

City of Leawood  
Planning Commission Minutes  
December 8, 2009  
Meeting - 6:00 p.m.  
Dinner Session – No Discussion of Items – 5:30 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive  
Leawood, KS 66211  
913.339.6700 x 160

**CALL TO ORDER/ROLL CALL:** Pateidl, Jackson, Neff-Brain, Rohlf, Rezac, Williams, Elkins and Heiman.  
Absent: Roberson.

**APPROVAL OF THE AGENDA:**

A motion to approve the agenda as amended was made by Williams, seconded by Jackson. Motion approved unanimously with a vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Rezac, Williams, Elkins and Heiman.

**CONTINUED TO JANUARY 26, 2010 MEETING:**

CASE 54-06 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-10 – ARCHITECTURAL STANDARDS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 20-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-1 ACCESSORY USES (RESIDENTIAL EMERGENCY GENERATORS) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING.**

CASE 64-09 – CLEARWIRE WIRELESS BROADBAND – Request For approval of a Special Use Permit for a wireless communication facility for Clearwire Wireless Broadband, located at 13401 Nall Avenue. **PUBLIC HEARING.**

CASE 73-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – RP1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

**NEW BUSINESS:**

CASE 83-09 – MARKET SQUARE CENTER – LANCASTER LIQUOR – Request for Special Use Permit and Revised Final Site Plan, located east of Mission Road between 133<sup>rd</sup> and 135<sup>th</sup> St.

**Staff Presentation:**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 83-09. It's a request for a Special Use Permit and Revised Final Site Plan Approval for Lancaster Liquor at Market Square Center. This is located east of Mission Road between 133<sup>rd</sup> and 135<sup>th</sup> Street. The applicant is requesting the Special Use Permit approval due to change in ownership that has recently occurred. The business was previously known as Stoll Liquor. A Special Use Permit was granted to Stoll Liquor by the City Council on November 18, 2002. Since that time, it has been used as a liquor store. The LDO requires a Revised Final Site Plan approval concurrent with the SUP request. The only exterior changes proposed are for new

signage on both the west and north elevations. The current signs are 18" letters colored white, and they are internally illuminated. The proposed signs would read "Lancaster" and be the same materials and height as the existing signs. The new and existing signage both comply with the sign criteria for the development and the LDO. Staff is supportive of the SUP request and the proposed new signage and recommends approval of the Revised Final Site Plan and SUP, subject to the stipulations stated in the Staff Report.

Chair Rohlf: Does anyone have questions for staff? Then we'll hear from the applicant.

**Applicant Presentation:**

Lisa Allen, 3727 W. 133th St., Leawood, KS, 66209, appeared before the Planning Commission and made the following comments:

Ms. Allen: I really don't have anything to add; it's pretty cut and dried. We probably should have done this prior, but I was unaware that it was even required. When we came in to get our license to open the business, it was not brought to our attention. This is why it has taken us a while to get here.

Chair Rohlf: Sounds like you're in compliance now. Does anyone have questions for the applicant?

Comm. Pateidl: Could you tell us what your intended hours of operation are and if you will be making any other basic changes to the operation?

Ms. Allen: The only changes we have made are to extend the Friday and Saturday closing time to 10:00 p.m. and to open at 9:00 on Saturday mornings. We have also changed the 6:00 closing time on Sunday to 7:00 p.m. Quite frankly, that was based on customers complaining that we weren't open late enough. By law, we can be open until 11:00, but I don't think that's really necessary for the location.

Chair Rohlf: Does anyone else have any questions? This case does require a Public Hearing.

**Public Hearing:**

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Williams. Motion approved unanimously with a vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Rezac, Williams, Elkins and Heiman.

Chair Rohlf: That takes us up to any further discussion, hopefully leading to a motion.

A motion to recommend approval of CASE 83-09 – MARKET SQUARE CENTER – LANCASTER LIQUOR – Request for approval of a Special Use Permit and Revised Final Site Plan to allow packaged liquor sales under new ownership with all five staff stipulations – was made by Williams; seconded by Neff-Brain. Motion approved unanimously with a vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Rezac, Williams, Elkins and Heiman.

CASE 87-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-1.3 – Permitted Accessory Uses – Buildings and Structures – Hot Tubs

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 87-09 – Leawood Development Ordinance amendment to Section 16-4-1.3 – Permitted Accessory Uses – Buildings and Structures. We had an application for a hot tub to be put in. We discovered that, although hot tubs were

considered in the fencing portion of the ordinance, which allows a 6' fence as long as it is within 3' of the hot tub itself, it was not formerly listed as an accessory use in any zoning district. This amendment inserts hot tubs as an accessory use. In addition to that, we also have a setback requirement for them in which we are recommending 10'. That's consistent with swimming pools. Staff is recommending approval of this application and would be happy to answer any questions.

Comm. Neff-Brain: What happened with sunrooms?

Mr. Klein: The reason for that amendment is the way the ordinance is written. It lists many accessory uses within the RP-1 section with additional uses listed for the RP-3, RP-4 and now RP-2. Sunrooms were already listed in RP-1, so instead of listing it twice, we struck that part.

Comm. Rezac: There is a statement about the hot tubs being a minimum of 10' from any property line and shall not be permitted in the front yard. I didn't see anything about not permitting it from view from the street. Was there discussion about that?

Mr. Klein: Since it is a body of water smaller than a swimming pool, we didn't consider it. If the Planning Commission would like to add an amendment to it, you're more than able to do that.

Ms. Shearer: The LDO also requires fencing to circumscribe any hot tub, so that should prevent view from the street or neighbors.

Chair Rohlf: So if someone has a hot tub in their back yard, where does the fencing go?

Mr. Klein: The fencing is just required to circumscribe the hot tub. A 4' fence can go around the property line, and that would enclose the hot tub. You could also have it located much closer in to the hot tub as long as you circumscribe it. The LDO typically doesn't allow 6' fences; however, the fencing section does allow a 6' fence within 3' of the hot tub. Again, it would have to circumscribe the hot tub. In one sense, it's screening; in the other sense, it's providing a measure of safety.

Chair Rohlf: Do most people just fence the yard and not the hot tub?

Mr. Klein: A lot of people have a fenced yard and a hot tub. We see hot tubs often times on the decks; however, not all are located there.

Chair Rohlf: Does anyone have any other questions? This case also requires a Public Hearing.

**Public Hearing;**

**As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Heiman. Motion approved unanimously with a vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Rezac, Williams, Elkins and Heiman.**

Chair Rohlf: This takes us up to any further discussion, hopefully leading to a motion.

**A motion to recommend approval of CASE 87-09 – LEAWOOD DEVELOPMENT ORDINANCE – AMENDMENT TO SECTION 16-4-1.3 – PERMITTED ACCESSORY USES – BUILDINGS AND STRUCTURES – was made by Williams; seconded by Rezac. Motion approved unanimously with a vote of 7-0. For: Pateidl, Jackson, Neff-Brain, Rezac, Williams, Elkins and Heiman.**

*MEETING ADJOURNED.*