows. We are trying to take advantage of the ground to hide it. You won't see it from the south side. When we put in the 3-ft. berm, you won't see much from the street except for the bottom of the first floor on up (14-ft. elevation). From the north side, because of the elevation of the ground, we have a door for loading and unloading. We also have a trash area that is attached to the building. Because of the elevation of the site, the north neighbors won't be able to see this. From the west and south side, you will see a 14-ft. high building. The east side will face a 20-ft. proposed building in Missouri. My architects and engineers are here and would be happy to answer any questions.

Comm. Williams: If the basement is being used for storage, why is there a bathroom and shower on this level?

Mr. Hamidpour: That is the same and first question asked by Staff. We have survey people and construction crews who come in from the field and can take a shower if they want to come upstairs. There is no other use for the basement. We will be glad to remove it.

Comm. Williams: I can actually see that.

Comm. Conrad: I am still a little concerned about making sure we have adequate parking. If there is 5,000 sq. ft. in the upper level and it's built out in an office configuration at roughly 250 sq. ft. per person, that's 20 people with only 14 parking places. That's not taking into account the basement square footage.

Mr. Lambers: There are 17 spaces.

Comm. Conrad: So, we're three short.

Mr. Lambers: We missed the three spaces on the north space and inadvertently reported 14 spaces in the Staff Report. There are 17 spaces.

Comm. Conrad: If this was a one-story 10,000 sq. ft. building that was office/warehouse, we would be required by ordinance to have three cars per 1,000 sq. ft. Is that correct?

Mr. Joseph: Three cars per 1,000 sq. ft. is the minimum.

Mr. Hamidpour: I would be glad to show you the layout. The total of the office space on the first floor is only 2,012 sq. ft. There are two 24-sq. ft. conference rooms and 21-sq. ft. of kitchen area. There are a total of twelve offices in addition to restrooms, etc. We don't need more than 14 spaces and we didn't make it that big.

Comm. Roberson: You have 14 offices and a reception area?

Mr. Hamidpour: Including the reception area, would make 13 offices. We have twelve offices, the reception area, and two conference rooms.

Comm. Roberson: According to mine (*looking at packet information*), I see 14 offices, a reception desk, and two conference rooms. Where are your visitors going to park?

Mr. Hamidpour: In January, we have been in this business for 20 years. Usually we get one or two visitors. We go to the clients' site and negotiate what they want to do. Usually, we have two offices and two spaces for visitors. With 17 spaces and 14 offices, we will have three extra spaces.

Comm. Roberson: How big is your staff?

Mr. Hamidpour: There are twelve people in total including the receptionist.

Chair Rohlf: Jeff, even though this is a preliminary, it is noted that Staff is not supportive of the architecture of the building. Have you discussed that with the applicant? Are they aware of your concerns?

Mr. Joseph: We will review that in detail during the final plan. The main concern is the horizontal pattern of the layout. We would like to see some vertical components to break up the façade a little more. That would be the only concern that Staff has.

Mr. Hamidpour: We would be glad to take care of that prior to the final plan.

Comm. Jackson: Could we see a layout of where those additional three parking spots are? I don't see anything in our packet.

*Mr. Hamidpour presented a display board to the Commissioners noting the three parking spaces.*

Chair Rohlf: This case also requires a public hearing. Is there anyone in the audience who wishes to speak on this case? If so, please raise your hand.

**As there were no individuals present to speak, a motion to close the Public Hearing was made by Jackson, seconded by Roberson. The motion was approved unanimously.**

Chair Rohlf: Based on what Jeff said, if we were to agree to the higher FAR, we would need to delete Stipulation No. 5. I don't think there would be any other changes necessary. I believe the concerns from the Fire Department have been taken care of.

Comm. Munson: What will the FAR be?

Mr. Joseph: 0.36.

Chair Rohlf: We would need to make note of the additional stipulations.

**A motion to approve Case 128-07, Bi-State Centennial Park, Pars Engineering Building, request for approval of a preliminary site plan with the deletion of Stipulation No. 5, which would allow an FAR of 0.36; and the addition of Stipulation Nos. 23 and 24, per Staff's memo, was made by Williams. The motion was seconded by Shaw.**

Comm. Conrad: I certainly appreciate the applicant's description of their usage. I guess, though, that I have a serious concern that we are building a 10,000 sq. ft. building that if it were one-story, given the ordinances and the area it is being constructed in, would require 30 parking spaces. I think it is our responsibility to look beyond the initial tenant and their usage. I think we could have any number of applicants who have usages that are very unique to their business. I think our task here is to look at our ordinances and our planning so that there are useful facilities that we can have in our City. So, I am not supportive of the plan because I believe we are possibly hindering the future use of this site with the size of the building we are putting on it.

Comm. Elkins: I share Commissioner Conrad's concerns from just a slightly different angle. Part of this being that what we do is plan. While I fully appreciate that the applicant currently has 12 staff members, I expect that as with any other business, the business will expand, grow, and there may well be need for additional employees or associates. There just doesn't seem to be any contemplation of expansion here. There is room enough, I guess, for maybe five additional staff members and their cars. I, like Commissioner Conrad, am not supportive because I think we have inadequate parking contemplated here.

Comm. Roberson: In regards to that and in respect to the basement, is that suitable for office space since it has no windows or doors?

Mr. Lambers: No. They would have to come back with a final plan. That is why we stated that we would be inspecting it on an annual basis. If someone were to purchase the building and perhaps utilize it for a use that is not being described this evening, they would have their Certificate of Occupancy suspended until they ceased the operation. They would then have to come in and have a final plan reviewed.

Comm. Roberson: In essence, we are really concerned with only the upper story in this case in terms of occupancy.

Mr. Lambers: We have the ability on an annual basis to check the basement to ensure that it is being used for the proposed usage. Additionally, if there was use of the basement for office, clearly the parking would not be sufficient. There would be substantial parking on the street, which would also be noticeable to the Staff and clearly call for us to make an investigation.

Comm. Roberson: Going back to Commissioner Conrad's statement, a future tenant coming in to utilize that building would have to come back to the City for approval to convert the basement to office?

Mr. Lambers: Yes. They would have to revise the plan to provide for additional parking.

Comm. Williams: I understand Commissioner Conrad's concern and when I made the motion to approve this, it was in large part on the stipulation that the basement be strictly used for storage. As pointed out, it is going to be monitored fairly strictly. I also understand the applicant's need, as maybe Commissioner Conrad can, for being in a business that has a lot of records that need to be retained. Its cheap space and really not usable for much more than storage. If you look at the configuration of the site with the grade situation that makes this portion of the basement as visible as it on the east side, they are going to have a wall there. I suppose one way to address Commissioner Conrad's concern is to have a smaller building, put more offices in the basement, and have more parking; however, I am not sure that we would gain a whole lot. If they don't need the parking, why have a lot of extra parking sitting out there that just goes unused? Somebody down the road may have a need for it but if they look at this building for use, they would have to look at what it is usable for and address the issue.

Comm. Jackson: With that, I would make the comment that it is very easy to reconfigure the size of the office spaces. There is plenty of room to add more offices and people. Some of the offices are larger than others and they could easily hold two people, I am assuming. Also, they are expecting construction people who are loading and unloading to park long enough to come in, take showers, and clean up; but, there is really no consideration for places for them to park or for customers and clients. As they intend to use it right now, I think it is stretched to the maximum.

Comm. Williams: Again, if they are going to look at adding offices by splitting these spaces, that has to come before the City for a permit to do so.

Comm. Jackson: To reconfigure the inside?

Mr. Lambers: If they are going to do improvements to the inside, there would be a building permit required.

Comm. Williams: There are safeguards in place that would begin to protect this as we are seeing it today.

Comm. Jackson: I think as they are planning on using it right now, it seems like there would easily be a need for more parking area.

Comm. Williams: It's tight, but I think it's doable.

**The motion passed with a vote of 5-4. For: Shaw, Roberson, Williams, and Heiman. Against: Conrad, Jackson, Munson, and Elkins. Due to a tie vote, Chair Rohlf also voted in the affirmative.**

CASE 81-07 – BI STATE CENTENNIAL PARK – KIDDIE ACADEMY – Request for approval of a special use permit and preliminary plan; located south of 141<sup>st</sup> Terrace and east of Overbrook. **PUBLIC HEARING**

**Staff Presentation:**

Senior Planner Jeff Joseph made the following comments:

Mr. Joseph: Madam Chair and members of the Commission, this is Case 81-07, Kiddie Academy in the Bi-State development. The applicant is Bob Rogers. The applicant is requesting approval of a special use permit and a preliminary site plan for the construction of a one-story, 9,315 sq. ft. building on 2.05 acres for an FAR of 0.10. This project is located within Lot 20 of the Bi-State Business Park at the southeast corner of 143<sup>rd</sup> Street and Kenneth Road. The proposed building will be constructed primarily of stucco and brick. The building will be used as a daycare facility. Per the Leewood Development Ordinance, a commercial daycare is allowed within the BP district with the approval of a special use permit. Staff is recommending approval of Case 81-07 with the stipulations stated in the Staff Report. If you have any questions, I would be happy to answer them.

Chair Rohlf: I noticed in our current Staff Report that a letter from our last report was not included. It was a letter from Central States Beverage Company. Did we not include that in this Staff Report for some reason?

Mr. Joseph: I'm sorry, which letter?

Chair Rohlf: It was a letter to me dated February 27, 2008. It was in with the Staff Report when we had this case the last time. I was just curious if something had changed.

Mr. Joseph: The only thing that has changed is the parking layout as they are now providing a turnaround. That is the only thing that has changed from the previous plan.

Comm. Elkins: I think what Chair Rohlf is leaning towards, if my recollection is the same as hers, is that when this plan was previously before us and continued, there was a letter in the packet basically in opposition. Not to characterize the letter but as I read it, Central States Beverage Company was opposing the project. Putting the question another way, have they withdrawn their objection?

Mr. Joseph: No, it's still there.

Comm. Elkins: The letter is still in place?

Mr. Joseph: Yes.

Chair Rohlf: Essentially, this is the same Staff Report that we saw before?

Mr. Joseph: Yes.

Chair Rohlf: We continued it at the time because they only had one entrance and they needed two?

Mr. Joseph: Correct. They also provided a turnaround. The other access is a private drive owned by another entity, so they are not allowed to provide access here. What they did was to provide a turnaround within the parking layout.

Chair Rohlf: We do have some requested deviations and these are ones that we have seen before.

Mr. Joseph: These are standard deviations that will be approved with the rest of the development.

Comm. Conrad: I am a little confused about the Fire Marshal's comment. Before you had a concern about turning at the south end of this parking lot?

Mr. Joseph: Correct.

Comm. Conrad: Has this layout changed?

Mr. Joseph: Yes. Right now they have the turnaround for the cars and fire trucks.

Comm. Conrad: How does it turn around?

Mr. Joseph: (*Referring to site plan drawing on overhead.*) Before, they had an access coming out of a private drive. They are providing two accesses within the same area now. The fire trucks can come in and get out through here.

Comm. Conrad: They don't have a concern at the south end of that parking lot?

Mr. Joseph: No they don't.

Comm. Elkins: My question is really for the City Attorney's Office, which is whether they have an opinion on whether this purpose of land use planning is or is not a school.

Ms. Shearer: City Attorney Patty Bennett and I have looked this over since the inception of the case. There is not a clear definition of what constitutes a school. Today, Ms. Bennett spoke with someone at the Kansas Attorney General's Office, who said we could possibly get an opinion about this but it would take 60-90 days.

Comm. Elkins: At this point, the City Attorney's Office doesn't have a formal opinion one way or the other?

Ms. Shearer: No.

Mr. Lambers: The only thing we acknowledge is that the statute does not specifically state daycares. If there is going to be an interpretation, then it is going to have to be made subsequent to what is currently on the statute books. Right now, there is no explicit statement of "daycare" in the statute.

Comm. Conrad: How does the statute actually read?

Mr. Lambers: It's a regulation. We can try to get you a copy of it. For tonight's discussion, it is our opinion that it does not come into play.

Comm. Conrad: But in general, it would suggest that, as planners, you wouldn't want to put these two different types of functions within certain proximity of each other.

Mr. Lambers: Because the statute does not specifically state this, I would say that you cannot make that conclusion. Also, I would offer an opinion that most of the regulations regarding alcohol and separation from churches and schools deal with consumption and purchase. This facility does neither. It is a distribution facility where there is no purchase or consumption of the beverages.

Comm. Conrad: Converse to all of this from a planning standpoint, maybe this isn't the first place to pick for a daycare facility.

Mr. Lambers: It is a permitted use in a business park. You would anticipate that you would have warehousing activity going on with truck traffic as part of that activity throughout the entire business park. I don't see it as being totally inconsistent. The LDO recognizes it as a permitted use.

Comm. Conrad: But as I plan where to put my facility knowing that there is a question of proximity between two places, maybe I could think of someplace that is further away.

Mr. Lambers: The conflict is going to be with the traffic from the daycare and traffic from the distributorship. I don't see a conflict with the children as they aren't going to be out and about. Being a daycare, the parents are going to be picking them up and putting them in the car while escorting them inside when dropping them off. I don't see the kids playing in the street to where there would be a conflict with vehicle traffic whether it's the distributorship or any other business out there. I really don't see that conflict.

Madam Chair, we did get a copy of it. (*Reading from statute*), its K.S.A. 14.14.2. "Any premises which is located within 200 feet of any public or parochial school, college, or church, unless the premises were licensed at the time the school, college, or church was established." The defining words are "public or parochial school, college, or church."

Chair Rohlf: Then it gets back to the issue of how you would define daycare?

Mr. Lambers: Correct. Our job is to take the literal interpretation of the statute and we would not extrapolate that this includes daycare as part of these deliberations. That is the City Attorney's opinion and, quite frankly, it is my non-legal opinion as well.

Comm. Jackson: As you come in off of Kenneth Road at 142<sup>nd</sup> Street, that is a pretty steep incline going down onto the private street. Do the trucks travel this? My only worry is that it is a very steep incline and on an icy day, those trucks can't turn onto the private street. If this is the route they take, they would be headed right for the playground.

Mr. Joseph: I think at the last meeting, the applicant indicated that most of the truck traffic will be traveling along 141<sup>st</sup> Terrace and entering the warehouse in the other direction.

Comm. Jackson: How do they get onto 141<sup>st</sup> Terrace?

Mr. Lambers: Public Works Director Joe Johnson will show you where he anticipates the traffic pattern.

Mr. Johnson: (Referring to aerial view of site plan and roads). This is the area where the trucks come in to either drop-off or load. This is their main entrance. Most of the time, they use M-150 and come in off of 143<sup>rd</sup> Street. Once in a while, you will see a truck that comes out to Kenneth and goes north or south but most of them come out to 143<sup>rd</sup> Street and go to M-150. That is how they come back in the evening.

Comm. Jackson: Do you have any concern with the steep incline along 142<sup>nd</sup> Street as you would have to either turn one way or another or curve along the private street.

Mr. Johnson: The grade on 142<sup>nd</sup> Street isn't any steeper than coming up Kenneth Road from 143<sup>rd</sup> Street. It's a secondary route that we treat quite often during snow and ice. Actually, most of the traffic in that area is from the cars of employees. Most of the trucks come off of M-150 and 143<sup>rd</sup> Street. In the morning, most of the trucks are stacked on the Kansas City, Missouri, side on 143<sup>rd</sup> Street while waiting to get in and out.

**Applicant Presentation:**

On behalf of the applicant, David Suttle with Suttle Mindlin Architects, St. Louis, Missouri, appeared before the Planning Commission and made the following comments while providing site plan drawing and elevations:

Mr. Suttle: I just wanted to give a very brief review of the project, comment on the elevation, and then others on our team will get into more of the details of the type of project that it is. I think you have seen our revisions of the in and out for fire safety and the turnaround for the parents. The rest of it does remain the same in terms of the site plan. On the elevation, I just wanted to highlight the major amount of masonry. The client wants that quality on the building as their standard. This is a variation of their latest prototype all over the Country. We have increased the masonry. It is far beyond what is required, but it works well functionally and aesthetically on the building. The scale of it is rather small as it is not to be large and imposing, nor is it to look too residential such as a house that has been converted. It is in between, comfortable, and attractive with a concrete shingle roof, stucco, and regular sized brick as the stipulation requires. All of the elevations of all sides are attractive. There is no backside to the building. All of the guttering is behind fascia and enclosed in the building as the higher quality is required. It is good for this project and very attractive to make this a very nice building overlooking the pond and setting a tone for the Leawood side of this development. If there are any questions, I would be glad to answer. Otherwise, Chris Cammarata, from the Kiddie Academy will tell you a little about their business and give you a better insight on how they are approaching this.

On behalf of Kiddie Academy Domestic Franchising, Vice President of Construction Chris Cammarata, 2528 Mackenzie Road, Maryland, appeared before the Planning Commission and made the followed comments:

Mr. Cammarata: We are a nationally recognized franchise of childcare learning centers. We have 90 locations throughout the Country. We operate six corporately with the balance all franchised.

Currently, about 20% of our locations are actually in business parks. I brought a sampling of aerials that I will pass out (*distributes copies of handouts to Planning Commission members*). What you will see is an aerial of various locations throughout the Country. We have highlighted the actual Kiddie Academy location in red, giving you some information about it such as the size of the building and the number of children that attend that particular location. This location was presented to us by our franchisees, who are in the audience tonight. This location will house approximately 149 children and employ 20 staff members. The hours of operation for this location will be 6:30 a.m. to 6:30 p.m. It will be licensed by the Kansas State of Health and Environment. We have contacted them and done a precursor for the licensing requirements for a childcare center. I would be happy to answer any questions you may have about our operation.

Comm. Munson: What are the age groups of the children that will be in the academy?

Mr. Cammarata: Our locations handle children from age 6-weeks up to 12-years in age. Generally, the children who are over 4 years of age and attend school, come before and after school. We offer care to parents who may be dropping off before school. We will bus them over to the school that they attend and pick them up in the afternoon.

Comm. Munson: I believe that the east elevation shows doorways. They open out into the existing detention basin, which is water. What is being done to make that foolproof and safe so that none of the children get in there and drown?

Mr. Cammarata: We actually fence around the perimeter of the building. There will be a fence at each exit door that leads to the playground on the east side of the building.

Comm. Roberson: You mentioned that this is a learning center.

Mr. Cammarata: Yes.

Comm. Roberson: My interpretation is that if they are going to be learning something, that is kind of like what a school does. What do they learn? Can you give an idea of the programs that are involved here?

Mr. Cammarata: It's kind of a play through learning. It's really about teaching the kids mobile activities and things like that. We have different programs that help them understand science, for example. It may be painting or it may be outside activities such as picking up rocks.

Comm. Roberson: Again, just for clarification purposes, we're not teaching them the ABCs and 123s?

Mr. Cammarata: We are doing some of that, absolutely.

Chair Rohlf: I note in the letter that you wrote to Ms. Bennett that you talked about your application for the franchise. When someone in your company was discussing this with the Kansas Department of Health and Environment, did they have any questions about location? Did anything come up specifically about this location?

Mr. Cammarata: It's really a preliminary conversation that we do with each location just to get an understanding of the licensing process.

Chair Rohlf: Your interpretation during the preliminary conversation is that they are considering this a childcare center?

Mr. Cammarata: Yes.

Chair Rohlf: Are we aware of the other classifications that fall into this? Where you aware of any upon your research, Ms. Shearer?

Ms. Shearer: No. As we mentioned before, there is no Kansas legal authority specifically speaking to what constitutes a school.

Comm. Roberson: Was it ever brought up in any conversation that you are locating the Kiddie Academy next to a beer distributor?

Mr. Cammarata: No, it hasn't been. But, I think if you look at some of the aerials, you will see distribution companies that are around us. I couldn't tell you what they are by an aerial.

Chair Rohlf: I note there is a fence around the playground area. How tall is this?

Mr. Cammarata: Around the playground areas are 6-ft. fencing. Around the buildings, we put a 4-ft. fence. Typically, the doors that exit the classrooms are really for emergencies. What we do is bring the children down the corridor and out to the playground as a means of main egress.

Chair Rohlf: I wasn't too concerned until I heard that there will be some older children there. I am assuming this is a before and after school program.

Mr. Cammarata: That is correct.

Chair Rohlf: Concerning the traffic, right now we don't see this park developed out but the plan is to develop a number of these lots. Is there a concern about the number of cars in addition to the trucks going through this area?

Mr. Cammarata: I can tell you how the academy ramps up during the course of the day. Typically, we open at 6:30 a.m. and close at 6:30 p.m. Parents generally start bringing their children in at 7:00 a.m. although we may get a couple before that. They come at about ten minute intervals, so we may have as many as twelve parents in the building at any given time from 7:00-10:00 a.m. At that point, the population has increased in the building and we have the teachers with them. At the tail-end of the day at about 3:00 p.m., or so, parents generally start picking up their children. By about 5:00 p.m., the academy is pretty close to empty. We still have a couple that are still there until 6:30 p.m. that utilize the full-day program. This is true of our system throughout the Country.

Chair Rohlf: These children are escorted in and out by their parents. My concern would be not so much traffic that the parents generate but the traffic that is going on within the development as it gets busier.

Mr. Cammarata: The parents are actually required to get out of their car and physically take their child to the door to enter a code. The parents or guardian and staff are the only ones that would have access to the building. They bring their children down the classroom, meet/greet the teacher for a few minutes, drop off the child, and then exit the building. Likewise, at the end of the day, they enter the same code, pick up their child from the classroom, and exit the building.

Chair Rohlf: Even the older children would have to be accompanied? They couldn't be outside waiting for their parent?

Mr. Cammarata: Absolutely not. They're not allowed to leave the building.

Comm. Roberson: If you have 20 staff members, are they there full-time?

Mr. Cammarata: No.

Comm. Roberson: How many staff are there full-time?

Mr. Cammarata: There are different ratios for different age groups. For example, it may be a 1-3 ratio in the infant classroom. If we have three children in there, we would have one teacher. As we ramp up to full capacity in that classroom, which I believe is nine, we would need two additional staff members.

Comm. Roberson: If you have 20 staff members and you have 31 parking spots, that will leave 11 spaces for parents if you're fully staffed.

Mr. Cammarata: At any given time, understand, fully staffed is typically between the hours of 10:00 a.m. to 3:00 p.m.

Chair Roberson: So, it is staggered?

Mr. Cammarata: As parents begin to pick up and we lose children, we will let staff go as well.

Comm. Munson: There are a lot of lots here in the business park that are vacant and available. What caused you to select this particular lot in view of the fact that there is a water situation and, whether or not you recognize it, a situation with the neighbor as a beer distributor? What is it about this lot that made you feel that it was the one to select versus one that doesn't have these kinds of problems?

Mr. Cammarata: The way that we do site selection is to assist our franchisees in locating sites. The franchisee brings the site to us, and we evaluate it to see if it meets our criteria. We did an evaluation and it met our criteria, so we accepted it into the system.

Comm. Munson: Interesting.

Also on behalf of the applicant, Greg Musil, 9225 Indian Creek Parkway, Suite 1100, Overland Park, KS, made the following comments:

Mr. Musil: The issue has been raised in this sense when it was first brought up last year regarding being by Central States Beverages. The regulation based on the statute is very clear, as Mr. Lambers read, that licensed premises, including the land area and not just the building, cannot include any premises located within 200 ft. of any public or parochial school, college, or church unless the premises were licensed at the time the school, college, or church was established. We really have two issues here. Is a childcare facility a school? Would it fit the definition of a public or parochial school?

We've already talked about what our common knowledge is here and we've heard it in discussion. We drop them off before school and pick them up after school. We know what school means. School is an accredited institution that allows your child to move through grades, not violate truancy laws, and keep themselves in school until the age of 16 in Kansas. That's what a school is. A school in Kansas is accredited that allows you to make that move whether it's a Church of the Nativity school or a Blue Valley District school. It is subject to the jurisdiction of the State Board of Education. Childcare facilities are subject to the regulation of the Department of Health and Environment. That is the license that they will apply for. They do not apply to the State Board of Education but rather to the childcare licensing facility, which is the Kansas Department of Health and Environment. Moreover, when you read the resolution, you note that it says, "unless the license was already in existence when the school was located within 200 ft."

Even if a childcare facility could somewhat fall within the common vernacular of school, the entire location of the beverage facility was already licensed. I don't want to say that we're making a big ado about nothing, but this is not under Kansas law. I have been in discussions with the City Attorney and the attorney for Central States Beverage Company and have asked to be shown something that would indicate that Legislature meant something different than "school" when it said "school" and when it created a completely different regulatory structure for childcare facilities. Childcare facilities have an obligation to have an educational component. They are not allowed to just park a child at a table with crayons. They have to have some type of developmental activity. However, they are not a school because they can't promote on to the next grade. They can't do that. If they wanted to do that, they would have to undertake a great deal more work than they would as a childcare facility.

We don't believe that we are in any way incompatible with Central States Beverage Company. We don't believe that we impinge upon them in any way, both because we are not a school and because they have already been licensed. They are grandfathered in, if you will. If a church, public or parochial school, or college moves in next to them, they have already been licensed. Ms. Wilson with Central States Beverage Company may come up here and argue, what if we want to sell it and somebody has to get a new license because they are a new owner? The statute says that you are already a licensed premises. It doesn't say that you have to get somebody else if you change it.

The other interesting part about this is that your ordinance allows certain types of schools to go in a business park district, including secretarial and technical schools. Under the theory that is being presented tonight by Central States is that if we moved in a DeVry or some other type of school, the same problem would exist. All we would need to do is submit a plan to you and it wouldn't even require a special use permit. The issue being presented tonight is theoretical at best and it could happen tomorrow if another type of school moved in that is allowed under your business park zoning.

The last thing I will mention is the location in the business park. I'm used to seeing pad site locations for LaPetite, KinderCare, or Crème de le Crème on Roe Avenue. How many cars go by on Roe Avenue at 45 mph every single day right next to Crème de le Crème? Compare that to the number of cars or trucks, if at all, that will go by this location. I have worked for LaPetite and for All Around Child, which is in a business park in Overland Park at 133<sup>rd</sup> just west of Antioch Road. These sites are so heavily regulated that if their alarm is not working on a door, they get written up by the Kansas Department of Health and Environment. They are inspected on regular intervals. They are destined by their desire to keep the children safe and by the regulations that KDHE imposes upon them. This site works as you see from the exhibit. I would like to have that exhibit showing all the business park sites used around the Country by Kiddie Academy entered into the record. I would also say for the record that we accept and appreciate the stipulations recommended by Staff as we have been working on this for a long time.

Comm. Elkins: As I understand from the regulation, all public and parochial schools are prohibited from the distance to an alcohol facility, right?

Mr. Musil: Yes (*placing copy of highlighted state statute on overhead*).

Comm. Elkins: My question is, do you have an opinion as to what the phrase "parochial" means?

Mr. Musil: I think that if I looked it up in the dictionary, which is the first rule of statutory interpretation, "parochial" would mean a non-public, probably church denominated educational facility.

Chair Rohlf: This case does require a public hearing. Is there anyone in the audience that wishes to speak about this case? If so, please raise you hand.

On behalf of Highlife Sales Company, who does business with Central States Beverage Company, Patricia Wilson with Carlson Kort, 800 W. 47<sup>th</sup> Street, Suite 320, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Ms. Wilson: Here also for this meeting is Richard Moss, who is the General Council of Central States Beverage and is one of the owners. I think we have been through the letter that Central States submitted before the continuance, and I think you have all gotten copies of it now. I am here to express their concern and reservations regarding the granting of this special use permit. Central States is a beer distributor and employs 160 people. It has been in operation at this facility since the early 1980s. Under the Kansas Administrative Regulations that we have been talking about and that you have looked at here, it says that we can't be within 200-ft. of a school or church. I agree that there is no interpretation of what a school is. My common sense meaning of a school is that it is a place of learning. I don't know whether the regulatory authority would take the position that this is a school or not. We don't have an answer to that question. What we do know, if they do take that position, is that we are grandfathered in only with the licenses that Highlife Sales has at this time. Any new license would be subject to the requirements. Any change in corporate structure, which would require a new license, would be subject to the requirements. Any sale of the business would be subject to the requirements. Any possible expansion of the building footprint might also be subject to those requirements. While there is a clearly a grandfather clause in this, it doesn't apply in those situations based upon the reading of the regulation.

Again, I can't express how they would interpret the regulation. No one has been able to locate the interpretation of the meaning of school, so I think you just have to go on the common meaning of school for purposes of this consideration. From the research I have done on Kiddie Academy, it does appear that they provide summer programs to kids older than their normal type of daycare program. During the summer months, you may have more children there of differing ages than what has been said here tonight, or at least more older kids who would be in "school."

Under your development ordinance, a special use permit may be approved at a particular location only if the impact does not inappropriately affect or impair the use or enjoyment of neighboring property. It is clearly our position that granting this special use permit is not consistent with this provision of the Leawood Development Ordinance. This clearly has an impact to negatively affect a business that has been in operation in this city for over 20 years. In addition, the applicant has the burden of showing that it is not detrimental to the public health, safety, or general welfare and that the use will be operated in a manner compatible with surrounding uses. Again, we have what has been classified as a Kiddie Academy, "academy" seems to me a learning center, located at an intersection where you enter a business park. We have employees who use the private drive to the south of this location while coming and going from work. We generally do not have our trucks going out this entrance as they do use the other entrance. We try to get people who are bringing supplies in to use the other entrance, but we are not always able to control this. Clearly, there are trucks going in and out with a lot of employees going there.

In addition to the general traffic, the pond that is located on the proposed site for Kiddie Academy is partly on our property and causes us a great deal of concern about liability for children. As I understand it, the pond is right by where the play area is to be in the park. For these reasons, we think it is appropriate not to approve this special use permit. If the City wants to request the Attorney General's opinion to see if they will say that this is not a school, we would certainly be in favor of that. I know this was the last thing that I heard from the City, that they were considering this. We have had a number of delays on this and if this process is another 30-60 days, it is not unreasonable to get some further clarification on this issue.

I have no further statements. I would like the letter from my client entered into the record.

Chair Rohlf: Is there anyone else in the audience who wishes to speak?

**As there were no other individuals present to speak, a motion to close the Public Hearing was made by Williams, seconded by Roberson. The motion was approved unanimously.**

Mr. Musil: The difficulty here is that the way the issue has been raised, it puts the Planning Commission in the position of the Kansas Supreme Court in trying to interpret the statute. Nobody has indicated anywhere, any authority, any opinion, or otherwise that says that when the Legislature says "school," which is regulated by the Board of Education, that it meant childcare facility, which is regulated by the Kansas Department of Health and Environment. I just for the first time saw the letter that was sent to you on February 27<sup>th</sup> from Ms. Wilson. What is striking to me is that it says "school could be interpreted" and "my client might be prohibited" and "a change would likely require a new application if at some future point in time my client might want to do something." These are all speculative guesses based upon an interpretation in the regulation of the statute that is not in the language itself. We have been waiting for a long time, largely at my client's initiation to work out the design guidelines, but this is not something that a 60-90 day wait will assist us with.

The difficulty that I have had in discussions with Ms. Wilson is the question of whether an Attorney General's decision would make you happy. She pointed out, as the attorneys on the commission know, an Attorney General's opinion is merely advisory and doesn't tell the Kansas Department of Health and Environment what to do and it doesn't tell us what Legislature might do in the future.

I am just concerned when an existing business, as much as we have loved them and appreciated them in the City for a long period of time, appears to trump a new business that is useful to the area and believes that it can serve the citizens of Leawood because of a “might, could, maybe, or if at sometime in the future.” For all of those reasons, I believe that we have demonstrated that we are compatible with the neighborhood and we are an allowed use within the business park zoning. I would urge you to recommend this on to the City Council.

Comm. Williams: Going back to the school location question, there is a 200-ft. distance regulation. If the childcare center was located at another site within this business park that was 200-ft. away from the distributor, we wouldn't have this issue?

Mr. Musil: If it was boundary line to boundary line, we would not have that issue. Is that right, Ms. Wilson?

Ms. Wilson: No, it's building line to property line.

Mr. Musil: There are two 200-ft. standards in the state law and one of them, as the Attorney General has opined, is building to boundary and the other is boundary line to boundary line. I can't remember which one is which. To answer your question, there are lots within this business park that would not be in the 200-ft. distance.

Comm. Williams: So there is a potential opportunity here to relocate this to a different spot within the park and satisfy the concerns of an existing long-time tenant of the park as well as address the concerns and desires of Kiddie Academy to be within the park and serve future clientele.

Mr. Musil: I am sure that this is theoretically possible. I know that the franchisees have been waiting a significant amount of time and costs have been expended on the planning and architecture because they felt that this site worked best for them. Again, in theory, there are a number of places within the City, including within this business park, where they could locate.

Chair Rohlf: I am concerned about how much time and effort we should put into this particular legal issue that has been raised versus treating this as a plan.

Mr. Lambers: My belief is that we need to adhere to the language of the statute as opposed to making interpretations. That being said, I have the same concern that if we make the decision and something happens, we will be the ones getting sued. What I am thinking would be appropriate and may fall within the applicant's timeframe is a disciplinary approval in that if the Planning Commission can set this issue aside, evaluate the balance of the project on the merits outside of this, and make a recommendation to the Governing Body, then the applicant will have to come back with all of the requirements for the final plan. Within that timeframe, I fully expect that we can solicit an Attorney General's opinion to at least make it to the City Council at the time of their final decision. I think it would probably be best for the City Council to make that decision based upon the opinion as opposed to the Planning Commission since you are advisory. My suggestion would be to move forward and have the City make a request to the Attorney General. When it goes before the City Council, I would request that they defer taking action on the final plan until we have heard from the Attorney General. The Council would have the benefit of an advisory opinion and it would allow everything to go forward.

If plan B is necessary, as raised by Commissioner Williams, if there is an issue and if they do feel compelled to relocate to another site, Staff will do everything we can to expedite the process and get them through. We can queue them to the top and get them through as quickly as possible.

Chair Rohlf: That would be my request as well.

Comm. Conrad: Going back to the plan, could you show where the different height fences are around the site and the building?

Mr. Cammarata: The playground is on the right side of the building, so the higher fence runs around the perimeter of the playground area. The lower fence is in front of the building, wraps around the side, and extends to the back (*referring to the site plan drawing*).

Comm. Conrad: Does the 6-ft. fence ever abut the building? Is the area completely surrounded by a 6-ft. high fence?

Mr. Cammarata: It's not real clear on this, but there will be a 6-ft. high fence coming back into the building on the backside and in the front corner. This will prevent children from getting into the area behind the building and running around the sides of the building out of view from staff members. Was a picture of this fence ever shown?

Mr. Joseph: That will be a detail required at the final plan approval.

Comm. Conrad: It looks like the fence is about just 25-ft. from the curb of this private drive. Is that correct? We talked about distances on some of the pad site buildings and Roe Avenue. I'm not sure that those fences are that close to a street. Is that fence 25-ft. away?

Mr. Cammarata: I don't have a scale, it's hard to tell.

Comm. Conrad: I guess my question is, would that be considered too close to the street? When I look at the landscaping plan, does it meet within the guidelines of play areas in terms of visual contact and people approaching the fence?

Mr. Cammarata: The fence is 6-ft. high, so people can certainly approach but they can't reach over.

Comm. Conrad: You're comfortable with those dimensions and those plantings?

Mr. Cammarata: I believe we would probably put bollards on the inside of the fence on this corner. That would prevent a vehicle from skidding off the road on this side. I don't know what the distance is, so it's hard for me to determine.

Mr. Joseph: It's about 30-ft.

Comm. Conrad: I know there was a lot of discussion about traffic and the number of people coming in and out. You will have to enter at a 7:00 o'clock angle on the building, make an immediate right, then a left, and then have to make a 135-degree turn to get back out. Is that right?

Mr. Cammarata: They have to go around the circle, yes.

Comm. Conrad: Most people have to park to bring the children in. You can't just leave your car?

Mr. Cammarata: Absolutely. They will pull into a parking space. We would direct staff to park furthest away from the building and leave the spaces in front of the building open for parents.

Comm. Conrad: So, the 135-degree turn is kind of a blind turn in a heavy pedestrian parking lot.

Mr. Cammarata: I don't want to speak for him, but I think what the engineer has done, and it seems clever to me, is have those cars on an angle as they approach. They are looking at the cars coming back and probably have a better view.

Comm. Williams: As a point of clarification, the 4-ft. fence around the building is there to serve the emergency exits so that if children have to use the exits, they are still contained within the property and then can get to a safe place?

Mr. Cammarata: That is correct. We also alarm the doors so that in the event that a child were to inadvertently open a door and get out of the building, an alarm would go off and the teacher would be alerted that a child is in the corralled area.

Comm. Williams: They're not doors that are used on a routine basis?

Mr. Cammarata: No. They're not planned to be used at all, only in the event of an emergency.

Comm. Elkins: I find myself in a little bit of a dilemma here, primarily through commentary. My own personal view is that the issue of applicability of the regulation that limits the location of parochial or public schools near an alcohol facility is really a red herring issue. There can be a number of reasons for that, not the least of which would be, as I might suggest to the lawyers in the room, that the limitation is on parochial or public schools. I don't think that the issue is whether it's a school or not, but rather if it's a public or parochial school. Even if you think it's a school, it's certainly not either public or parochial.

All that being said, that is certainly not the issue here. It seems to me that the issue is found back in our LDO and, as Mr. Lambers appropriately pointed out, if you look at Article 2 of our zoning rules and the regulations that apply to a business park, 16-2-16.5a, it specifically calls out childcare services in a business park such as this. I quote, "services are allowed which would support other business in a park such as copy services and childcare centers." So, there's no question that this use is an appropriate use in a business park. That's not the real question either. The issue for us, I think, is found in the LDO under the special use provisions, specifically under the statement of intent. Again, I quote 16-4-3.1 "some uses of land are not appropriate in all locations within a district or under circumstances where the use imposes an inappropriate impact on the public or neighboring properties and are, therefore, designated special uses." In my view, the issue really is whether this particular site in this business park is appropriate for a childcare center, whether it's a school or not. The issue for us in our recommendation to the Governing Body is exactly that.

By virtue of the fact that by ordinance it is recognized that a childcare center is a special burden upon property, it's up to us to decide whether this piece of property is the right property. That leaves me in a real dilemma because we have an office park that has been slow to develop and looks like it has legs now. It is exciting that there is additional ownership and management to assist the prior ownership and management, but there still seems to be a lot of vacant lots in this place. While in my own mind I have outlined what I think the right analysis is, I will share with my colleagues that I haven't reached a conclusion and am anxious to hear their comments on it as well.

Obviously, the applicant put a great deal of time into evaluating this when they have the whole office park to pick from. There must be something about it in their judgment that makes it appropriate for their academy. I certainly think it's great to have a daycare in a business park like this and available to the 160 people who work at the beer distributorship as well as to the others who will fill the other buildings that the owners will build over the next few years. The question is whether it should be on this particular lot. I am curious to hear my colleagues' views on that particular issue.

Comm. Roberson: I would say that you took the words out of my mouth. I agree with Commissioner Elkins. I too believe that this is an appropriate use within the business park. I have no problem with it whatsoever. It's the location that basically has given me a discomfort in this situation. My guess is that if it were a different lot, not near a pond or with some of the other problems we have looked it, it wouldn't be an issue. From my standpoint, I would agree with Commissioner Elkins that I too am in a dilemma at this point as to how I feel about this application.

Comm. Conrad: To follow on some of the site issues, I have another question that I had not mentioned before. I guess this would be for Public Works. As you go around the corner on Overbrook, we literally have the 142<sup>nd</sup> Street entrance that goes straight across to the private drive and then, if my paper is right, there is not but about 80-ft. to the entrance of this facility; another 80-ft. and we have the street that comes in from the left; and another 80-ft. there is another entrance into the Kiddie Academy. We stagger back and forth on this 90-degree turn in order to gain access, which was precipitated by the Fire Department being concerned about the tightness of the parking area. The 135-degree turn for incoming people dropping their kids off is quite tight. Again, if there are people walking through the parking lot, you literally have to look back over your shoulder to look for pedestrians.

The fence that is shown on the south is only 25-30 feet way from the street, which is not but about from here (*the dais*) to the doors of the chambers, if not slightly less. The applicant even talked about putting bollards along that line. I am very supportive of a daycare. I guess I will say that the discussion of schools is really for the attorneys to decide. This really is a concentration of impressionable youth that we are talking about. The spirit of that ordinance in my mind was to try and have them be nurtured in an environment that maybe wasn't quite nearly as close to things that some people may not agree with. I think that I feel the same as everybody. There are some definite site issues and there are some outside access issues on that curve that makes it difficult to be supportive of this kind of facility.

Chair Rohlf: Mr. Suttle, you have indicated that you would like to speak. Normally, I wouldn't let you at this point but since you are here from St. Louis, you may.

Mr. Suttle: Thank you. I didn't want to interrupt but to the question of early site selection, I just wanted to point out three aspects for your consideration that make this very desirable. One, from Kenneth Road it is a very short distance. You look right in and you see it. You're not driving through and around. It's very clear and this is very much of a plus. The second thing is that it is the most picturesque of all the sites that are there. The woods and pond provide an attractive natural quality. Given all the safety protections that we know how to do to make it safe for everybody, it seems like a cool thing to do and not some sort of a problem to do. Thirdly, as you know, we have districts there and to embed this inside of a cluster of office buildings, warehouses, and other things, would be about as odd as you could get when you have a site that is sort of own its own. The sites sort of stand on their own along this street. When you bury it back into the development, it is part of a little cluster in the neighborhood. Those are the three things that were thought of. The cupola on the top has the sign on it, so that you see it there. These things influenced our original thinking in that this would be attractive and standing on its own rather than buried in an area that is filled with all kinds of other uses. It is the most unusual use in the group and we thought it deserved a place of honor rather than being tucked away back in the corner.

Comm. Munson: I agree that it is an appropriate use, but it is an inappropriate site. I would encourage the proponents to think seriously about a different site for this particular function.

Chair Rohlf: I am not sure who would be speaking for the applicant at this point, but it appears that we might be headed for a denial on this plan based upon the site location. In anticipation of the time it would take to get an additional opinion from the Attorney General, I am wondering if you might want to continue this one more time and use the time to consider another location.

Mr. Lambers: Because of the special use permit, they would have to restart the process. Basically, you have the site before you and if it is not acceptable, then make such a recommendation. If the Council agrees, they will have to start over. A continuance wouldn't mean a thing.

Mr. Musil: That's our dilemma. The only way tonight would be to say that we are going to withdraw the application and undo what Mr. Suttle just described in initially choosing this location, start afresh on a new application for a new site with new architecture and engineering. I guess what I am most concerned about and let me make sure that we understand, what is inappropriate about this site? Three things have been talked about: a pond; being near a beer distributorship in general and not from a legal standpoint; and the 200-ft. issue, which I agree with Commissioner Elkins in that this is a red herring.

These folks are subject to the strictest regulations that you can imagine and if we had two hours, I would be happy to walk through them because I've gone through inspection reports on safety, dropping off/picking up kids, and playground requirements. They don't go out with one teacher to fifty kids like we did when we were in grade school because of lawyers. They are very seriously regulated. The ratio that they keep in the classroom also has to be kept on the playground. The highest ratio is one teacher per twelve students in Kansas. You always have one certified adult daycare employee with twelve kids. I just want to make sure that we have an understanding of what is appropriate. The pond, to me, is no more dangerous than what we have on Roe Avenue. If a child gets out of Crème de le Crème tomorrow, they're going to where you have 30,000 cars a day driving 45 mph. I don't think the legal issue is an issue. I think that the other parts of the site overcome any discrepancy with the lack of aesthetics with Central States Brewery, which has been in the park for a long time.

At this point, we would simply prefer that you make your recommendation based upon your conscious and judgment under the Leawood Development Ordinance. I would take slight issue with my colleague, Commissioner Elkins, from a legal profession standpoint. I think that you read the LDO intent provision correctly, which is whether we have an inappropriate impact on our neighboring properties. I don't think this is the same test as whether this is an inappropriate site. You must believe that we have an inappropriate impact on our adjoining property, Central States Brewery. It's not simply that you just don't like this site yourself. It may be fine legal tuning, but I think it is important because your LDO says this for special use permits. Are we negatively impacting an adjoining property? If the legal issue really is a red herring, then there is no way we are negatively impacting Central States Brewery.

Chair Rohlf: Commissioner Conrad, I think you were talking about the interior circulation. If this building were not a daycare center, would you still have some of the same concerns? Are you talking more about the drivers come in and out of the access points?

Comm. Conrad: I would defer to City Staff as to the number of curb-cuts along this sweeping curve from Overbrook to 141<sup>st</sup> Street. It is a pretty irregular set of curb-cuts at a close distance of people making left and right turns. I believe that when the entrance to your building is directly perpendicular to where everybody who is leaving a certain area has to make a 135-degree turn is a site circulation issue between vehicular and pedestrian traffic. My last issue was the distance from the fence to the street curb. With respect to the circulation, I think there should be some Staff comments and evaluation. There is a lot of traffic.

Comm. Jackson: I also have been going back and forth on this all night long. During the process of reviewing it since the last time we saw the project, I think I have come to the conclusion that I will vote for approval. As far as the pond and the safety features, I think this is between the school, the parents, and the Kansas Department of Health and Environment. I would hope that things would be put in place and maintained throughout in order to guard against anything happening with the pond and the streets.

Any daycare that is accessible and economical is going to have issues. Unfortunately, there aren't a lot of daycares to choose from in Leawood. It is a very needed facility. It's an appropriate place in a business park to have one of these facilities. I think you have the parents who are taking the children into the school and will be with them in the parking lot. In the end, I have to vote for approval of this.

Comm. Williams: I go along with a lot of what Commissioner Jackson just said. Professionally having done several childcare centers both in Missouri and Kansas, I am very well aware of the strict regulations that are put upon these facilities and the safety issues. The applicant has addressed several of these. In that regard, if my colleagues are concerned about the pond and safety, maybe we ought to look at taking ponds and creeks out of our public parks because they are less regulated and maybe even less supervised than what a situation like this is going to be. In listening to Mr. Suttle's description of the site selection, I have begun to see that this is probably a very, very nice place for this building. At this point, it is probably one of the nicest buildings in the office park. You come into the office park and one of the first things you will see is this building. I think it is a great asset to the park and can serve to potentially up the ante on future buildings to come, maybe the one that we saw earlier this evening. I am supportive of the application and what they have shown here. With the Staff comments for a preliminary application, I would be supportive of it.

Comm. Elkins: I also am joining my colleagues in being supportive of the location. Frankly, Mr. Suttle's most recent comments turned the tide for me as well. I join with Commissioner Williams' comments about it being a pretty nice piece of architecture for the entrance of the office park as well as it being a convenience. We're appropriately concerned about the safety of the children, but we also have to be concerned about the safety of the numerous mothers, fathers, and guardians that will be going in and out of there everyday. This particular use will be different than virtually any other use on the property because between the hours of 7:15-9:00 a.m. and 3:30-5:30 p.m., there is a lot of traffic coming in and out. Rather than traipsing through the entire office park, the fact that there is convenience for the patrons to get in and out makes this an attractive spot. I too am supportive of this site. Notwithstanding some of the issues that we have talked about in terms of safety, I also buy into the idea that this is why KDHE has regulated these types of facilities in the way that they have. I will be supporting this.

Comm. Roberson: Mr. Lambers, are you going to get an opinion from the Attorney General?

Mr. Lambers: It is my intention to have the City Attorney request one.

**A motion that the Bi-State Centennial Park, Kiddie Academy, request for approval of a special use permit and preliminary site plan, located south of 141<sup>st</sup> Terrace and east of Overbrook within the Bi-State Business Park, Lot 20, Case 81-07, be approved subject to the 21 stipulations was made by Roberson. The motion was seconded by Jackson.**

**The motion was approved following a vote of 7-1 (Against: Munson).**

CASE 02-08 – ONE NINETEEN – ELIZABETH SALON – Request for approval of a final plan; located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue.

**Staff Presentation:**

Assistant to the Planning Director Mark Klein made the following comments:

Mr. Klein: Madam Chair and members of the Planning Commission, this is Case 02-08. The applicant is requesting approval of a final site plan for a tenant finish within the One Nineteen retail development at the southeast corner of 119<sup>th</sup> Street and Roe Avenue.

The Planning Commission saw this case on January 29, 2008, and recommended approval of a final site plan for this business. It is located on the south side of the One Nineteen development, actually it's the southwest corner. At that time, the applicant provided elevations which included a brick portico around the entrance as well as a glass canopy that was just under the brick portico that extended out over the main entrance. The Planning Commission recommended approval and it was scheduled for the February 18<sup>th</sup> Governing Body meeting. In the meantime, the applicant decided that they wanted to make some changes to the design and requested that the Governing Body remand it back down to the Planning Commission.

The changes to the elevations are primarily in the form of the brick portico being removed as well as the glass canopy. In place of this, they are proposing to have two brick columns on either side of the entrance. In place of the portico and canopy portion of it directly over the entrance, they are proposing a black canvass awning. Staff is recommending denial of this application based upon the fact that this is really the only place in this center that will actually have a canvass awning over the entrance to the doorway. In addition, and I called this out in the Staff Comments, the development has in the design criteria that the entrance to the space needs to be a grand entrance, something that Staff considered more than just a canvass canopy. Staff will be happy to answer any questions.

Chair Rohlf: Is there anything specific in the design guidelines about awnings one way or the other?

Mr. Klein: No. I will pass these around so they will be easier to see. These are the elevations and you can see what was approved as far as the front of the building. You can see where the awnings are. They do have black canvass awnings in a number of locations on the building, but they are always over the storefront windows as opposed to the entrance to the building. The entrances directly into each of the tenant spaces are primarily covered with a portico, a colonnade, a recessed entry, or a hard vertical canopy that goes across. You will be able to see that in the elevations.

Chair Rohlf: Have we approved very many buildings on the south side of this development?

Mr. Klein: No. Actually, the only two you have seen is this application for Elizabeth Salon, which, again, you recommended approval for the previous plan, and the Green Earth cleaners.

Comm. Conrad: Where is it on this elevation?

Mr. Klein: That elevation is actually the back. When this development was initially approved, the back of the building had a service drive running around the south side. It was primarily stucco with a little bit of masonry. It was basically a service corridor. This would be a change from that. This is actually wrapping that corner and having a business that is located on the south side of it on the corners. I also included colored elevations of what was previously approved in your packets.

Chair Rohlf: Do we have any other designs that were submitted between what was approved and this particular design.

Mr. Klein: No.

**Applicant Presentation:**

Nick Ewing, 11289 Oak Street, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Ewing: I guess the issue about the awning is that it doesn't provide a grand entrance. The awning is 13'6" wide and 6'6" high. I believe that is a grand entrance with the columns on each side as well. The columns are 3-ft. wide.

It elevates the signage up high and the site is also elevated at that corner because there is a retaining wall. It's up higher where you enter and adds for a better view. The reasoning behind this was the budget of the project. Unfortunately, the budget doesn't call for the glass canopy.

Comm. Conrad: This is a retail entrance to what was at one time the back of the building?

Mr. Klein: Correct.

Comm. Conrad: What type of landscaping or treatment will there be outside of this between the sidewalk and the building. On the front side, we have done pavers, benches, and a lot of amenities. Now we're wrapping the center around the building.

Mr. Klein: This one will have the sidewalk kind of wrap around the building. I think there is room for a few trees and stuff like that, but it won't be nearly to the extent as far as what you see on the front of the building. There will be quite a bit of landscaping along the retaining wall that wraps around the south side of the building.

Comm. Conrad: Just to the west of this there is a set-back to the building and it could very well just be a utilitarian entrance into that space, correct?

Mr. Klein: Correct. I believe they had some storefront windows initially that they intended to wrap the west portion with.

Comm. Conrad: What is a very nice pedestrian sidewalk and space on the north side, we wrapped it around the west and now have put what is hopefully a successful retail business on the southwest corner. As I see these pavement areas between the sidewalk and the back of the building, I just wonder how these will be treated. Maybe the applicant should ask the developer what the front yard will look like. I don't know if that is an issue or not.

Mr. Ewing: I really don't know offhand.

Comm. Williams: It doesn't even look like there's a sidewalk or walkway.

Comm. Conrad: There's no site plan for a curb to face a building.

Mr. Ewing: Might I add that RED Development has also approved this. The developer really doesn't have a problem with it.

Comm. Conrad: I think it's fine. I guess, it's just how we would want to wrap the flavor of the pedestrian space as we come around the back of the building. Should there be some detail as to how this is developed between the curb and the face of the building.

Comm. Williams: Maybe part of the problem with this applicant, as with any tenant finish space, they are dealing with the tenant space and outside is the developer. We look at what they are doing, but it raises the question for the developer as to what they are doing out in front. How do we address that?

Mr. Klein: Actually, the developer has been in and indicated that they want to wrap the corners as you see in this application and in the Green Earth project that you've seen. It is my understanding that they would wrap it with the sidewalk coming around and connecting to the entrances. I believe that there is also a service door that is located on this side of the building as well that is adjacent. There is some landscaping in those green areas, but that is the extent that I've seen.

Comm. Williams: Is the developer going to bring you a plan with that part of the development? Would Staff see and approve this while we would not necessarily see it?

Mr. Lambers: It would depend upon what the developer submitted and whether it is minor in terms of the impact. If we are satisfied with it, we may administratively approve. If we have issues, we would bring it through the process for review.

Comm. Williams: On other businesses on the north side, are the entrances to a large extent already established by design of the center or does each applicant come in to add their “grand entrance?”

Mr. Klein: I would say that the tone of the weather protection has been more or less defined by the overall development. The hard vertical canopies, colonnades, and porticos have been taking that portion of the building. They have been adding their own special identify and flair for the individual business with the way it is finished out on the storefront. The last one you saw was the Apple development. On this particular one, they actually pulled back the canopy on each side but kept the hard canopy to make sure that the apple had more of a presence. They then recessed the doorway in to offer weather protection so that you have the large, rectangular metal façade that creates the presence of Apple.

Comm. Williams: Maybe to a degree, this applicant is to a budgetary disadvantage if the development and the design guidelines require these prominent entrances and if this has already been provided by the developer for 80-90% of the shops already in this center.

Mr. Lambers: It is provided by the guidelines that the applicant has to adhere to, but it is not being provided by the developer.

Comm. Williams: I was hearing that porticos, covered walkways, and other sort of things that play into those entrances are already part of the building.

Mr. Lambers: They were part of the final plan that we approved. They will be expected to be part of the tenant finishes when they come forward. When this one was approved, it met all of the criteria. It is now being downscaled for budget reasons, which is why Staff doesn't support it. Basically, it needs to be consistent with the rest of the development.

Comm. Williams: I am supportive of Staff's position on this. I drive this street daily and look at that corner of the building every time I go by, particularly since we have gotten this application. The earlier design just made the statement of wrapping the retail activity around the side of the building, where this design doesn't do that for me. Maybe it is a step or two above a service entrance with a little more character and detail, but not to the extent of the main center. Given its prominence and being what you see when you drive by there coming from the south, this is almost the introduction to what this center is all about. This shortchanges that.

Mr. Ewing: The canopy that we used to have was also a unique feature. I don't believe that anyone was going to have that on the north. This is also something unique that no one else will have. It is a canvass, however it is a large one. I think it does signal that it is an entry especially with the large columns right next to it.

Comm. Williams: I'm not arguing that it doesn't say that it's an entrance. I'm just saying that it doesn't say it's an entrance to the same degree as the predominance of the center. If this was located at the opposite end instead of on the prominent corner of the building, where literally hundreds of thousands of people will see this daily while driving down the street, I wouldn't have as much of an issue. Given where it is at, I think it does need to be a more prominent statement on the building. When I look at this canopy versus the canopy that is on the approved plan, they come out and make an architectural statement. This doesn't make a statement, which is in that same vein.

Mr. Ewing: Be that as it may, the home developer has approved it and we feel that it does. That may be an issue of opinion. We feel that with the columns and the name of it on the awning, it will say that it's the entry.

Comm. Conrad: I certainly want to be supportive of another business moving in. I think that we have a great opportunity here as what is a terrific elevation of the north development has now wrapped the west end and slightly around to the south. I guess I would like to see if the applicant would want to continue this and also get with the developer to see how the pedestrian-scape can wrap to this entrance on the south side of the building.

Comm. Williams: I would agree with Commissioner Conrad on this. I think if the developer is looking to bring the retail development around to the backside of the building, we need to look at the public space outside of the tenant space. That was a big issue when we looked at the plan to begin with before we knew who the tenants were. We need to look at it with the same level of care.

Mr. Ewing: Between the columns and the doors, there is also a metal pack clad on the fascia that will also draw more attention to the entry. It is also very unique to the rest of the shopping center. It will also help say that this is the entry.

Comm. Roberson: Am I understanding that in addition to the landscaping/sidewalk scaping, you all are not comfortable with the awning either. Is that a fair statement?

Comm. Williams: I personally am not comfortable with the awning as it is currently designed. What I am looking at, particularly when I compare it to the previous design and with what we have on the front of the building, is a mass that defines entrance, a good mass on that corner that helps to pull around that retail activity and make it look like activity is happening on all three corners. This doesn't do that. It's a start. The columns start to get it there but the canopy as it is just doesn't pull it off for me. Overall, the previous does a better job.

Mr. Ewing: That's not really our job to do that. It's more for the developer. We are just concerned with our location and what we can do to help with that façade. It's not really up to us with the sidewalks and how everything wraps around. It's just basically our location.

Comm. Williams: I think we understand that it's not your responsibility for the sidewalks. What we are saying is that the sidewalks and the landscaping, which are all part of the development plan, should be addressed. It may not be your responsibility as the tenant, but it still needs to be addressed by the developer.

Mr. Ewing: Will it affect the approval? Because it was approved last time.

Chair Rohlf: By some of the comments that we have already expressed, I don't think that this design is where it needs to be in order to be in compliance with the design guidelines and the overall look of the development, north or south.

Comm. Williams: I think that is the issue for this applicant/tenant. I think that somehow we need to get the developer involved to come back and show what they intend to do in order to make this a compatible, comparable exterior space as to the front of the building. I'm not saying that it would be held against the applicant for approval or denial as it is strictly the entrance that you are presenting to us tonight.

Mr. Ewing: It may not meet the guidelines that RED Development had, however we have been given leniency on many items for the interior and exterior and they have approved it.

Chair Rohlf: Unfortunately, they are not here tonight to speak to some of the questions that we have. I think my feeling is that perhaps it would be in your best interest to seek a continuance and go back and work on this entrance while getting some support from the developer.

Mr. Ewing: I have their approval right here. The representative had a death in the family, so he couldn't be here tonight.

Chair Rohlf: If we move forward with this, I can sense that there most likely will be denial. I don't know that for sure, but a continuance might provide you with another opportunity to come back with something in between. Perhaps you could also consult with the developer and see what else is planned for that backside. Mr. Klein, maybe this is something that we need to hear from the developer now that we have received two plans for the backside of the development and we have denied the other one as well. Maybe it's time that we revisit that so we can all have a better appreciation. I don't think that this is your problem (*to the applicant*), but it is part of our decision making problem this evening.

Mr. Lambers: I would request a consensus by a show of hands that there is agreement with Staff's position so that the applicant knows that what they have submitted is not acceptable and that you anticipate them to improve it as part of the continuance to ensure that the applicant doesn't come back with the same design. If that's not the case, that's fine.

Comm. Conrad: Was this a Consent Agenda item on January 29<sup>th</sup>, because I don't recall this.

Mr. Lambers: Yes. That plan was fine. We put it on the Consent Agenda as long as we believe that it is consistent with everything else.

Comm. Conrad: Yes, I think it was very appropriate for the Consent Agenda. I just wanted to make sure that I remembered correctly.

Comm. Heiman: I do have one additional comment that may help as well. That is a black awning and will be on the south side of the building. Sunlight will be on this most of the day. I don't know too many awnings that are cloth in nature that will not fade at some point. I'm not inclined to vote in favor of this for that reason also.

Chair Rohlf: Can I have a show of hands for how many would probably move to deny based on what we have heard tonight. *Hands were raised by all Planning Commissioners*. I think we can go ahead and move to continue this, then you will know that you can take that information back to your entity and see if you can come up with an improved design.

Mr. Ewing: What do you suggest that we do for the next one? We've asked RED Development for their opinions on things and they have advised that as the architects, it's up to us. We are to bring it to them and they will approve or not approve it. We've done that and come up with a design that they approved. All we're asking for is your approval on this.

Chair Rohlf: I don't think it's our place to come in and design something new, but I think we have given you some guidance why this doesn't meet the guidelines this evening.

Comm. Williams: In reference to the applicant's comment about RED Development being supportive of this, I think it is our experience that developers are largely supportive of most projects that their tenants bring in. We certainly have changed many of them for the better. The fact that RED Development says it is fine with them doesn't necessarily pass our test of what meets the design guidelines that they have presented to us.

Mr. Ewing: So, we basically just can't have an awning?

Chair Rohlf: I think there is such a contrast with what was approved and what you are proposing tonight that it is difficult for us to make a recommendation. I think that an awning on this side of the building of this size and color is probably not appropriate. I think the awning is probably the biggest concern.

Comm. Conrad: It's not quite so much just the awning. I think there is a whole question of the end of the building and the coming around. I think that the awning is a small thing.

Comm. Williams: But in terms of what the applicant is having to deal with as a tenant in the development.

Chair Rohlf: I don't think we can ask them to be responsible. I have already asked to have the developer come in the next time. Even if we continue this tonight, I want to see the backside. I think we would all benefit from that.

Comm. Conrad: I think we do have awnings for entrances.

Comm. Elkins: Not on this building. That's the issue.

Chair Rohlf: We do in Leawood, but not in this complex. That's the problem. We haven't approved them for this.

Mr. Ewing: There are awnings at window locations, but they're not that large. This one is larger. If we don't go with the awning, do you want us to go with the same material that everybody else has on the north? The whole point of this is to have a place that is unique and different.

Comm. Williams: Did I hear you make a comment that the awnings that are on the windows of the building are not as large as the awnings that you're proposing?

Mr. Ewing: They're not that wide. I don't have the actual elevations. They may be as high, but they're not as wide. We have the entrance with the columns, the metal that is facing south, and the awning that is 13'6" wide.

Comm. Williams: I wouldn't necessarily argue with you about the width but I think in comparison to the awnings that have been approved, they have much greater mass to them, which makes up for the width with greater height or detail on the piece itself. What I am looking for on this backside, which I saw in the previous approved entrance, is something that just has more substantial architectural mass that begins to carry around to the backside with the same type of entry statement that we see on the front as an integral part of the building. You're making strides in that direction, but I saw it before and I don't see it now. That is my concern.

Mr. Ewing: We also have the metal louvers above the windows on the side of the columns. That is an extra element. We also have the base on the west façade, which is a 12 x 8 signage base.

Comm. Williams: I think those are all fine. But if someone were driving down the street and looking at the architecture of this building, some of what you've described is going to start to fade away in the background or not be seen at all versus the mass that says entrance, again as it relates to the architectural style of the overall building when it comes to the definition of entrances.

Chair Rohlf: What have you decided that you would like us to do?

Mr. Ewing: I guess we have to meet with RED Development and have them advise us on what to do. There are not many more options.

Chair Rohlf: Do you want to request a continuance this evening?

Mr. Lambers: April 22<sup>nd</sup> would be the date.

Chair Rohlf: Or, would you like us to move forward with a motion? I think if we vote, we are going to deny this as it is proposed.

Comm. Williams: Are you requesting a continuance?

Mr. Ewing: Yes.

**Under the rules of the Planning Commission, a motion to extend the meeting for a period not to exceed 30 minutes was made by Elkins; seconded by Roberson.**

**The motion was unanimously approved.**

Co-owner of the project Andrew Thomas, 1401 Sandwick, Raymore, MO, appeared before the Planning Commission and made the following comments:

Mr. Thomas: Liza Amador and myself are owners of this project. I understand the concerns about the predominance of the appearance of the building while coming up Roe Avenue. If you're coming south on Roe, you would have to look way over your shoulder to even get a glimpse of this. So, it's the northbound traffic that is exposed to this particular elevation of the building. Coming up the rise to the intersection, there is a big berm there so that part of the building is pretty nondescript from the street. Once you get into the parking lot, of course it would be a different issue. The parking lot is essentially designed at that particular area for her facility, employee parking at the adjoining retail spaces, and the service traffic going to the back for the entire complex. There is not much drive-through other than service people and destination to her facility. It is probably a good idea for RED Development to get involved in this, however we have contractual obligations on our tenant finish and I would be uncomfortable with stopping our progress at least in terms of getting our space underway with the actual improvement inside. The exterior conditions could perhaps be worked out, but we have a lot of our own money invested in this and I would hate to see undue delays that would cause us some hardship.

Comm. Williams: I'm not sure, did we hear a request for a continuance?

Mr. Ewing: Yes, we did.

**A motion to continue Case 02-08, One Nineteen, Elizabeth Salon, request for approval of a final site plan, located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue to the April 22, 2008, meeting was made by Williams. The motion was seconded by Munson.**

**The motion was unanimously approved.**

CASE 20-08 – CHADWICK PLACE REVISED SIGN CRITERIA AND SIGNAGE - Request for approval of a revised final plan; located at the southeast corner of 135<sup>th</sup> Street and Chadwick Place.

**Staff Presentation:**

Assistant to the Planning Director Mark Klein made the following comments:

Mr. Klein: Madam Chair and members of the Planning Commission, this is Case 20-08. The applicant is requesting approval of a revised final site plan to modify the sign criteria for the Chadwick Place development regarding logos and to approve modified signage for the existing Mission Bank.

This development was approved in 2005 and consists of ten buildings in two columns that extend southward from 135<sup>th</sup> Street. The bank was the first building to be constructed, and I believe it has been there for a couple of years. The applicant is requesting to revise the sign criteria for the development, which currently states that the maximum character height is 14-inches and to allow logos that are 30-inches in height. The applicant is requesting to have a leaf logo added to the north and the west side of the building. The lettering of the building would stay the same. Staff is recommending 21-inches rather than the 30-inches that the applicant is proposing, which is approximately 1.5 times the size of the 14-inch characters, to be more in proportion to the lettering. It is also recommended to have the logo appear on the same line as the rest of the sign. Staff is recommending approval of the application with the stipulations stated in the Staff Report. I would be happy to answer any questions.

Comm. Conrad: We certainly have lots of discussions about logos and signage. When I first look at the two pictures, I just see this green thing jump out at me on beige brick and earth tone colors. We've talked in the past about signs being a part of architecture. Is there a feeling about this application?

Mr. Klein: The City is trying to work with the developer as far as allowing individual tenants to have an identity with a logo. I certainly understand your point as far as it definitely is a different color that what is there and does jump out a little more. The applicant has indicated that this is their logo for this bank that is regional. It has become a predominant logo of theirs. They have provided in the packets numerous sets of logos at other locations. Staff did have a concern, especially on the north elevation where they had the leaf actually going above the third line as it didn't look like it was connected with the rest of the sign. It was just kind of hanging out there. It was Staff's recommendation to have it down on the same line as the rest of the text. Again, we were just looking to have the signage more proportional with other criteria for the other characters on the building.

**Applicant Presentation:**

On behalf of the applicant, Larry Winn, 6201 College Boulevard, appeared before the Planning Commission and made the following comments:

Mr. Winn: I have with me Don Hugo of Mission Bank if there are questions of the owner or head of the bank. Mr. Klein described exactly what we seek. We are simply seeking to add the leaf logo to our existing sign at the Mission Bank. I think you have in your packet examples of the use of the logo on a number of banks including a bank in Leawood. To answer your question Commissioner Conrad about the sign, apparently it was good enough at that point and time to be satisfactory. We are amenable to meet Staff halfway in the stipulations. We concur that on the north elevation, we will bring the leaf logo down next to the word "The." We will have to slide the words "The" over and move the logo down beside the "T". It will be on two lines. We will do this although it will cause us a little more effort to redo the sign. We would like to make a request and a suggestion. It's kind of a subjective argument as to what is in better proportion with other characters. We have sought a 30-inch sign and Staff is recommending a 21-inch sign. We would respectfully request that we be allowed to have the leaf on those elevations at 26-inches, which is a 5-inch difference. Will it make any difference? Will you have more customers? I don't know, but this is the bank's logo. It's Valley View, Security Bank, and Mission Bank under one mother company now and this is the branding that they are attempting to do. We're not poor-mouthing the situation, but as most of us know who drive this City everyday, the 135<sup>th</sup> Street business climate leaves a lot to be desired right now. I guess you could blame Ben Vernake, or me, or whoever else you choose to blame, but these aren't very good times out in that corridor. The bank kind of took the risk and was one of the pioneers that set up shop on 135<sup>th</sup> Street. There's not much going on to either side of it. Anything would help. If you can find it in yourself to consider 26-inches instead of 21-inches, I think we can walk away, concur with the stipulations, and go on from there. I would be happy to respond to any questions.

Chair Rohlf: Can you tell me from the packet of other bank photographs that we have, is there one in here that would be proportionately close to the 26-inches that you are now requesting?

Mr. Winn: The one on the top happens to be a Valley View Bank at 11813 Roe and within one inch of our request. It may be slightly bigger than 26-inches, but it's in that identical range.

Chair Rohlf: The sign lettering is about the same as well?

Mr. Winn: I believe that it is.

Chair Rohlf: I notice that the size varies quite a bit throughout that packet, and I didn't know if there was one person that designed leafs for the banks or if each bank is responsible for getting their own logo.

Mr. Winn: No. The logo has been a retrofit. They were Mission Bank and then Security Bank. They have had to come in and deal with each fascia on each building and just make due with putting the logo in the best location.

Chair Rohlf: Has there been just one company responsible for doing this?

Mr. Winn: Yes, one sign company.

Comm. Roberson: How tall is the one at 5201 Johnson Drive? It's the Mission Bank.

Mr. Winn: That's the original old Mission Bank.

Don Hugo with Mission Bank, 14715 S. Glenn Eyre, Olathe, KS, also appeared before the Planning Commission to answer questions.

Mr. Hugo: That is over the north entrance to 5201 Johnson Drive, which is a 6-story building. It's close to the ground. The letters on that particular sign are approximately 12-inches. I can't tell you precisely. This sign isn't meant to identify something from a distance. It's just over the door to further advertise the bank. We've dealt with seven banks in the Valley View Bancshares Holding Company that had sign issues in a number of jurisdictions. Mission Bank has offices in Shawnee Mission, Leawood, and now in Roeland Park. We've had a number of jurisdictions to deal with as far as regulations on sign issues. We also have the leaf on each end of that building that are substantially bigger than this leaf. These have all been retrofitted, as Mr. Winn stated. I can't tell you precisely what each one of these leafs are but the proportion is meant to stay the same. If the leaf weren't green, it would lose its effect. This logo and brand is on about fifty buildings around the metro area, which puts us on level footing with Commerce Bank and Bank of America as far as having a number of locations for people to visit. The object of this is to indicate to our customers that they can use any of the offices of any of the seven banks.

Mr. Winn: For whatever it's worth, I drove the City today over the lunch hour and went down Nall from College, where my office is. There is a Commerce Bank there that has the globe. I would say that it is probably 30-inches. The eye doctor that has the same west facing has quite an exotic logo that is substantially bigger than any of these. Country Club Bank on 135<sup>th</sup> Street has a good sized logo also. We're not skewed with anything else in concept that you have met and considered. It's tasteful and proportionate. It would certainly be of help if you could see your way clear to help us on this. We will leave it up to your good judgment, as always.

Comm. Munson: Is this the one you are thinking about doing, or is it something else (*referring to a photograph from the example packet*)?

Mr. Winn: The better examples are the two specific facings. There are two signs. One is the west facing and you would see it off of Chadwick, eastbound on 135<sup>th</sup> Street. The other one is up in the tower on the north facing. They are the two existing Mission Bank signs. *Mr. Winn verifies that he and Commissioner Munson to referring to the same photograph.*

Comm. Munson: I prefer that one because it sets the logo over from the bank name and it reads better.

Mr. Winn: I see what you are saying. It kind of splits the difference between the two lines.

Mr. Hugo: This one measures at 30-inches. The leaf on the north elevation couldn't be 30-inches, and probably won't be able to be 26-inches, because of the restriction in the size of the tower on that side. The one on the west exposure is the one that we would like to size.

Comm. Munson: There are two issues. One is size and one is placement of the logo. Is that correct?

Mr. Winn: Now that you've raised the issue with the west logo, maybe it's placement of both. I don't know how Staff would feel if we were to consider dropping the logo down on the west to be centered.

Chair Rohlf: I think we want to get away from the appearance of three lines.

Mr. Winn: Right. It would do the same thing if it was slid down to beside the "V." It would accomplish the same thing. The size issue might be less if it went down between the lines.

Chair Rohlf: Mr. Klein, what do you think about that?

Mr. Klein: Currently, the sign criteria requires that multiple lined signs have no more than 30-inches in total height. I believe that the logo they are requesting on this is 30-inches.

Chair Rohlf: He's saying that they would go down to 26-inches.

Mr. Klein: Staff doesn't have a problem with proportionately doing it on the same line. The intent of the stipulation was not to prevent that. I think it would follow what the stipulation states as far as it has to be on the same line as the rest of the text.

Comm. Williams: If I understood Mr. Winn correctly, you're in agreement with it being on the line. The only change in the stipulation that you are asking for is for a 26-inch maximum height.

Mr. Winn: Yes. We concur that we need to get the logo and letters down to two lines on the north facing. The only difference is the additional 5-inches in the suggested height of the logo itself. Staff recommended 21-inches and we had originally suggested 30-inches. Tonight, we are suggesting a compromise of 26-inches.

Chair Rohlf: Is the second photo of the Mission Bank at 8201 Mission Road the same sized lettering as this building? It looks almost identical.

Mr. Winn: I would say no. It doesn't appear to me that it does because on that particular building façade, that's all the area that there is for a sign and all they had to work with. I think every one of them is costume tailored to fit what they found when they got to each bank building. If I were going to make a guess, that looks like a 15-18 inch sign all the way across on that particular façade on Mission Road and Somerset.

Comm. Jackson: Is just the leaf illuminated or is the entire sign illuminated?

Mr. Klein: I think its backlit.

Comm. Jackson: Just the leaf or the whole sign?

Mr. Hugo: The letters are backlit.

Comm. Jackson: Is there any issue with illumination?

Mr. Klein: I don't believe so.

Chair Rohlf: It's hard to tell the proportion of things. I know we have had some signs where the lettering and perhaps even the logo were too small. I just frankly am not good at judging how this changes if it is shorter. Commissioner Williams, can you offer any help with this?

Comm. Williams: In looking at the submittal that they have made tonight with a 30-inch logo, I think it overall fits fairly well with what was presented. I am supportive of the applicant's willingness to compromise between their 30-inch request and the 21-inch recommendation by Staff by going with a maximum of 26-inches unless there is some reason that Staff says we need to stick to 21-inches.

Mr. Klein: I just want to go back to the conversation about illumination of the sign. Actually, the way that the design guidelines read, building signs are allowed lighting in the following one or more: halo illuminated channel letters with neon not exposed to view, halo illuminated pen mounted reverse channel letters in direct lights, and fiber optics. I think that Staff had recommended that there be a stipulation added that the logo would have to meet the sign criteria for the overall development.

Comm. Jackson: For the illumination?

Mr. Klein: Yes, for the illumination.

Chair Rohlf: Do you want to add that as a stipulation?

Mr. Klein: Yes.

Comm. Williams: As I was saying, I think the 26-inches suggested by the applicant is a good compromise. It would be fine. They state that they are in agreement with the other Staff stipulations.

**A motion to approve Case 20-08, Chadwick Place revised sign criteria and signage, request for a revised final site plan, located at the southeast corner of 135<sup>th</sup> Street and Chadwick Place with the addition of what would be Stipulation No. 3 in that the illumination of the signage, including lettering and logo, meet the requirements of the development signage guidelines; and that Stipulation No. 2a be revised to allow a maximum logo height of 26-inches was made by Williams. The motion was seconded by Munson.**

Comm. Jackson: Is that correct that the signage should meet the developer's stipulation or was that the LDO?

Mr. Klein: It's the development stipulations. These are the sign criteria for the development.

**The motion was approved following a unanimous vote.**

*MEETING ADJOURNED.*