

**City of Leawood
Planning Commission Minutes**

**May 13, 2008
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

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

APPROVAL OF THE AGENDA: A motion to approve the agenda was made by Roberson, seconded by Williams. Motion approved unanimously.

APPROVAL OF MINUTES: Approval of the minutes from the February 13, 2007 meeting, February 20, 2007 meeting, February 27, 2007 meeting, March 13, 2007 meeting, and April 22, 2008 meeting.

Approval of the minutes from the February 13, 2007 meeting. **A motion to approve the February 13, 2007 minutes was made by Roberson, seconded by Jackson. Motion approved unanimously.**

Approval of the minutes from the February 20, 2007 meeting. **A motion to approve the February 20, 2007 minutes was made by Roberson, seconded by Jackson. Motion approved unanimously.**

Approval of the minutes from the February 27, 2007 meeting. **A motion to approve the February 27, 2007 minutes was made by Williams, seconded by Jackson. Motion approved unanimously.**

Approval of the minutes from the March 13, 2007 meeting. **A motion to approve the March 13, 2007 minutes was made by Roberson, seconded by Williams. Motion approved unanimously.**

Ms. Shearer: Excuse me Madam Chair. The minutes all say 2007 and we've done motions approving them for 2007. I think these are actually 2008.

Chair Rohlf: I don't think they are. I think they really are 2007.

Ms. Chilcutt: Actually, they are 2007. This is the last set from 2007 and then we are caught up.

Chair Rohlf: In fact, I remember reading these as a draft a few months ago.

Ms. Shearer: I apologize. I just wanted to make sure we were using the right year.

Approval of the minutes from the April 22, 2008 meeting. **A motion to approve the April 22, 2008 minutes was made by Roberson, seconded by Jackson. Motion approved unanimously.**

Chair Rohlf: Julie, you indicated that we are caught up with our outstanding minutes?

Ms. Chilcutt: We are current. We won't have anymore from 2007, only current ones.

CONTINUED TO THE MAY 27, 2008 MEETING:

CASE 122-07 – PARK PLACE – THE ELEMENT HOTEL – Request for approval of a final site plan; located at the northeast corner of 117th Street and Nall Avenue.

CASE 127-07 – PARK PLACE TOWNHOMES – Request for approval of a preliminary site plan and final site plan; located at the northeast corner of 117th Street and Nall Avenue. **PUBLIC HEARING**

CASE 27-08 – PARK PLACE – BUILDING G – Request for approval of a preliminary site plan and final site plan; located at the northeast corner of 117th Street and Nall Avenue. **PUBLIC HEARING**

OLD BUSINESS:

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**

Chair Rohlf: For those of you in the audience, we'll talk about how we're going to proceed this evening. It is a little bit different than our typical meeting. We will hear from Staff briefly. They will introduce each of the ordinances. We will then open the Public Hearing on each of these ordinances separately. If you are here to speak on that particular ordinance, you may raise your hand, I will recognize you, and you may come up and make your comments. We are here this evening to listen to your comments and then we will have a Work Session later on in the summer to discuss those comments and any other discussion points that we want to have. These will be back on our September 9, 2008 agenda. The purpose of tonight's meeting is to really open the public hearing and hear comments from those of you in the audience wishing to speak. We will go ahead and get started with our first case, which is 08-06, LDO amendment – Section 16-2-9.2, Non-Residential Uses.

Mr. Klein: Madam Chair and members of the Commission, this is Case 08-06 and if you wouldn't mind, I would also like to talk about Case 09-06 as well. They are interrelated. This is a Leawood Development Ordinance amendment that was proposed a while ago. It regards the 10-acre rule for development. Basically, right now there really isn't a deviation allowing some of the parcels to develop. You may get in a situation with a parcel that may be land-locked or you may have someone who is ready to develop their piece of property that is less than 10 acres. They have tried diligently to work with the adjoining property owner to create something that was a little larger and were unsuccessful in doing that. Really what this is for is to allow a deviation to be granted. It is still something that the Planning Commission and City Council would have to review and approve. You would still have that kind of control, but this is basically what the ordinance is about. I would be happy to answer any questions.

Chair Rohlf: Let's go ahead and open the Public Hearing on this particular LDO amendment. Is there anyone in the audience that wishes to speak on this amendment?

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

Chair Rohlf: The Public Hearing on this particular amendment is closed.

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**

Chair Rohlf: This amendment goes hand-in-hand with the previous?

Mr. Klein: Yes, they are pretty much interrelated. The first one is located in 16-2-9.2, which states that there is a deviation available, and then it refers to the other section in Deviations.

Chair Rohlf: Is there anyone in the audience that wishes to speak on this particular amendment, which is 16-3-9, Deviations?

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

Chair Rohlf: The Public Hearing is closed.

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

Mr. Klein: Madam Chair and members of the Planning Commission, this is Case 54-06, Leawood Development Ordinance amendments to architectural standards. The Planning Commission actually saw this version before you tonight back on February 13, 2007. It has remained pretty much the same as it was at that point. It did go on to the City Council, who remanded it back to have the Planning Commission look at additional standards regarding height and massing. Basically, these are being brought back to you as separate ordinances. They are also on tonight's agenda as you go into each one of the residential districts where we are discussing height. It is also Staff's intention to also address massing in the future. As we approach September, we will be looking more at both the height and the massing as it continues forward. What this does is pretty much what you saw before, which is try to separate out the architectural standards that are in the residential portion and those that are in the commercial portion. There was a little bit of confusion before such as standards for four-sided architecture, which is required in commercial; however, if you strictly interpreted this, it would mean that you wouldn't be allowed to have a house with a back to it. This didn't seem like it made any sense. In addition, we had a problem with the roofing regarding asphalt shingles. Typically we would not allow these on commercial buildings, yet it was in there. So, we would have developers who would want to use the more residential asphalt shingle on commercial buildings. This is just a way in which to clean that up. For the residential portion, we did keep the prohibited materials and that kind of thing in there and kept the roofing that was there before. With regard to the commercial, we limited the roofing to those materials that we typically allow and we also ensured that you have the other standards that you look for when you review a final site plan.

Chair Rohlf: Is there anyone in the audience that would like to speak on this particular LDO amendment on architecture/construction standards?

Bruce North, 8025 Lee Boulevard, with the Leawood Homes Association, appeared before the Planning Commission and made the following comments:

Mr. North: I just wanted to clarify for the public that is here, and clarify for myself as well, that this is basically the original amendment unchanged; but, you are introducing new sections to the ordinance for different districts.

Mr. Klein: Right. Within each residential district we will introduce the height and massing restrictions.

Mr. North: Individually?

Mr. Klein: Right.

Mr. North: Could you clarify, because we're not terribly sure, what district is where? It would be appropriate, I assume, for us to come forward to discuss the matter in our division, the Leawood Homes Association.

Mr. Klein: I believe that is an R-1 district, planned single-family, low density residential. The majority of north Leawood is R-1. There are a few areas that are maybe an RP-1, but the majority of them are R-1. However, these ordinance amendments that we will be talking about individually within each district do apply City-wide, they aren't just limited to one section of the City.

Mr. North: For the residential district, our concern would just be about Case 56-06, correct?

Mr. Klein: Correct.

Mr. North: That is all that I wanted to clarify right now. Thanks.

Chair Rohlf: Is there anyone else that would like to speak to this particular LDO amendment?

As there were no other additional witnesses present to speak, a motion to close the Public Hearing was made by Elkins, seconded by Jackson. The motion was approved unanimously.

Chair Rohlf: The Public Hearing on this particular LDO amendment is closed. Now we will take each of the proposed changes to the districts. I believe it would be prudent to do one at a time. If you would, Mark, when you are talking about these particular districts, you might indicate what type of subdivision it would apply to.

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**

Mr. Klein: Madam Chair and members of the Planning Commission, this is Case 53-06, LDO amendment to section 16-2-5.7. This is in regard to the RP-4 District. The RP-4 District is actually the planned apartment house residential district. You would typically see this in condominiums, which is what we have down at Tomahawk Creek Parkway. Basically, what this ordinance dose is to clarify where the height of a building is measured from. Currently, we have a maximum of 35-ft. in this district, however it doesn't really say whether it is measured from the back, front, side, or an average. It states that it is to be measured from the front door up to the highest point on the building. In addition to this amendment, it goes hand-in-hand with some of the revisions to the definitions in Article 9. One of these is that it requires that the grade of the lot be changed by no more than twelve inches. The idea behind that is that they wanted to make sure that you didn't get so much grading built up with building on top of that. This was an effort to control that. If you do change the grade, then any change would go into the calculation as height and you wouldn't get any benefit from doing this. In addition, it also calls out natural grade in the definition change. It defines natural grade as the existing grade or elevation of ground surface that exists or existed prior to manmade alterations such as grading, grubbing, filling, or excavating.

Chair Rohlf: Is there anyone in the audience that wishes to speak about this particular LDL amendment on the Planned Apartment Residential District?

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

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**

Mr. Klein: Madam Chair and members of the Planning Commission, this is Case 55-06, LDO amendment to section 16-2-5.2. This is the RP-A5 District being discussed. The RP-A5 District is actually a minimum of 5-acre lots. Typically, there aren't really a lot of these in Leawood. The majority of them are south of 143rd Street and along Mission Road where you have some very large lots, many of them larger than 5-acres. As far as the LDO change that is being proposed, it is exactly as we discussed with the RP-4 section as far as clarifying where the height of the house would be measured from, which would be from the front door. It would also be affected by those definitions, as all of them would.

Chair Rohlf: Is there anyone here that wishes to speak about this particular LDO amendment dealing with Planned Rural Residential?

As there were no witnesses present to speak on Case 55-06, RP-A5, Planned Rural Density, Single-Family Residential, at 5-acres per dwelling, a motion to close the Public Hearing was made by Elkins, seconded by Williams. The motion was approved unanimously.

Chair Rohlf: The public hearing is closed.

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**

Mr. Klein: Madam Chair, as you stated, this is the district that applies to the R-1 District, which is planned single-family, low-density residential. This actually includes a lot of areas within the City, including the majority of north Leawood as well as number of places in central Leawood and even a little in south Leawood. However, it becomes less and less as you move further south. Basically, you have standards within the R-1 District of a minimum of 15,000 sq. ft. for the lots, however a lot of times they are larger than that with a 35-ft. front-yard setback, a 15-ft. side-yard setback, and a 35-ft. rear-yard setback. This ordinance actually goes a little bit further than the ones we discussed earlier. It still has the maximum height of 35-ft. and also would be measured at the front door; however, this one also seeks to potentially limit the height a little bit further in an effort to ensure that if you have either an addition or a teardown/rebuild in an existing neighborhood, the new building doesn't overpower the adjacent buildings that are there and doesn't become too much out of character. What it does is create a formula in which you use the houses on either side of the proposed lot doing either a remodel, addition, or teardown/rebuild. It takes where the roof meets the bearing point on the vertical wall and creates a 3-1 slope, and then creates an envelope to further limit it. I know that is a lot to take in, so I will put a diagram up on the overhead.

Referring to diagram on overhead titled, "Example with Standard R-1 Sebacks (15-ft)." This is what I was trying to describe – you would have the two adjacent homes right here and then the subject home (*in the middle*). Again, 35-ft. would still be the maximum that you could go, this would just further limit that height. Basically, there is a bearing point where the roof meets the vertical wall on each of the adjacent houses. You would create a 3-1 slope, which could then create a building envelope to further restrict. This shows a typical 15-ft. side-yard, so you would have 30-ft. in between.

If the houses were further apart in between, the envelope would get a little more generous and would allow more height. However, again, you can't go over 35-ft. There are a lot of places in north Leawood that although the zoning requires a 15-ft. side-yard, they actually have side-yards that are much less as some are 10-ft., which is a holdover from when the subdivision was originally platted. In a case like that where they are closer, you would have the building envelope being more restrictive and the height would not be allowed to go up as high.

Comm. Williams: A quick question for clarification. On your diagram, the point of reference is the top of the neighboring wall, not where the roof would end up hitting. So, if it is turned 90-degrees from your diagram, it would still be from its lowest bearing point?

Mr. Klein: I think it is the bearing point. I think the proposed LDO amendment states it as the highest bearing point that is currently there. In addition to this, it also provides an appeal process to the Board of Zoning Appeals [BZA].

Chair Rohlf: Is there anyone in the audience that wishes to speak about this particular LDO amendment?

Attorney Larry Winn, 6201 College Boulevard, Overland Park, Kansas, appeared before the Planning Commission and made the following comments:

Mr. Winn: We represent builder Charles Kraft of the Kraft Building Company. The company has been in business since 1920 and has built numerous homes over the decades in Leawood. Charlie called the other day and mentioned this ordinance and the Public Hearing tonight. On relatively short notice, we convened a meeting at the Home Builders Association [HBA] with a number of builders and very prominent architects that have done a number of homes in Leawood in order to analyze the ordinance. There is some good news in all of this as usually there is one side who is anti-project and another side who is very pro-project. We don't have that issue tonight. I think in many respects, we have a lot of points of agreement. We are generally comfortable with the 35-ft. height restriction measured at the grade of the front door. I think that is clear and needed to be clarified. I think we are also very empathetic to the folks in Leawood that want to preserve some of the unique characteristics, which I will refer to as north Leawood. If it is any consolation to you, Leawood is not the first city to have gone through this exact same exercise. Mission Hills has been through it over the last decade in addition to Fairway and Westwood. This is not atypical for some cities in which the housing stock is reaching 50, 60, and 70 years old. It is something that you will have to deal with. You are not the first ones to have to do it, so you are not out on the end of the high-dive by yourself.

This led to a lengthy meeting, by the way, on Friday with Scott, Mark, and other City Staff members as well as 3-4 prominent architects in the area. We started analyzing this drawing. The way that it is drawn currently, we think it is an accident looking for a place to happen. Among other things, examples that we found is that you would have a number of Leawood homes, as in a couple of hundred, particularly north of 95th Street, that would automatically come into noncompliance with this ordinance, including ranch houses. I think there are a lot of unintended consequences with the way that the ordinance is written. Some of the good folks in the audience tonight, builders and architects, can probably be more specific about that. You need to be very careful. What you don't want to do is enact an ordinance that is so rigid that people can't either remodel or rebuild a Leawood home. It's going to continue to come up.

We have some specific suggestions that we think might merit your future attention. Our goal tonight is not to have you sit up at the dais and have you draft an ordinance but to generally become aware of the fact that there are some real issues here that need to be considered. We share the concern that it could look pretty goofy to have a two-story Colonial shoot up in the middle of two ranch houses. There is just a proportionality issue there that doesn't look right. I think using our respective common senses; we would drive down the street thinking, "What the heck is that house doing there." We are with you in that regard, but the way the ordinance is currently drawn, you are going to have some real strange results referring to that particular drawing.

There are some legal issues here that you probably need to be aware of. If I go into north Leawood and buy a ranch house, I hope that I am smart enough to review the deed restrictions and plat. Those documents are going to tell me what I can do on that particular lot – how big my house could be, what my setbacks are, all of those types of things. I would buy subject to those restrictions and expectations. If I buy a home like that with the express intent of either knocking it down or adding a room, I am going to have to fit an envelope. I also think that if I submit to you a plan that does fit within that envelope, I am generally entitled to expect to have the plan approved. I don't think that you will willy-nilly take away my vested rights in those deed restrictions and documents that I took subject to.

I am also concerned that another unintended consequence is that you could end up making an area like Leawood highly desirable as it is close-in now with treed neighborhoods and character, stuff you won't get at 175th Street and nowhere in Johnson County. It's just not the same. The county is stretched out from north to south and it is a half-hour commute now. If I work on the Plaza, Crown Center, or downtown, Leawood is becoming hugely attractive to me. I would want to add a room. We are finding that a lot of the new homes in Leawood are built by couples that have family and kids. Wearing my Shawnee Mission School District Board member hat, we love it when people come into north Leawood, Prairie Village, and north Overland Park and re-green the area. I think you want to be very careful about doing anything that would cause that to be a disincentive. The other side of the coin is that we don't think you should have homes in north Leawood that look like they just don't belong. I have a high degree of confidence in your collective ability to counsel the BZA to know when something is just out of place. I think you will know it when you see it. You also don't want to create a disincentive for people who are living in 50, 60, and 70-year-old houses to reinvest, remodel, redo, or redevelop north Leawood. I think it is terribly, terribly important. It's the way of the world. It is what is happening in this town. It has happened in Mission Hills. It will happen in Leawood. It will happen in Fairway, and it has. The next time you are driving down Reinhardt, north of 63rd Street, particularly at homes backing up to the Kansas City Country Club, just look. They have \$4 million houses there. I would have to suggest that \$4 million houses might appear to be somewhat large, but \$4 million houses aren't exactly blight in the neighborhood in terms of your home values and value of the neighborhood.

You've got some interesting issues but, again, I don't think we have major problems as you go forward. Again, we are supportive of the 35-ft. cap. We think there are also a number of ways to deal with the proportionality issue. Again, my hypothetical two-story going up in the middle of two ranches could be dealt with in a way that doesn't get in the middle of this formula. I think right now the City in good faith is trying to formulize what house goes on what lots, and I think it could lead to a very bad result. Comm. Williams, you were asking a question that raised one of the ones that we raised, which is exactly where you start the measurement and how you deal with it. The other day, we even determined that in order to determine where some of the heights start, one would have to enter the house next door to the proposed house to find out where the support beam is for the roof on that house to make the calculation. I don't think you want to do that. I don't think you want the Planning Commission, the City Council, or the BZA to start getting into the single-family home design business and review those homes on a case-by-case basis. I think you have more important things to do.

These are just some initial thoughts. We haven't had time between Friday and today to start crafting language, but we think that can be done with the way that the homes associations, the builders, and the Planning Commission feel that we are on the right track. We have dealt with the proportionality issue without just shutting down all of the possibilities of redevelopment and reinvestment in north Leawood. Thank you Madam Chair.

Chair Rohlf: Is there anyone else in the audience who wishes to speak to this particular LDO amendment?

David Conderman, 3208 W. 81st Terrace, appeared before the Planning Commission and made the following comments:

Mr. Conderman: I have also just purchased a home in 3201 W. 82nd Street in old Leawood. I came before this group about one year ago when the City decided that they wanted to give the homes associations time to review documents with regards to what was proposed to be built on lots within those existing homes associations. I was pleasantly surprised to find that we came to a great solution, I think, where we give a couple of opportunities for people to give documents to the City that were then shared with the homes association. The homes association could then reinforce with the people that own the property exactly what their options were and if what they wanted to build or remodel fit within the guidelines of the deed restrictions. Basically, what I took away from that meeting was that the City did not necessarily want to be involved in every single decision of every single new home or remodel as far as if the house fit in with the character of old Leawood. As was stated previously, the character changes as you go from north Leawood to out south. I thought this was a really good solution. I was saddened when I was given information on this ordinance. I sell real estate in the area and am involved with people who buy houses and remodel their own homes. I have a lot of clients who do that. I have a lot of clients that build brand new houses. I work for a couple of builders that build houses in the area for people to live in. I feel like this is going to restrict what we are trying to do in the area. I am all for preserving the character of old Leawood, in particular since this is the area that I live in, but I just don't think this is necessarily going about it the right way. Again, it was a little bit short notice, but I jumped in my car yesterday and started at Somerset, the north edge of old Leawood, and went to the first 300 homes that I could find. Of those 300 homes, 103 of them could not be rebuilt under this ordinance as it is written if you were to build the exact same home that exists. That is roughly a little over 33%. Almost 34% of the homes that are currently there could not be rebuilt under this ordinance. Then there becomes gray issues, especially when you take into account the elevation of the land. For instance, the drawing that you saw here a few minutes ago was if the lots were completely level. What happens when one lot is 4-ft. higher than the lot next to it, and the lot next to that is 4-ft. lower than that one? Suddenly, you get to a point where you couldn't build a house that was over 5-ft. tall. I don't think that is something that we will want to live with.

I am mostly concerned with restricting people's rights and abilities with what they want to do with their homes as long as it fits in with what the homes associations want to allow. Again, I am all for maintaining the community. I live there and want to be there for the rest of my life. I am also concerned about what this would do to property values. Basically, in quite a few cases, you would be in a position where all you could rebuild would be a ranch style home. One of the great things that I have seen happen in the last ten years in old Leawood is that for the first time, families are not leaving and moving out south, to Olathe, to Shawnee, or to places where there are cul-de-sacs and a lot of kids. For the last 4-5 years in particular, more families than ever before are choosing to relocate to old Leawood. I myself am one of those people. Eleven years ago, I moved from old Leawood out to a subdivision called Cedar Creek in Olathe. We went out there basically for my children as the neighborhood in old Leawood that I lived in didn't have any kids around. We had just had babies, so we moved out. What we found was that we missed everything that Leawood had to offer and a few years ago, we moved back into town. Funny enough, six of the 24 closest neighbors to me also had moved back into town under similar situations.

They moved back because of all of the great things that Leawood has to offer. But, these are growing families just like mine and they need more space than some of these houses that were built in the 40s, 50s, and 60s can accommodate. Subsequently, they are adding on second floors. In some cases where necessary, they are tearing down a house and rebuilding a new one. I would hate to see that stop.

I did a little research for you and in just the last two years, the area north of I-435 in Leawood, the average sales price has gone from \$313,000 to \$413,000. This is just in two years. The reason that this increase is so great is because there are people like myself who are moving back into the area and are doing so because they have the opportunity to add-on to a smaller home and have all of those things that Leawood has to offer. I would hate to see that change.

The last part is that as I was looking at those 300 homes, one of the thoughts that occurred to me as it relates to the drawing we just saw is that if the homes are 15-ft. from the lot line, that leaves 30-ft. between houses. At a 3-1 slope, assuming that you could determine where we are going to start from, that means that the peak of the roof from the edge of the house next door could not be more than 10-ft. above the first floor. If you look at the drawing that we saw before and turned it sideways, what we are eliminating if we do that is all Cape Code style type houses that have a gabled end where the peak of the house is on the side. You wouldn't be able to do that because you couldn't fit an 8-ft. ceiling on your second floor. In a lot of cases, we are eliminating the opportunity to even have a second floor.

What I would encourage this group to do is one of two things. My first choice would be that we go back and let the homes associations deal with this issue. I was just at a meeting with several of the ladies and gentlemen that are in this room for the Leawood Homes Association, which was cut short because of weather, but we were making some headway towards the things that we would like to do in our area. I wish that you would let us self-police ourselves and let the homes associations deal with this issue, not unlike what we decided one year ago. Secondly, if you really felt the need to make a change, I would again suggest doing what we did one year ago by creating a subcommittee of concerned residents on both sides of the issue with the HBA and see if we can come up with something that everyone can live with. Thank you very much for your time.

Chair Rohlf: Is there anyone else that wishes to speak?

Dave Holtwick with the Homes Builders Association of Greater Kansas City, 600 E. 103rd Street, Kansas City, Missouri, appeared before the Planning Commission and made the following comments:

Mr. Holtwick: I will try not to duplicate some of the issues that have been addressed by the other speakers before me, but I do want to just say that we appreciate the opportunity to be heard on this issue. It is an issue that is obviously a concern to residents in the community and to our members, who are industry professionals in building and rebuilding in the community. As Mr. Winn stated, Leawood isn't the first community to deal with these issues. Many others have taken a look at it and resolved them in different ways, most in a way that was satisfactory to trying to maintain that community character within those areas of redevelopment. Again, we're not the first to wrestle with it; however, I know that we have been wrestling with this for some time, perhaps a year or longer, and we do believe that it is time that a decision is made that will provide fair and predictable direction and regulation for future development and redevelopment. Our membership would like to go on record as stating that we believe that we can live with the 35-ft. measurement from grade at the front door. Again, when we first got involved in these discussions, I know that where that measurement was going to be taken from may have received a lot of discussion. We believe that we can live with from at grade at the front door. This is something that is predictable, measureable, and consistent.

Secondly, I think our real issue comes in with the 3-1 formula. Everything considered, as drawn flat, that might work but there are too many other situations. We have some other architects who were not able to be here tonight, who would be happy to show you many drawings of projects that are currently underway that would not work with a height of 9-ft. or 10-ft. in the home just because of varying grade. Another issue that I think is not considered with the 3-1 formula is that it would encourage some homes to be set too low and have poor drainage, which we typically would want to try and correct for some of those lots that are being redeveloped.

Also, there is an issue of timing. Within six months of design in some situations, a neighboring house may change or be torn down as we have seen with some of the projects that we talked to our members about on Friday. What about empty lots on each side? If you have empty lots on both sides of the home, what is considered? Is it then just the 35-ft.? Does that maintain the character of the community? I think these are just some of the issues that having a stipulation such as the 3-1 formula will make it difficult to administer. We understand, as stated, that the Board of Zoning Appeals will have the power to grant an exception to the height limit as determined by the formula, but we feel that this is not an acceptable option in many situations. For instance, a discussion item on Friday was that a prospective buyer would have to go through the design stage, file an appeal, and have it settled, before they could close on property if they wanted to make a significant change. We think they would not probably allow that to happen under contingency. One suggestion that came up was to form an Architectural Review Committee made up of industry professionals, representatives from the affected neighborhoods, and the homes associations that would review plans for tear-down and rebuilds. We understand that there may be some implications to the City that could be negative, at least according to City Administrator Scott Lambers. We're not sure if this is a viable option, but we still feel that this is something to be investigated. I know that it has worked in other locations.

Again, we do not want to see us strictly opposing this without having some alternative language and options that might work. Our members are also interested in continuing to see this area build and develop. We want it to be a community, not just new homes going up in disconnected subdivisions. The language that was penned was something similar to, "When single story residences exist on both sides of a new or renovated residence, the new residence should be limited to a single story or 1.5-stories. The second level of the new residence should be designed with appropriate scale relative to the surrounding neighborhood." I think in many cases, this would address the issues.

I have recently become aware of a book called, "*The Value of Design*," by Marianne Cusato. Again, whether it is density or height, we find more and more that design is a consideration in what is considered quality development. A couple of quotes that came from her book: "While many of the restrictions and regulations that control development today were established with good intentions, some are driven by the fear that new development will make our lives more difficult." "The problem could be that we are reacting to the design of the home. We know we are not happy with what is currently being done but we aren't sure how to fix it, so we limit what can be built to protect ourselves. The problem with this method is that in an attempt to protect our lives from getting worse, we create regulations that often prevent them from getting better." I encourage you to consider this further and adopt a proposal that is fair and predictable using the 35-ft. at grade and a stipulation similar to what I had mentioned earlier about blending in with the architecture of the adjoining homes. I appreciate your time tonight and look forward to working further with you and the Staff on coming up with something that will work. Thank you.

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

Rick Jones, principal architect with Nearing, Staats, Prelogar, & Jones, appeared before the Planning Commission and made the following comments:

Mr. Jones: We are very active in residential design both in new areas of Leawood as well as all over the Midwest. We are also becoming very active in some renovations and new construction in what we are referring to as north Leawood. When I looked at these regulations, the 3-1 slope and how it is figured, I then took a driving tour myself of the City. What I regard as the older part, which is closer to 83rd Street and north of 89th Street, the majority of the homes there would be in noncompliance with the formula as shown. One issue, which may have been mentioned, is that the old setbacks are less than the current 15-ft. The Cape Codes that I heard mentioned and are predominant in that area, very few of them would be compliant under the new regulations. As we get on back to the single-story homes from the 1960s generation, which are further to the south between the interstate and 89th Street, there are quite a few 1.5-story homes mixed in the area. They are not all single-story ranch homes. There are homes with steep pitches. There are gabled roofs. There are a quite a few homes in that area that also would not comply. The setbacks were different and, as mentioned previously, the grades would have a huge implication on this. One thing that I really want to cover is the drainage issue. One of the homes that we tore down, it was my suggestion to the client because of the foundation on the house. It was set too low and the garage was set on the wrong side of the property. It would take me a while to elaborate, but there are grading reasons why the garages in areas such as Hallbrook are on the high side of the property. It allows the grade to fall naturally across and you don't get the stair-stepped effect that you do in some of the north Leawood homes. The stair-stepping directs water directly to the house next door to you. A lot of the homes in that area, with the one that we tore down as a good example, the garages are on the wrong side, they are set too low, and they have the steel channel reinforcement in the basement. This is a stop-gap method that I have seen over the years in many basements where it is now pushed in. There are plenty of people that say they can fix basements problems. I have never seen a basement with a problem in a house that wasn't set too low. It is very difficult to raise a house up and build the foundation where it should have been in the first place. It is almost economically impossible to do so. This is not exclusive to Leawood, it has happened all over our neighborhoods. When these houses were built, maybe a few hundred dollars of fill would have made a tremendous difference.

The other thing that has happened in north Leawood that we have seen a bit of and may be one of the reasons why we are here is that in response, people have set houses too high. There are some awful examples of this. We are not proposing and do not agree with this. We think there is some part of your ordinance that allows an extra foot, but all of these things need to be looked at. We serve on architectural control committees throughout the Midwest and one thing we always evaluate is the house on either side and rise to the curb. It is very hard to put hard fast formulas on these things, but I think we wholeheartedly support that the homes need to be raised slightly. It doesn't mean 3-4 feet out of the ground to artificially bring daylight into the basement, which I know has happened in this area, but it does mean to get drainage away from the houses per code.

Another thing about the proposed ordinance that seems ludicrous to me and to those in the construction industry is that you need access to the individual properties on either side to determine the slope. It is based on the plate-line of the house, which is the top of the wall. You can't always tell from the overhangs or the roofs. It just doesn't make any sense to require someone who is considering to buy property to get access to neighboring properties to determine how they are built and where the plate-lines are. We have found that architectural control works best when there is a well-informed group. We have worked through the homes associations and have done several homes now with their committee, which has actually gone fairly well. They have some well thought-out guidelines. They have already restricted the height to 31-ft., and we have been comfortably working within that. They understand massing and a lot of the things that the arbitrary 3-1 formula doesn't take into consideration.

If you look at the diagram and have to fit into the gabled front-end box with relatively low pitches, you may not be happy with the result. I think it would be a very unfortunate consequent to enact an ordinance like this. It appears to me something that is designed for the situation for two one-level houses on a level street that is being applied to the whole City of Leawood. It makes absolutely no sense at all. I think that is all that I have.

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

Debra Hudacek, 8005 High Drive, appeared before the Planning Commission and made the following comments:

Ms. Hudacek: I also own a property at 8309 High Drive and I am a builder. I am on the homes association's Architectural Review Board for Leawood Homes Association. I am also on the Guidelines Committee. We have been working fairly diligently for the last 1½ years trying to develop guidelines that will work. I think that one of the main things we have discovered is that guidelines are there for people who wish to comply. The builders who wish not to comply will find ways around the guidelines. We cannot be specific enough to encourage growth and also discourage the abominations that we are all aware of. What we have found in the last six months is that as each block of our beautiful neighborhoods are invaded by developers, of which I am one, and homeowners who want an out south house in close, people are becoming more and more interested and reactive to what is going on. My only suggestion to you tonight is that there is no cookie-cutter format to old Leawood. There is nothing about our community that can be compared to Berkshire or Hallbrook. We can't blanket the City with a single drawing that applies to a very small number of homes. What we would suggest and what the homes association in old Leawood hopes, is that you give us more teeth so that the builders and homeowners realize that when we tell them that we are not happy with a plan or development, they don't just sit for 25 days and then go pick up the permit and build exactly what they wanted to build in the first place. We do not have the financial wherewithal to fight everybody who doesn't follow out guidelines. We can't do it. Instead of trying to enforce rules and regulations that will not work, we suggest that you look again at the communities themselves that are interested in policing and developing. This would be perhaps at a slower rate than some of the builders would like, but at least we are actively pursuing ways to control what is going on. I think that our greatest hope as a homes association as people are becoming more and more interested in what is happening, is that you go back to square one and look at how you can help the homes associations maintain and develop rather than think that the City has any way to give us a specific guideline. Thank you.

Chair Rohlf: Is there anyone else?

Kathy Hardin, 9219 Cherokee Place, appeared before the Planning Commission and made the following comments:

Ms. Hardin: I am not a builder or an architect, nor do I pretend to be. My main concern for being here tonight is as a homeowner in old Leawood. I moved here for the large lots and streetscape. Two words that I haven't heard tonight is streetscape and green space. Just because our lots are usually larger, they don't have to fit a huge house on it. I chose to live in a 1,700 sq. ft. home for me and my family of four. I know that is not the norm today but with people going more green, I have huge concerns of these teardowns going to the landfill and of habitat coming in and deconstructing these homes. I also have concerns of drainage issues for these large homes that are taking up the green space, which did soak up some of the runoff. I understand that this is a State issue and should be directed that way. I just wanted you to understand tonight that streetscape and green space is highly important to a lot of us that live in old Leawood. Thank you.

Chair Rohlf: Is there anyone else?

Meg Gilmore, 9010 High Drive, with the Leawood Estates Homes Associations, appeared before the Planning Commission and made the following comments:

Ms. Gilmore: In the past, we have discussed this at length ways of allowing homes associations to have more of a say in conjunction with what these ordinances say. I think that being able to view the plans has been very helpful. In listening to the comments from the various builders and contractors, I agree that this is a very complicated situation. I do not agree with Mr. Conderman that this should go back to the homes associations alone. I think that we do need the support of the City on some of these kinds of issues. I personally don't think that the formula is workable. I think that we are going to have to find some other way to do it. I would prefer to see a task force formed again with contractors, homes associations, and Staff to see if we can't come up with some other kind of solution that would be more acceptable to all of us. One of the considerations that we do have is the height issue. We are looking at a 35-ft. height limit, but it has been addressed as well in this meeting this evening that they are changing the heights of foundations ostensibly for drainage changes. As an example, 9604 Meadow Lane had no drainage issues or very few drainage issues. I lived in that house and it was torn down two years ago. It was rebuilt with a much higher foundation with the idea of getting a walk-out basement, if possible. I know that a lot of people do want a walk-out basement and if the lot is even close to being able to support this, they will build the foundation up to be able to do so. I think these are things that create problems for the neighbors. I know that the neighbors were very concerned about the runoff that was created once 9604 Meadow Lane was rebuilt. I think that it is not the only example in Leawood. My suggestion would be to try to develop another task force to look at this.

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

Bruce North, 8025 Lee Boulevard, reappeared before the Planning Commission and made the following comments:

Mr. North: I coordinate the architectural activities for the Leawood Homes Association. We only got this information yesterday so as a homes association, we really haven't had a chance to sit down, discuss, and comment in order to bring anything forward. What I am going to say now is based upon my understanding of our general approach and attitude on this. First and foremost, I very much support Meg Gilmore's comment and other comments that were made that a task force be put together to look at this to include the builders and the homeowners associations. It worked very well for us in the past and I think can work very well for us on this. In principal, I think we pretty much support the changes that are being made to handle grade. As has been mentioned here, we have had a lot of problems with people raising the grade unnaturally. What the ordinance says pretty much addresses that and keep things under control. That works because you have an envelope that goes with the grade definition that keeps the house within the streetscape. I think the key word is streetscape, as Ms. Hardin mentioned. It is an important thing to keep but it is also a very hard thing to define. I have to agree with everybody else that there are a lot of problems with the definition of the 3-1 slope with the bearing walls. I think the envelope concept is appropriate in concept, I just don't think the 3-1 slope is going to work. As has been mentioned by several people, I did the same thing and went through the neighborhood to see where it would work and wouldn't work. Particularly in our old sections where the houses are 8-10 feet apart, I just don't think it is going to work. I think another thing that is important is that it is very difficult to confirm support for a height restriction. Our restriction for the Leawood Homes Association guidelines is 31-ft. It is being modified and there is a draft document on the Leawood City website. We are modifying this to a foundation height of 18-inches to somewhat address the drainage issue and then restricting the height above the foundation to 29-ft., which sums up to about 31-ft. This has worked very successfully over the last year that we have been using that height. To that extent, it would be personally desirable to me if what the City and the homes association were using are the same. I realize that there is a disagreement there in some areas, but I did want to mention that.

The other thing is that it is very difficult to consider the height issue without knowing what the restricting massing issues are going to be. It is something that we internally have been struggling with because if you force people down, they are going to shoot out the back. If they shoot out the back, you lose your green space. You may control the streetscape, but you violate the backyards. Most people tend to think of the front of the house but in a neighborhood in our community, there is a lot that goes on from backyard to backyard. When you slice some of that in half, you change the character of the neighborhood. The key on this is that it is very difficult to consider the height without considering the massing at the same time. That is basically all that I have to say. I just want to reiterate that we do support the idea of a task force on this and, of course, would be more than happy to work with them.

Chair Rohlf: Is there anyone else that wishes to speak?

Jim Linn, 9210 Cherokee Lane, appeared before the Planning Commission and made the following comments:

Mr. Linn: I am not a builder and I have one comment. I hope it is very true about keeping the water out of the next lower house as that is me. I had one observation going back to the open space comment. You are saying that it should be 30% of the lot area. That would permit you to build a 10,500 sq. ft. house on a 15,000 sq. ft. lot, which is 70% of the lot. Do you really want it that big on that small of a lot? The other thing is that if you take the front, side, and back dimensions and subtract those by a 100 x 150 sq. ft. lot, which is 15,000 sq. ft., you could then put in a 9,550 sq. ft. house, which is 39.7% of the lot on just the ground level alone. You might want to check the math as to whether 30% of the lot is really enough of the green space to leave. Thank you.

Chair Rohlf: Is there anyone else that wishes to speak on this ordinance?

As there were no additional witnesses present to speak on Case 56-06, R-1 District, a motion to close the Public Hearing was made by Elkins, seconded by Jackson. The motion was approved unanimously.

Chair Rohlf: The public hearing is closed.

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**

Mr. Klein: Madam Chair and members of the Planning Commission, this is Case 57-06. This one actually affects the RP-1 District, which are the 12,000 sq. ft. lots. The amendments that were based on the R-1 District just discussed would also apply to this. The same ordinance amendments are proposed. The difference is that instead of a 15,000 sq. ft. lot, these are a maximum of 12,000 sq. ft. They both have a 35-ft. front and rear setback, however the side setback is different. The R-1 District had a 15-ft. side-yard requirement while the RP-1 District has a 12-ft. restriction for the side-yard. Again the same amendments are applied to both. The same envelope would also be applied.

Chair Rohlf: Is there anyone in the audience that wishes to speak about this particular LDO amendment?

Dave Holtwick with the Homes Builders Association of Greater Kansas City, 600 E. 103rd Street, Kansas City, Missouri, reappeared before the Planning Commission and made the following comments:

Mr. Holtwick: I won't go through my comments again, but the comments apply similarly to the last. I just wanted the record to show that this is also a zoning district that we have concerns with the 3-1 formula for the same reasons. Thank you very much.

Chair Rohlf: Is there anyone else that would like to speak?

Russell Miller, 9215 Cherokee Lane, appeared before the Planning Commission and made the following comments:

Mr. Miller: One of the things that concerns me, and I have talked to Public Works Director Joe Johnson about this, is that the trucks are tearing up our streets. They are tearing out the curbs. They go around the islands and destroy them. Joe came over the other day and said that the streets and curbs are going to be redone, but this is in 2012. They have changed that date three times as far as paving the streets. The trucks can't get around the cul-de-sacs without driving over them. Consequently, if they tear up and knock out the curbs, then so be it, you just have to live with it. Is this improving classic Leawood or is it destroying it? Our street in the middle has dropped three inches and holds water. They talk about the mosquitoes in the summertime. We have big valleys in the streets. It's not so much the builders fault as it is the people that drives these trucks and don't have any respect for other's property. That is just one comment that I wanted to make. Thank you.

Chair Rohlf: Is there anyone else that wishes to speak to Case 57-06?

As there were no other witnesses present to speak on Case 57-06, a motion to close the Public Hearing was made by Elkins, seconded by Williams. The motion was approved unanimously.

Chair Rohlf: The public hearing is closed.

Comm. Williams: If I may ask a procedural question. In light of the fact that the ordinance changes for this particular section are the same as what we just had the public comments on, can the same public comments be applied to this as well. We had the one gentleman come up and basically have his comments repeated. We have had a lot of good comments from other people and rather than go through another hour of public testimony, I think their comments would be applicable to this particular ordinance revision as well.

Chair Rohlf: Right. I think that will be reflected in the minutes. We will look at those collectively.

CASE 58-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.5. (RP-2 DISTRICT) Request for approval of an amendment to the Leawood Development Ordinance. PUBLIC HEARING

Mr. Klein: Madam Chair and members of the Planning Commission, this is case 58-06, Leawood Development Ordinance amendment to Section 16-2-5.5. This amendment applies to the RP-2 District, which are planned cluster residential detached buildings. Unlike the previous two that we just discussed regarding the building envelope with the 3-1 slope, this goes back more toward what the RP-A5 was in limiting just the height and where it is measured from. The measurement will be taken from the front door of the natural grade.

Chair Rohlf: Is there anyone in the audience that wishes to speak about this LDO amendment on Planned Cluster Residential?

As there were no individuals present to speak on Case 58-06, a motion to close the Public Hearing was made by Jackson, seconded by Elkins. The motion was approved unanimously.

Chair Rohlf: The public hearing is closed.

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**

Mr. Klein: Madam Chair and members of the Planning Commission, this is case 66-07. This Leawood Development Ordinance amendment is in regard to parking lot construction standards. It is designed to change some of the technical aspects of the paving. Some of the concern is that you have areas in parking lots where the front tires kind of wear a well down into the asphalt. If you have any specific questions, City Engineer David Ley of the Public Works Department is here.

Chair Rohlf: Didn't we see this once before.

Mr. Klein: Yes, this was actually discussed at a Work Session once before.

Chair Rohlf: Is there anyone in the audience that wishes to speak to this LDO amendment on parking lot construction?

Comm. Elkins: Is this a wholesale addition to the ordinance or is it a replacement?

Mr. Ley: This is actually replacing the whole section. We did italicize the differences that we made at the Work Session a few months ago. There were some items added to the standards.

As there were no public comments, a motion to close the Public Hearing was made by Williams, seconded by Roberson. The motion was approved unanimously.

Chair Rohlf: The public hearing is closed.

CASE 73-06 LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-10.1 HOME OCCUPATIONS Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

Mr. Klein: This is also something we have discussed at a Work Session. If you recall, we had a number of trucks parked out front with a number of different signs located on them. This LDO amendment proposes to increase the truck size to one-ton and 4 sq. ft. as far as the signage.

Chair Rohlf: Isn't this the one that the City Council remanded back to us?

Mr. Klein: I believe this is one of them.

Chair Rohlf: Do you think this will meet with the suggestions that they had for the remand?

Mr. Klein: That is the intention.

Chair Rohlf: Is there anyone in the audience that wishes to speak to this particular LDO amendment?

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: The public hearing is closed.

MEETING ADJOURNED.