

**City of Leawood
Planning Commission Minutes
September 9, 2008
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700**

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

APPROVAL OF THE AGENDA

Motion to approve the agenda made by Munson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

APPROVAL OF THE MINUTES: Approval of the minutes from the August 12 meeting.

Motion to approve minutes from the August 12, 2008 meeting made by Williams; seconded by Heiman. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CONTINUED TO SEPTEMBER 23, 2008 MEETING:

CASE 67-08 – ONE NINETEEN – DEAN AND DELUCA SIGN PLAN – Request for approval of a sign plan; located at the southwest corner of 119th Street and Roe Ave.

CASE 39-08 – TOWN CENTER BUSINESS PARK – WALGREENS – Request for approval of a rezoning; special use permit, and preliminary site plan; located on the northeast corner of 117th Street and Roe Avenue. **PUBLIC HEARING**

CASE 44-08 – TOWN CENTER BUSINESS PARK – DISCOVER O – Request for approval of a preliminary site plan; located north of 117th Street and east of Roe Avenue. **PUBLIC HEARING**

CASE 71-08 – VILLAGGIO – NEIGHBORHOODS AT SHARON LANE – Request for approval of a special use permit, preliminary site plan and final site plan; located south of 137th Street and east of Roe Avenue. **PUBLIC HEARING**

CONTINUED TO OCTOBER 14, 2008 MEETING:

CASE 62-08 – LEAWOOD SOUTH COUNTRY CLUB – SPRINT WIRELESS COMMUNICATION TOWER – Request for approval of a rezoning, special use permit, preliminary site plan, preliminary plat, final site plan and final plat; located at 3801 W. 123rd Street. **PUBLIC HEARING**

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

CASE 81-08 LDO AMENDMENT – SECTION 16-4-9.3 FENCES AND WALLS. Request for approval of an ordinance to the Leawood Development Ordinance. **PUBLIC HEARING**

CONTINUED TO OCTOBER 28, 2008 MEETING:

CASE 42-08 PARK PLACE – INGREDIENT SIGN PLAN – Request for approval of a final site plan; located on the northeast corner of 117th Street and Nall Avenue.

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

NEW BUSINESS:

CASE 59-08 - SIENNA II – CITY PROJECT – Request for approval of preliminary site plan, preliminary plat, final site plan, final plat, and rezoning; located on the southeast corner of 137th street and Mission Road. **PUBLIC HEARING**

It would be my request that this be on an off-regularly scheduled Tuesday night so we can dedicate the meeting solely to that item.

Motion to continue CASE 59-08 - SIENNA II – CITY PROJECT – Request for approval of preliminary site plan, preliminary plat, final site plan, final plat, and rezoning; located on the southeast corner of 137th street and Mission Road. PUBLIC HEARING to October 7th made by Munson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CASE 84-08 PARKWAY PLAZA – HAIR SALOON FOR MEN – Request for approval of a sign plan; located at the northwest corner of 135th Street and Roe Avenue.

Staff Presentation:

Senior Planner Jeff Joseph gave the following presentation:

Mr. Joseph: Madame Chair and members of the Commission, this is Case 84-08 – PARKWAY PLAZA – HAIR SALOON FOR MEN. The Applicant is Chris Sailors with RH Sailors & Co. The Applicant is requesting approval for signage for Hair Saloon for Men within the Parkway Plaza development in the Retail 1 building. This wall sign consists of two lines of script which say, “Hair Saloon for Men”. The letters for “Hair Saloon” are 18” tall, and “for Men” is 9 ½” high. There is also a logo on the first line consisting of a red hat, glasses and a red moustache. The logo as shown does not meet the guidelines approved for the development. Staff is not making a recommendation regarding this case. If you have any questions, I’d be happy to answer them.

Comm. Roberson: Can you tell me where it doesn't meet the guidelines?

Mr. Joseph: The logo itself is bigger than the 18" which is allowed by the ordinance. The first line itself does not meet the guidelines. They tried to shrink it to 18", and that's the second drawing that's in your packet.

Comm. Williams: On the photo that's in our packet, is that representative of what would be allowed in Parkway Development in terms of signage?

Mr. Joseph: I can show you a sign that was approved a couple months ago (*refers to overhead*), and this is just to the west of this tenant's space. The size of the sign is 18", so you can see the comparison.

Comm. Williams: It's 18" high, and how long is it?

Mr. Joseph: It's 20' long.

Comm. Williams: And this Applicant is asking for a 10' long sign per their proposal here. The lettering, you say, is 18". I come back to my question, and you might not be able to answer this. In the photos in our packet where they have signage on either side of it, is that representative of what would be allowed if there were tenants on either side of this store?

Mr. Joseph: Actually, when we scaled it, it looks like it's close to 24" tall, so it's not really 18".

Comm. Williams: So you scaled it, but you don't know for sure.

Comm. Roberson: The Mandarinism sign is very easy to read even from the street.

Chair Rohlf: Jeff, help me out here on Option 1. The "Hair Saloon" is actually 18"; it's the addition of the "For Men" that makes this larger?

Mr. Joseph: Actually the "Hair Saloon" lettering is 18", but the logo itself is bigger than that.

Chair Rohlf: And is there a problem with having the two lines?

Mr. Joseph: In the design guidelines, it also talks about multi-line sign. The maximum they can have is 14' for both. Each of those lines needs to be 18" maximum, which is the part they're not meeting.

Comm. Roberson: It appears that the "Hair Saloon" is 18"; "For Men" is 9 1/2".

Comm. Neff-Brain: It's the hat on the logo that's popping up.

Comm. Roberson: So they're 1" over?

Mr. Joseph: The overall sign is 1" too tall.

Comm. Williams: So if we drop the 1", we don't have an issue here.

Mr. Joseph: We do with the individual lines, which need to be a maximum of 18". It's bigger than that.

Comm. Jackson: So with the hat and moustache, it's over 18".

Comm. Neff-Brain: The moustache can go with the "For Men" but the hat pops up over 18".

Chair Rohlf: All right.

Comm. Neff-Brain: Now that Mandarinism, even though it's 20' feet long, the length was still okay?

Mr. Joseph: The length is okay; it's the height of the letters.

Comm. Neff-Brain: So is the entire square footage of the Mandarinism greater or less than this one?

Mr. Joseph: It was below the 5% that's allowed.

Comm. Williams: What's the percentage on this sign?

Mr. Joseph: I don't have that information. The Applicant might.

Chair Rohlf: Does anyone else have questions for Jeff? All right, we'll go ahead and hear from the Applicant then.

Applicant Presentation:

Chris Sailors at 2045 W. 141st Terrace appeared before the Planning Commission and made the following comments:

Mr. Sailors: We're here because our tenant would like to join us with a unique sign that's their trademark. We'd like to have you consider allowing it. It would be a nice addition to Retail 1. I'd be happy to answer any questions.

Comm. Roberson: Is this a chain?

Mr. Sailors: They have stores in the St. Louis area, so I think this would be the 6th or 7th store, and I believe this is a franchise.

Comm. Roberson: Can you explain what kind of a saloon this is?

Mr. Sailors: I brought a picture (*refers to photograph*). I printed this off my printer, so the colors are different.

Comm. Roberson: Is this really a bar?

Mr. Sailors: No, it's hair products, shoe shine, checkers and ice cold Coca-Cola and sports on the television. It's their take on an upscale barber shop, I think.

Chair Rohlf: Some of the questions we had of staff, which it seems that it's the hat part of the logo that's causing some concern. Is there any way that could be modified?

Mr. Sailors: We could certainly take it down an inch to meet that requirement. The way they're playing off the two O's in the "Saloon", I don't know if there's any way to make that substantially smaller and still come up with their trademark look they're wanting to do there.

Mr. Lambers: This is before you because these logos are becoming an issue. Administratively, I know that as soon as I approve something where everyone goes, "What were you thinking, Scott?" then I'll hear about it. I'm trying to find a comfort level between the Planning Commission and City Council as to what could be reasonably approved at the administration level and not require it to go through. It does exceed the design guidelines. As you see with most logos, all of them tend to exceed the height of signs. They want to be above, below or both. Again, I see this continuing in greater numbers – the logos getting larger, brighter and competing with each other at the shopping centers. There's no way we could come up with some regulations because each logo is going to be totally unique to the retailer. We'd spend 100 pages in the LDO and still not be able to capture it. Staff's not here with a lot of intensity one way or the other. We're just trying to gather a sense of these as they come forward. I would prefer to feel comfortable approving them administratively in the future so we don't have to take our time at these meetings.

Comm. Roberson: I didn't like the last logo that we looked at. It reminded me of a Laundromat. I don't like this logo because it's gaudy. I don't think it's keeping with the standards that Leawood has been trying to set. For us to continually start looking at deviations from design guidelines and approving them, why bother having the design guidelines? For my two cents here, I would not approve this logo as it stands.

Chair Rohlf: All right, does anyone else have a question for the Applicant?

Comm. Williams: This is for Staff also, from my understanding. Both the development's design guidelines and the LDO would allow two lines each at 18"?

Mr. Joseph: The LDO actually only takes the percentage, so the maximum allowed is 5% of the storefront. The design guidelines actually talk about different criteria. I'll just read a couple of standards to you. The maximum text height for multi-line signage is 18" with a maximum sign height of 4'. Tenants in Retail 1 will be allowed one wall sign per tenant, and they meet that requirement. Those are the two main items.

Comm. Williams: So if they had two lines of big letters at 18", say "Hair Saloon" repeated twice, we wouldn't be having this conversation, right?

Mr. Joseph: Correct.

Comm. Williams: So the fact that they have a small piece of their signage with a logo and that it goes 1" above the 4' requirement is why we're here today?

Mr. Joseph: No, the first line should be 18" maximum, but the logo made it bigger than the 18" unless you look at the logo as two lines.

Comm. Roberson: So if I understand correctly, I can have two 18" lines of text, so 36" basically is what's allowed.

Mr. Joseph: Up to 4' maximum.

Comm. Williams: To allow for some space between the lettering. So if they were to take this logo and put it on the end of their signage, add two full lines of text at 18", max it out to 4', have the logo itself at the end of the text at 4' high, would that be okay?

Mr. Joseph: The logo itself will become one entity.

Mr. Lambers: The answer is yes, if the logo is part of the line and falls within the line, we have provided for Sprint and everyone else for that to occur. With this one, they're trying to capture the two O's of "Saloon" to create a whimsical effect. I think it certainly achieves that, and that's why it's before you tonight. It's more than what we've approved in the past.

Comm. Neff-Brain: You have said before that logos are fine.

Mr. Lambers: No, I'm saying that the LDO is silent on logos. We have morphed into allowing logos, and we have morphed from allowing one logo the company requires to the face on the cosmetology place across the street to an apple which has a logo. We have no consistent standard as it relates to logos. We now have logos on the front and back of buildings, and there is nothing in the LDO about them.

Comm. Neff-Brain: Does McDonald's across the street have a logo? They have an M and have had that for a number of years.

Mr. Lambers: But no arches.

Comm. Neff-Brain: I am opposed to the idea of logos. I was opposed to the Tide logo, but it passed the Commission and the Council. I know I speak for the minority.

Chair Rohlf: Maybe I could ask the Applicant, do you know about the proportion of the signage on either side of your proposed sign on the second one? It makes that one look so miniscule.

Mr. Sailors: Those are 24" letters, and they are approved, I believe, if a large tenant goes on either side of that.

Mr. Joseph: 18" is the maximum. Mandarinism is 18" and is what's allowed. 24" is for the backside of buildings.

Mr. Sailors: I think I read in our guidelines that once a tenant gets to a certain square footage, they get to the large numbers.

Mr. Joseph: After 5,000 square feet.

Mr. Sailors: So that would end up being what a larger tenant would have, I believe.

Chair Rohlf: But it makes that second option look even smaller. I believe it's to the right dimensions as drawn. As shown, I think it would be somewhere between the first and the second option if you really wanted to look at it. It's hard for me to see how big the first one and how small the second one is when you've got 24" signs on either side of it. I'm getting the hint from my fellow Commissioners that I believe this logo is going to have problems passing, even if you took it down to 1". Is that what I'm hearing?

Comm. Jackson: If they would get it within the 1", I would not be opposed to it. I think you have to allow some creativity here. Leawood has some high standards on the look of the building and the continuity between buildings. A little creativity on the name and the logo, I find appealing.

Chair Rohlf: What about the 1"?

Mr. Lambers: That's no problem. If we're 4'1" and can back that down to fit the 4', I think we could get that done, no problem.

Comm. Heiman: Do you know what percentage of the overall store front this is?

Mr. Lambers: I don't have that number.

Comm. Heiman: The 1" makes a certain amount of sense. I think that the larger sign makes sense for this particular situation. The small one looks lost.

Chair Rohlf: The first one, we're talking about a 1" difference. Mr. Heiman, can I have your thoughts on that?

Comm. Heiman: I would side with Commissioner Jackson on this as well. I think it's fine. I would like to see it maybe a little smaller, but I like the idea of some creativity. People spend a lot of money to get logos designed, and I think it's ok.

Chair Rohlf: I misspoke. Are there any more questions for the Applicant or comments about this particular logo and size? Thank you. It appears that the Staff recommendations would be applicable. Number Two takes into account the 1". So I think with that, we would be ready for a motion unless someone else would like to speak about this.

Comm. Williams: Madame Chair, do we not need to take into consideration the 5% consideration?

Mr. Joseph: When they come back for a sign permit, that's when we check the sizes and everything.

Mr. Lambers: We rarely have a sign that exceeds that. The 5% rule is very generous.

Comm. Neff-Brain: Number Two is still not met if you take the inch off because you're still quite a bit larger than 18" on the first line.

Comm. Roberson: So we're approving another deviation for the sign, which I find disappointing that we continually approve these deviations and provide absolutely zero

direction to Staff when we do that. Once again, I voice my opposition to continually approving these deviations as we seem to be doing.

Comm. Neff-Brain: I think we're setting precedent after precedent, and we probably ought to revise the design guidelines.

Mr. Lambers: Again, I had a conversation last night with Council at length. I don't believe we can design a chapter in the LDO to deal with it. Peggy and I were talking about it this morning that I need to probably bring the Council at least and maybe have a joint meeting with the Planning Commission and City Council and just have a work session together and try to have a consensus as to at least where a line is drawn so we can say "no" administratively. Is it two logos, five logos, ten logos? These are going to be like pole signs and each get bigger, brighter and more attention. At some point everyone's going to say, "That's enough," but at that point, the horse is going to be clearly out of the barn. We certainly won't be able to go back and redo it. The only thing we'll be able to do is apply the new ordinance to new tenants. I told Peggy as a result of last night, all we're going to say is what the Applicant is requesting so that there's no miscommunication or misunderstanding of that, which you all evaluated with your own perspective and the Council will do the same. For tonight, I'd say that we'll move forward and let the application go forward to City Council, and then we might need to come back and do something jointly.

Chair Rohlf: It seems as if this is something of a marketing trend that we're seeing. I understand Mr. Roberson's concerns about the design guidelines, and I think about how long ago these design guidelines were set up and approved. It would be interesting to know why, all of a sudden, a lot of these retailers are coming in with these logos. When they file their copyright applications for their names, do the logos go along with them?

Mr. Lambers: That's the spin we're getting as it was spun last night - that it would be detrimental to the corporate success of Tide Cleaners unless they had the second logo on Roe and that they would not be able to make a profit without that 24" logo. They're saying they can't deviate from the logo. We suggested the Tide without the colors on Roe and got shot down like a fighter pilot on that. Yes, that's what it's all about. I think we're going to see it continue. We're going to see ones that don't have it come in and apply for something because it draws attention to them.

Comm. Neff-Brain: There are more and more chains, too. It's not the mom and pops anymore.

Chair Rohlf: I think it would be worthwhile to bring both the Council and Commission together to see if we could come up with some guidelines. I think it would be difficult. I go back to that meeting several years ago for Fritz Barbecue, and I'm thinking, "What would we do with that now?"

Mr. Lambers: It would probably pass.

Chair Rohlf: Enough on logos. Do we have any additional comments we'd like to make?

Comm. Williams: I hear my colleagues' concerns about the logo, but even by our own standards, we would allow two lines. If they did "Hair Saloon" and "For Men" on two

lines at 18", it could be 4' high which would make it a much bigger sign than what they're asking for and, in my opinion, a far more obtrusive sign than what they're proposing here. The logo is a small component of what they're showing here. Like Miss Jackson, I personally like the creative aspects of the signage. We talked a little bit last time on the Tide that sign age and style and the way it's put together is all part of a company's identity. This is a small logo and again, in the scheme of things, not overly obtrusive. In that vein, I would think it would be fine, and I'd be prepared to make a motion.

Chair Rohlf: If there's not anything else, why don't you go ahead and give it a shot. I guess we will have to modify Number Two since to take out the multi-line.

Motion for approval of CASE 84-08 PARKWAY PLAZA – HAIR SALOON FOR MEN – Request for approval of a sign plan; located at the northwest corner of 135th Street and Roe Avenue with Staff Stipulation Number One, Number Two to read, "The overall height of the sign shall not exceed 4' and shall not exceed 5% of the façade" and then Staff Stipulation Number Three as it reads made by Williams; seconded by Heiman. Motion passed with a vote of 4-2. For: Heiman, Williams, Jackson, Rohlf. Opposed: Roberson, Neff-Brain

Chair Rohlf: That takes us up to our series of LDO amendments this evening. We'll be looking at these individually, although some of them are grouped together for purpose of discussion. Each one will require a Public Hearing, so we'll try to keep on track procedurally.

CASE 73-06 LDO AMENDMENT – SECTION 16-4-10.1 HOME OCCUPATION; Request for approval of an amendment to the Leawood Development Ordinance.

Staff Presentation:

Assistant Director Mark Klein provided the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Section 16-4-10.1 – Home Occupation Restrictions. This amendment before you changes two items within this section of Home Occupations. The first item is the parking of commercial vehicles. It limits Home Occupations to one private commercial vehicle, limited to one-ton capacity, changing from a ¾-ton capacity. Additionally, it would allow the signage on the vehicle to be no more than 4 square feet. We actually had a work session with a number of vehicles parked out front to show you the various sizes of vehicle and also some different sizes of signs. That is how we determined the 4 square feet. Staff is recommending approval of this application and will be happy to answer any questions.

Chair Rohlf: All right.

Comm. Neff-Brain: In Number 11 where it says that this particular truck cannot be parked for a period exceeding two hours, is that in a 24-hour period? Can you park it for two hours and then move it around the block for two hours? How does that work?

Mr. Klein: I talked to one of the code enforcement officers tonight to try to get a sense. I didn't ask that specific question, but I did ask how they currently enforce it. They said that if you have a 24-hour limitation, then they actually could chalk the tires. If you

moved the car and came back, it starts all over; so I would imagine that would probably be the same case.

Comm. Neff-Brain: So you just move it around the block and come back.

Mr. Klein: In this case, the vehicle is actually part of the Home Occupation you're dealing with. Currently they're not allowed to be parked in the driveway or on the street. This ordinance would allow some people who live in Leawood, make their livelihood in this manner and are unable to put the vehicle in the garage one vehicle of one-ton capacity with a sign of maximum 4 square feet. The other vehicles that are not part of the Homes Association, including workers at your home, would not be allowed to stay any longer than two hours. They could stay there longer than two hours if they're in the process of loading or unloading.

Comm. Neff-Brain: So we're expanding. Right now you can't park a truck with any kind of sign on it in your driveway.

Mr. Klein: Correct, you can have them in the garage, but if the garage cannot accommodate it, then you can't have it.

Comm. Williams: Right now you cannot have a vehicle with signage?

Mr. Klein: You can park it in the garage, but you cannot park it in your driveway. The way the city code reads right now is you wouldn't be allowed to have it from 11:00 p.m.-7:00 a.m.

Comm. Williams: The sentence starts out with a statement of Home Occupation. When we have discussed this before, we have lumped into this residents who may work for a commercial company (and I wish Mr. Shaw were here because one of the people who spoke at the Council was one of his employees) who are required to take the vehicle home at night to be able to respond to emergency calls. They're not working and don't have a Home Occupation, but they're parking the vehicle there to execute their employment for someone else. Are we strictly dealing with the issue of Home Occupation in this particular line?

Mr. Klein: I think this particular ordinance amendment does refer to Home Occupations.

Comm. Williams: Secondly, the two-hour issue we were talking about a moment ago allows for loading, unloading and so forth. The sentence goes on to talk about construction vehicles being on-site longer than that, subject to a valid building permit. Does that say that any service repair work that one has done on their house requires a building permit? For example, if I have to have Roger the Plumber come over to fix my plumbing problem, I don't need a permit for the repairs; but they could theoretically be there all day or even 2-3 days, though the vehicle wouldn't be parked there 24 hours a day.

Mr. Klein: I guess I don't read it that way. I read it as a construction vehicle, which would be involved in a construction project.

Comm. Williams: It says, "Completing work subject to a valid building permit."

Mr. Klein: Right, it says, "Two hours unless the vehicle is engaged in loading or unloading at the site or is a construction vehicle completing work subject to a valid building permit in effect for such site." I guess the "or" is where I'm reading it differently.

Comm. Roberson: It has nothing to do with Roger the Plumber. What it amounts to is if I have somebody coming to redo my roof, for example, and they park their trash trailer out front with their logo on it, they can stay there until the job is complete. Do I understand that correctly?

Mr. Klein: Right, basically they would be in the process of doing the work.

Comm. Roberson: But if you're having service done on your home, for example, by Roger, this doesn't apply to any of them.

Comm. Williams: And I read it as being potentially there.

Mr. Klein: I don't think that was the intent. If you would like to propose some clarification, we could change that.

Comm. Williams: I open it to the City Attorney. I'm assuming they've looked at this language. Again, if we have anybody come in to do work that does not require a permit, those residents would be fine.

Comm. Neff-Brain: Isn't this speaking to a Home Occupation, though?

Comm. Williams: When you start including construction vehicles doing work related to a building permit, that doesn't necessarily mean it's a Home Occupation. If we took that out of that sentence and had the statement about the Home Occupation and the signage and so forth and then had another sentence that deals with construction vehicles and permits, those are two completely different subjects.

Comm. Neff-Brain: I would read it that it's all Home Occupation.

Comm. Williams: Are you saying the construction permit stuff is taking place at the Home Occupation?

Comm. Neff-Brain: That's the section it's in.

Comm. Williams: I realize that's the section it's in. I'm just asking if it should be in there because I think we're talking about two different issues.

Mr. Klein: I believe it was intended to expand on the ordinance to allow situations when somebody has one of these vehicles. If you're going to allow it, you're going to limit it to a one-ton capacity vehicle and a sign of no more than 4 square feet. The second part of it is trying to make it clearer, especially for code enforcement officers out there, if you had another truck that was parked at the residence that is not part of the Home Occupation but is actually doing some work.

Comm. Williams: So you're saying the intent of this is?

Mr. Klein: To eliminate those that are not associated with the Home Occupation.

Comm. Munson: Is the key word here “unless”?

Mr. Klein: “Unless the subject vehicle is engaged in loading or unloading,” which I think is one of the things that would involve a Roger the Plumber. The other one is if they’re involved in a construction project such as a remodel or something like that, which you would need a building permit for. That’s what the second part is meant to do.

Comm. Williams: I have a question on the 4 square feet. Is that total for all the signage on the vehicle, or is it per sign?

Mr. Klein: No, it’s per sign.

Comm. Williams: So there’s no limit to the number of signs they can put on the vehicle?

Mr. Klein: I believe that this one just limits the size of each sign on the vehicle.

Comm. Roberson: That’s not what we decided. It was a maximum of 4 square feet. One thing we didn’t want was somebody to come in and have a logo on each door and the back of the truck.

Comm. Williams: My colleague is pointing out here that it’s 4 square feet per sign and no limitations to the number of signs. Typically, on most vehicles that you see, there are signs on each side somewhere and then on the back, particularly on a truck. We’re saying the way this is written, that’s fine as long as the total aggregate for signs is not more than 4 square feet.

Mr. Lambers: I’d say we would want to limit the number of signs to certainly no more than three, and I think for Home Occupation two would be sufficient – one for each door. We could say one per side of the vehicle, making it clear it’s not the front or rear, but on the side.

Comm. Williams: When you talk about the definition of the sign, obviously you’ve got a neat little package with the magnetic signs. If a company has a colored pinstripe, for example, that is part of their identity, does that get factored in?

Mr. Lambers: We made it larger, assuming they may have something that goes beyond. We feel the 4 square feet covers it.

Comm. Neff-Brain: I have a question in Number Ten: “Shall not utilize more than one private commercial vehicle limited to one-ton capacity.” I was obviously not here when you talked about it, but I think you would want to add, “Additional vehicles if garaged.” Is there a problem if you have two or three but in the garage like anybody else’s car would be?

Mr. Klein: At this time, we didn’t change the number of vehicles for Home Occupation, so we were trying to hold the line as far as what would be allowed.

Comm. Neff-Brain: So you only want one, even if you can garage the other one.

Mr. Klein: Right, we didn't want the Home Occupations to get large, and this was one of the ways to limit. The other factors were designed to make sure they're as unobtrusive as possible. If you had more, I imagine you could have a three-car or four-car garage, but then you'd also have your vehicles that you'd be parking as well. It was intended at the time it was written to limit to one.

Comm. Williams: Since some of the members here were not involved in the discussion, could you review what brought this up and why we're not starting to limit signage and so forth?

Mr. Lambers: We had multiple vehicles being parked in the driveways and on the streets that were signed. The vehicles had equipment on them and could not go in the garages. We basically drafted this ordinance to deal with that. It gets back to the premise of a Home Occupation not intending to have a commercial presentation to it, but rather a residential presentation. That's where we felt one vehicle accommodates the Home Occupation. You go beyond that, and they need to find a business place.

Comm. Neff-Brain: When I asked the question earlier, I thought this was expanding it because before there were none allowed.

Mr. Lambers: That's correct, but we want to limit it to just that. We're going beyond what we currently allow, which is none. We recognize that there are a lot more Home Occupation activities going on in Leawood, and people could not get the vehicles in the garage. We felt expanding to one recognizes what's going on today and that going beyond one is a commercial enterprise that no longer meets the intent of a Home Occupation.

Comm. Roberson: If I'm not mistaken, you had a number of complaints as a result of the vehicles parked on the street or in the driveway?

Mr. Lambers: Yes, that's what has led to this all. There are people with multiple vehicles that are going to have to make a decision.

Comm. Heiman: We've probably all seen these vehicle wraps that are out there now. If I'm a realtor and don't conduct business out of my home but still have a car with all these things on it, how do you control for that because this is strictly for Home Occupation, correct?

Comm. Williams: In the discussion we had a few moments ago, I raised the question if this is strictly Home Occupation or including what you're describing. My understanding is that's strictly for that Home Occupation, so it doesn't address the issue you bring up.

Mr. Klein: This is within the Home Occupation section. I don't think it would be appropriate to address the other.

Comm. Williams: It should be addressed as a separate issue.

Mr. Klein: Yes, it probably needs to be addressed in a different section if that's what you'd like to do.

Comm. Neff-Brain: Don't you think it's a common thread throughout – either we allow vehicles on driveways that are advertising something or we don't? I like the ordinance the way it is, but if it's going to be changed, it seems like it ought to be changed universally.

Mr. Lambers: This is in direct response to a complaint of a Home Occupation that was having multiple vehicles. We did not go there with Mary Kay or realtors or anything like that. We have not received any complaints regarding those types of signs on vehicles. I think part of the fact is they are conducting their business there. To a degree, it was not as much of an impact with a realtor because they are typically off-site someplace as it is.

Comm. Williams: I want to back up a second, going back to this two-hour time frame. I'm reading this as limiting the allowable time that this vehicle could be parked to a two-hour time frame, period. So if someone has a home-based business, they wouldn't be able to keep that vehicle in front of their house longer than two hours in a 24-hour period.

Comm. Neff-Brain: If it's in excess of 4 square feet.

Comm. Williams: That raises a question in terms of language. Are we saying that the commercial signage cannot be more than 4 square feet; or if the signage is in excess of 4 square feet, you can't be there more than two hours?

Comm. Roberson: That's what it says.

Mr. Klein: I think it's both. If it's larger than 4 square feet, then it needs to be garaged, or you can't have it at all, other than, I suppose, if the code enforcement officer were driving by and it was larger than 4 square feet and in the driveway, they could make the assumption that it's a service call. That would be limited to the two hours.

Comm. Roberson: This has nothing to do with service calls.

Mr. Klein: Right, I'm just saying if a code enforcement officer were driving by and happened to see that vehicle and didn't know whether it belonged to that Home Occupation or not.

Comm. Neff-Brain: Unless it's in another section that I'm not seeing, it's not limiting it to 4 square feet. It's just saying if it's greater than 4 square feet, it could only be two hours.

Comm. Jackson: I thought we did that for people coming home over lunch hours or something.

Comm. Roberson: So basically what it's saying is if you've got a sign that's 4 square feet (and in this case, we need to amend it for either side) they can park the vehicle as long as they want. That's what it's meant to say. If it's in excess of that, it's deemed to be a commercial vehicle that needs to go somewhere else.

Comm. Williams: So is that the intent?

Mr. Klein: That's the intent. Basically the intent is that you don't have a vehicle that's greater than one ton or another vehicle out there with something larger than 4 square

feet that's part of the Home Occupation. It's trying to make an allowance that sometimes you'll have service calls or valid construction. It's trying not to be so restrictive that those wouldn't be allowed at all either. Basically it's one-ton capacity with no more than 4 square feet on the signage or garaged if over 4 square feet.

Comm. Williams: Playing devil's advocate.

Comm. Roberson: We had this conversation a few months ago, and I don't think we should be debating it again.

Comm. Williams: I'm not debating it. I'm trying to get this thing clear because some of what's in here is different than what we saw several months ago. Going to the two hours, you're saying if you have a home-based business, your signage is in excess of 4 square feet. Through a 24-hour period, you cannot have that vehicle parked there more than two hours at a time, two hours total?

Comm. Roberson: It's two hours.

Mr. Klein: Maximum of two hours.

Comm. Neff-Brain: There is no 24-hour period. You could move it for five seconds every two hours.

Chair Rohlf: If there's nothing else, this case requires a Public Hearing. I think there's a gentleman in the audience who wishes to speak.

Public Hearing:

Kurt Ricke of 2601 Somerset Drive, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Ricke: I've had a home business there for 14 years and have always had a truck with signage at that exact location. I wasn't even aware that I couldn't park there, and nobody has ever brought up a complaint to my knowledge.

Chair Rohlf: Can you explain the vehicle that you have?

Mr. Ricke: I have a picture of it. I'm in the residential remodeling business. I think people prefer to see a vehicle like this just for the simple fact that they know what's going on. I think people like to know what's going on. That's it right there (*refers to photograph*), and I don't know that it's within the 4 square feet.

Chair Rohlf: I think this would be excluded. It's not a one-ton truck.

Mr. Ricke: It's a half-ton vehicle.

Comm. Neff-Brain: It's not when you're at somebody else's house.

Mr. Ricke: No, this is at my own home.

Comm. Neff-Brain: I know, but you talked about being in another neighborhood. That doesn't apply.

Mr. Ricke: Right, and that's what I'm most concerned about size-wise. Our business pretty much depends on referral work and past customers, but we have to have new customers. When my phone rings with a new customer, 7/10 times they'll say, "I saw your truck in my neighborhood." That's what generates a lot of my business – that sign right there.

Chair Rohlf: It's my understanding, Mr. Klein, this would be in compliance.

Mr. Klein: Right.

Mr. Lambers: The signage on the back end with the phone number would not be allowed.

Mr. Ricke: And that's a big point for me because like I said, 75% of the people who call me see my sign in their neighborhood. If I reduce it down to the door, you can't see that from here to the parking lot. Even if you're driving down the street and you're parked in someone's driveway, they don't notice it.

Comm. Munson: What business do you conduct at your residence?

Mr. Ricke: I just answer the phone there.

Comm. Munson: So your business is really outside your house.

Mr. Ricke: Right.

Comm. Munson: So you don't really have a Home Occupation.

Mr. Ricke: Well, other than answering the phone and filing.

Comm. Munson: Or does he have a Home Occupation?

Mr. Klein: From the way I understand it, currently if you're talking about having it parked in your driveway, it's not allowed anyway. As far as being able to see it from the street, that's just advertising your business from your driveway and really isn't permitted right now. As far as driving to somebody else's house to do a service or things like that, you have the limitations that everybody else has who's providing services, so I don't think that really applies either because it's not part of a Home Occupation. I don't think this really falls into that case.

Comm. Neff-Brain: But he wants to be able to park this in front of his house so he can drive it to other people's houses, and he wouldn't be able to do that. He could drive it to other houses, but at his own house, he needs to park it in his garage or off-site.

Mr. Klein: Right, and he's saying it's not readable from the street. It's not supposed to be readable or an advertisement.

Comm. Roberson: That's my point. The other thing, too, if I understand correctly, it's not even allowed now.

Mr. Ricke: I understand that. This is what generates an enormous amount of business in this area. I didn't even know it was an issue.

Comm. Neff-Brain: You could still have this. You just couldn't park it outside of your house.

Mr. Ricke: Correct, but it won't go in the garage.

Comm. Neff-Brain: It would have to be parked off-site somewhere.

Mr. Ricke: I don't know how to respond to that. I have commercial vehicles where I park, but I've always had this at my residence. I take it to the commercial lot and park there. I can't obviously walk to the lot every day to get my truck.

Mr. Lambers: This is the heart of the issue - he's trying to promote his business with a commercial application in a residential area. That's what we're trying to preclude or restrict. We have conflicting interests here.

Mr. Ricke: Now if I had, for example, an evergreen hedge row down the side of the driveway, would that be in compliance?

Mr. Lambers: We discussed screening, and people indicated that they wanted their vehicles to be visible.

Mr. Ricke: I don't care if it's visible.

Mr. Lambers: I'm saying we had the conversation a while ago in which we came up with the four feet, the two hours and things like that. We just felt that in order to make it something everyone could understand and that the city could enforce, we expanded it to one vehicle, increased the tonnage and then placed a limit on a sign that we felt was larger than what most magnetic signs would be on a door. Yes, the situation is that your verbiage and phone number would have to come off. Now, I don't know how big your sign is, but if it's less than four feet, you could have your phone number on the side of your door. I think that would at least be the most important thing for you as opposed to saying "home building".

Comm. Roberson: You could always put a magnetic sign on the side of the truck.

Mr. Ricke: I tried that years ago. It looked temporary, and having been in business since 1964, I just don't like the temporary look. The second issue was kids rip the signs off and vandalize them.

Comm. Roberson: That's the whole point – you'd take them off at night.

Mr. Ricke: That's the other problem – when you take it on and off, they tear and you end up replacing them.

Comm. Neff-Brain: You may not have a next-door neighbor that it matters to, but a lot of next-door neighbors don't want to have a truck with signage on it sitting in the driveway.

Mr. Ricke: I'm on a corner lot, and everybody drives by my house every day. I've lived there about as long as any of them, and I've even worked for a lot of them.

Mr. Lambers: We went through this with the RV ordinance. We had hundreds of specific circumstances that we realized we were not going to address successfully the limitations that were put in place. I'd say for you the option is really the signs on your doors need to be redone if this ordinance becomes effective to comply with the 4' limitation on the doors and put whatever information you think is appropriate there so at least you can store it in your driveway.

Comm. Williams: Asking the resident, do you have any idea what it would cost to redo your signs?

Mr. Ricke: Probably in the neighborhood of \$1,600-\$1,800.

Chair Rohlf: If you have nothing additional to say, I think there might be someone else who would like to speak as well.

Meg Gilmore of 9010 High Drive, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Gilmore: My suggestion is for Mr. Ricke primarily and also a question for Mr. Klein. Are car covers allowed outside? Mr. Ricke could put a car cover over his vehicle.

Comm. Roberson: There's no problem with a car cover.

Mr. Klein: I don't know the answer to that. I'd have to research it.

Mr. Lambers: I think the car has to be drivable, and I would think having a cover on it would make it inoperable.

Comm. Neff-Brain: Is that what the ordinance says?

Mr. Lambers: I'm not sure it would be under inoperable vehicles as to what that definition is. It's usually pretty broad to prevent people from working on vehicles and temporarily storing them. I'm not familiar with that being in there, but if it were, that would be the section.

Chair Rohlf: How would this be enforced?

Mr. Lambers: Our code enforcement officers under Richard's division respond to complaints or look for violations.

Chair Rohlf: So there could be an increase in the number of violations because of this?

Mr. Lambers: We're making certain things legal, so there would be no violations for that. Mr. Ricke's vehicle would not qualify. Some that are not legal would remain so.

Typically we would let them know what the new ordinance is to advise them they don't have a legal vehicle before we would cite them.

Comm. Neff-Brain: We've been citing these in the past?

Mr. Lambers: Yes, but it's on a complaint basis.

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

Motion to close the Public Hearing made by Roberson; seconded by Munson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Chair Rohlf: That takes us to our discussion. There have been a number of comments about the verbiage. Is there anything anyone wants to add, or are we comfortable with this language?

Comm. Williams: I may be in the minority here, but I'm not comfortable with the language. Some of it is related to the size and number of signs, which is not addressed at the moment. I feel that good residents such as Mr. Ricke are being penalized for his livelihood with not being able to park his vehicle in his driveway. I'd like to see more flexibility. I have no problem with the size of the vehicle, but in the case of the vehicle that was presented to us, it was not distasteful as are some we've seen around shopping centers and such. Then again, the ordinance doesn't get into taste. I feel it's penalizing some people, and as a result, I'm not in favor of it.

Comm. Neff-Brain: I, on the other hand, think you're penalizing the neighbors that have a vehicle used for advertising standing in the driveway every day and night. I think this is generous and think it should be limited to two signs per vehicle, in which case I could reluctantly support it. I'm happy with the ordinance as it stands now.

Comm. Roberson: Which doesn't allow it, so actually we're loosening the ordinance.

Comm. Neff-Brain: Mr. Ricke has been in violation since he has had his truck there. I don't think we're penalizing him. There have been no complaints, and it's an on-complaint ordinance at this time, so he hasn't been cited. I think it should be limited to two signs and go no further than it is.

Comm. Jackson: I'll provide a motion if you're ready for one.

Motion to approve Case 73-06 with an addition to the language to read, "The Home Occupation shall not allow the parking of any commercially licensed vehicle or other vehicle bearing commercial advertising or signage in excess of 4 square feet per side with a maximum of two sides on or in front of the premises for a period exceeding two hours" was made by Jackson; seconded by Neff-Brain. Motion passed with a vote of 5-1. For: Roberson, Jackson, Neff-Brain, Munson, and Heiman. Opposed: Williams.

Comm. Jackson: Am I correct that everything after the word "unless" has been stricken?

Chair Rohlf: Yes, let's move on.

CASE 66-07 LDO AMENDMENT – SECTION 16-4-5.7 PARKING LOT CONST. STANDARD; Request for approval of an ordinance to the Leawood Development Ordinance.

Staff Presentation:

Assistant Director Mark Klein provided the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 66-07. This is a Leawood Development Ordinance amendment to address the problem we have when cars are parked in parking lots that have front tires digging into the parking lot and creating ruts. This raises that standard so that will not occur. Staff is recommending approval of this application, and we'll be happy to answer any questions.

Chair Rohlf: Is this a brand new section?

Mr. Klein: Yes, it replaces an existing section.

Chair Rohlf: I would guess it's in much more detail than previously?

Mr. Lambers: Yes, we did not have any testing requirements. We added that to the section.

Chair Rohlf: Does anyone else have questions for Staff?

Comm. Jackson: It said there were minutes of the Public Works Committee included, and I assume that expanded more on why these things were needed.

Mr. Ley: This section was referred to the Public Works Committee by City Council, and then the Public Works Committee wanted to have the parking lots constructed to the residential street standards. We included the minutes when we heard this three or four months ago.

Comm. Jackson: Then my only other question is that you've got the pervious concrete pavement – is that where the water goes down through the concrete?

Mr. Ley: That's correct.

Comm. Jackson: Are there any new upcoming concrete that we want to include in here?

Mr. Ley: There's pervious asphalt, but we haven't allowed that. I'm not certain where in the metro area that's been installed.

Comm. Jackson: It just takes us so long to get these LDOs passed. I'm trying to think if there's something else out there.

Mr. Ley: If something like that came up, I think we could handle that during that case when they made the application.

Chair Rohlf: Any other questions? This case does require a Public Hearing as well. Is there anyone in the audience who wishes to speak about this case?

As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Williams. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

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

Comm. Williams: I just want to commend the Staff for coming up with some really good standards here to hopefully improve the problem we have in development parking lots throughout the area. In Camelot Court, they rebuild it and it just doesn't hold up.

Comm. Roberson: That's the first one that came to mind.

Comm. Williams: It's almost dangerous to drive there sometimes.

Motion to approve CASE 66-07 LDO AMENDMENT – SECTION 16-4-5.7 PARKING LOT CONST. STANDARD; Request for approval of an ordinance to the Leawood Development Ordinance made by Williams; seconded by Heiman. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CASE 64-08 LDO AMENDMENT – SECTION 16-4-1 – PODS; Request for approval of an ordinance to the Leawood Development Ordinance.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 64-08. This is a Leawood Development Ordinance that addresses the use of PODS (storage containers in driveways). The building official is here, and she'll address you on this issue.

Irene Oliphant, Building Official for the City of Leawood appeared before the Planning Commission and made the following comments:

Ms. Oliphant: Neighborhood Services Department has received a number of calls regarding the use of PODS in both residential and commercial areas. We do not have any provisions in any of our ordinances, including the city code or the LDO, on how to administer the use of those devices. I have attempted to provide some provisions for Staff on how they could be utilized, underlining requirement that a permit be required to have the device at all. The language in front of you is copied from the City of Olathe, who has not passed this ordinance. I also consulted the City of Roeland Park, who also has requirements.

Comm. Neff-Brain: There isn't any kind of a time frame as far as 30 days once a year, 30 days twice a year – nothing like that? Is that any kind of a problem?

Ms. Oliphant: The original language said, "30 days within a calendar year," and I was advised to drop the "calendar year" and leave it at "30 days."

Comm. Neff-Brain: Why was that?

Mr. Klein: I think it was to provide more flexibility to allow people to move a few times or to remodel. This is an effort to maintain there is a permit and a way to track these to make sure they don't become a problem.

Comm. Neff-Brain: Is one of your reasons for denying a permit that they've had too many that year? Do you have standards for denying the permit?

Ms. Oliphant: Yes.

Comm. Roberson: Those would be what?

Mr. Coleman: If repeated permits were requested, we could determine it to be a permanent accessory and deny the permit.

Comm. Williams: But if they came in twice a year, would that be considered excessive?

Mr. Coleman: If it was once in December and again in June, it probably wouldn't be an issue. If they continued to do it every six months, we'd probably look into what they're doing because it would be unusual.

Comm. Roberson: I assume that is a standard size for these PODS?

Ms. Oliphant: That's my assumption. I got that language from the City of Olathe, who had done the research on it.

Comm. Williams: It is a standard size. Are people using these PODS in Leawood now?

Ms. Oliphant: Yes.

Comm. Williams: Has it been a problem?

Ms. Oliphant: No, but it will be.

Comm. Williams: What do you see as making it a problem?

Mr. Coleman: I'll give you one example. A lady moving to Leawood asked me about PODS and wanted to place it in the street since the delivery people wanted to avoid a tree in the way of the driveway. We don't allow it in the right-of-way, so I suggested she have a tree trimmer trim the tree so it could go in her driveway.

Comm. Williams: There are a lot of delivery trucks that need that same help. It's more of an issue with putting it in the street than it being at the residence for them moving in or temporary storage.

Mr. Coleman: We just need some language to regulate it so they don't put it in their front yard or neighbor's yard.

Comm. Williams: That makes sense. Going to the time frame, it's my understanding from talking to two POD companies that rental periods are 30 days at a time. They both have said that based on national averages, seldom do they get people renting these things for more than a 60-day period. It's often related to the fact that they're doing work on the home, and some of their things need to be moved as a result. Their comment was that if people looked like they would need it longer, they should move it to a protected and safe storage facility. If a person wanted to keep it longer than 30 days, do they have to go through a variance process?

Mr. Coleman: No, they would simply come in and reapply for an additional 30-day permit.

Comm. Williams: Was there a comment about a fee for this permit?

Ms. Oliphant: A fee would be established, but I was advised by Legal that we needed to change the ordinance first and then address the issue of the fee.

Comm. Williams: I understand the need for control on this for the reasons you cited. Are permits required for trash dumpsters, for example?

Ms. Oliphant: You have to have an active building permit in order to have a trash dumpster on your property.

Comm. Williams: That's not what your office says when you call them.

Ms. Oliphant: That's what I'm advising our staff to tell people. If you're getting incorrect information, I can address that issue later.

Chair Rohlf: Is there anything else? This case also requires a Public Hearing. Is there anyone in the audience who wishes to speak about this case?

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve CASE 64-08 LDO AMENDMENT – SECTION 16-4-1 – PODS; Request for approval of an ordinance to the Leawood Development Ordinance made by Neff-Brain; seconded by Heiman.

Comm. Williams: This is not necessarily in our purview, but in terms of a permit that may be required and permit fee, when that gets addressed I would hope the powers that be who address that would make it reasonable, particularly for something that's so short-term and not really an issue in the city at this particular point in time.

Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Chair Rohlf: We have before us a number of cases. For purposes of discussion, Mr. Klein, I believe you wanted to discuss them as one group and then we'll take them individually as far as Public Hearing and motion. Is that correct?

Mr. Klein: Correct.

Chair Rohlf: So this is the series of Cases 08-06, 09-06, 74-08, 75-08, 76-08 and 83-08 basically all dealing with non-residential uses.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, these are Cases 08-06, 09-06, 74-08, 75-08, 76-08 and 83-08. They are regarding the 10-acre deviation. Currently within the non-residential section of the ordinance, as well as each of the non-residential districts, it lists a minimum of ten acres be required before any kind of development can occur. What we've run into and discussed in the past is that occasionally you'll get a piece of property that may be smaller than the ten acres for a variety of reasons. In some cases, it may be that a right-of-way has been taken from development, or it may be a situation where development has occurred all the way around them, and now you have this isolated piece left over. These applications are meant to provide a deviation to that, requiring the applicant go to the neighbors to work out something as far as a larger-scale development that could be more continuous; however, if they failed at doing that, it would allow them to at least bring forward an application that the Planning Commission and City Council could review. The section requiring the ten acres is in 16-2-9.2 – Non-Residential Uses, as well as each one of the zoning districts that are non-residential. The non-residential have the deviation that's allowed, and the other two sections refer to that. I'd be happy to answer any questions.

Chair Rohlf: The language that we first see under Non-Residential Uses in Number 4 and continued on as well, I don't know if it's the order of the words or those particular words. I'm not reading it correctly, I don't think. It seems unclear.

Mrs. Shearer: To be honest, that's just kind of some "legal-ese". I don't want to say it's not significant because that's not my intent. That's just standard form when you provide an exception to something in a clause.

Chair Rohlf: "Provided, however, an applicant" – it just doesn't read well to me.

Mrs. Shearer: There should be a semicolon after "entity". Then it should be "provided, however, that an applicant may seek a deviation as set forth in Section 16-3-9 of the Leawood Development Ordinance."

Chair Rohlf: That helps. Mr. Klein has gone on to give us an explanation as to how this has come about. In the deviation language there under 16-3-9 on page 12, I guess that's kind of a bare definition – that they have the right to seek a deviation. It doesn't really explain why.

Mr. Lambers: The reason is that if we denied it on that basis, the city would end up being sued. We would then allow it to go forward or end up buying the property. This allows it to go through the planning process. I don't know the genesis for the 10-acre rule except the concern that you're going to have little 10-acre parcels. Given our development and where we are, it's really not an issue. Again, the process is allowed here where we at least encourage them to talk to the neighbors. It's efficient for us to

say that they tried. We had this conversation about larger tracks, trying to make them even larger. This is carrying that sentiment further. It's going to go away really quickly.

Comm. Roberson: If I'm not mistaken, an example of this is the Peters Development behind Mission Trail.

Mr. Lambers: Peters Development at Tomahawk Point.

Comm. Jackson: Can you get a mixed use in with fewer than ten acres?

Mr. Klein: I think it would be difficult to get a mixed use in, but you may be able to provide a design that would tie into the parcel adjacent to it. This basically allows for the city to take a look at it. It's not something that automatically grants a deviation; it's a deviation that would have to be granted by the city.

Chair Rohlf: Does anyone have anything else? Then we will go back and take each one of these individually, as they all require a Public Hearing.

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

PUBLIC HEARING:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Williams. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Chair Rohlf: If there are no other comments, I would ask for a motion, given that the language will be changed.

Mrs. Shearer: We will clean up the punctuation, certainly.

Motion to approve Case 08-06, LDO Amendment 16-2-9.2 – Non-Residential Uses made by Williams; seconded by Munson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

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:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Williams. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 09-06 – LDO Amendment 16-3-9 – Deviations was made by Williams; seconded by Munson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CASE 74-08 LDO AMENDMENT – SECTION 16-2-6.2 SD-NCR – 10 ACRE RULE;
Request for approval of an ordinance to the Leawood Development Ordinance.

PUBLIC HEARING:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 74-08 – LDO Amendment 16-2-6.2 SD-NCR was made by Williams; seconded by Munson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CASE 75-08 LDO AMENDMENT – SECTION 16-2-6.3 SD-CR – 10 ACRE RULE;
Request for approval of an ordinance to the Leawood Development Ordinance.

PUBLIC HEARING:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 75-08 – LDO Amendment 16-2-6.3 SD-NCR was made by Roberson; seconded by Neff-Brain. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CASE 76-08 LDO AMENDMENT – SECTION 16-2-6.4 MXD – 10 ACRE RULE; Request
for approval of an ordinance to the Leawood Development Ordinance.

PUBLIC HEARING:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 76-08 – LDO Amendment 16-2-6.4 MXD was made by Roberson; seconded by Neff-Brain. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

CASE 83-08 LDO AMENDMENT – SECTION 16-2-6.1 SD-O – 10 ACRE RULE;
Request for approval of an ordinance to the Leawood Development Ordinance.

PUBLIC HEARING:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 83-08 – LDO Amendment 16-2-6.1 SD-0 – 10 Acre Rule was made by Williams; seconded by Munson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Chair Rohlf: We'll discuss this next group together and take them out for Public Hearing and Motions, including 56-06, 57-06, 77-08, 55-06, 58-06 and 53-06

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, the city is presenting these amendments that relate to height within residential districts. Just to create delineation, all of the amendments clarify that the measurement of height is to be taken from the front of the building at the front door in most cases. The only exception to that is the RP4, where you could have multiple front doors, in which case it's the front of the building. The same would apply to AG since there's another structure there. Regarding the R1 and the RP1, this section has the most proposed changes. That is an effort to take into consideration a lot of the problems we've had as far as teardowns or remodels and that kind of thing not fitting into the character of the neighborhood.

The first scenario listed is a building with two single-story buildings on either side. In that case, it would limit the subject house to a 1.5-story building at a height of 30'. The 1.5-story building would also be proposed with a vertical wall limit of 5' in order to prevent going up all the way with the external wall and creating a pop-out that runs along the entire thing. Another scenario is a single one-story building on one side of the subject property, or you might not have any building on either side of the property. In that situation, the height limit of the subject house would be limited to 30'. Another scenario is that you could have a subject house located between two 2-story buildings. In that case, the subject would be allowed to go to the highest of the adjacent 2-story buildings. In addition to that, there is a bonus system in which if there were setbacks larger than the required setbacks, you could gain an extra foot for every additional side yard setback that you had, up to a maximum of three feet. So that does provide a little bit more room to go up, taking into consideration that the house would not have as much of an impact on the neighbors because they were farther apart.

There is also a section in here dealing with the Board of Zoning Appeals to allow an appeal process to this section. In that situation, the BZA would have the ability to grant an exception to allow an additional 2' in height, to be capped there. If you had a 30' high building with two single-story houses on either side, your subject building could go to 30'. However, an appeal with the BZA would give them the ability to grant another 2' with a maximum of 32'. There is also a section that relates to the natural grade, taking into consideration piling up of dirt to increase the height of the house. The natural grade could be changed by no more than 1'. The only exception to that would be to take into account something with storm or sewer. In those cases, the City Engineer would be required to sign off on it. Staff is recommending approval of these applications and will be happy to answer any questions.

Comm. Williams: Definition of a 1.5-story structure – where did you come up with 5'?

Mr. Klein: The 5' was straight out of the building code. Basically you have the floor plate, go up 5' and then the roof would have to come in and start slanting back. You could have a dormer or something like that in addition, but it was to prevent the extra story on a vertical wall.

Comm. Williams: Is it the intent here that all four sides of a second-floor structure be 5'?

Mr. Klein: Right, at least four. There is another section that does limit the half story on the second level to a maximum of 50% of the first level.

Comm. Williams: Where is that one?

Mr. Klein: It is under No. 2A under "New, rebuilt or remodeled dwellings situated between two single-story dwellings."

Comm. Williams: You have a wall that's 5', but you could have a wall that's part of a gabled wall (which many of the houses in question in these neighborhoods have gables, being different from a hip roof). Are you saying that a gable is not allowed on the second floor?

Mr. Klein: No, it would preclude that.

Comm. Williams: So the wall area above 5' - even though it is a wall by all definitions in the industry - that is part of that gable and can go up to 30' is permitted.

Mr. Klein: Obviously I'm not an architect, but as long as you have 5' that goes up vertically and then your roof.

Comm. Williams: What you're starting to describe is a hip roof, not a gable roof.

Mr. Coleman: It would preclude the end wall of a gable structure that went straight up 30', yes. Since it's a 1.5-story building, the second floor wall is limited to 5'.

Comm. Williams: So if the house, by its design, has gabled roof structures on it, you're saying the addition to the second level at 50% of that floor plate could not have a gabled roof. So you're changing the roof design to be contrary to what's on the house.

Mr. Coleman: If you're adding on to the house and going up to the second floor, you're rebuilding the house.

Comm. Williams: You've got in here only 50% of the footprint can go up, so you're not redoing the entire house.

Mr. Coleman: Correct, and you'd be limited to mostly hip roof, yes.

Comm. Williams: From a design perspective, when you do an addition on a house, you try to make it look like it's part of the house by repeating the roof design, pitch and character. If that's going to be the definition, I think it's detrimental to the property being remodeled.

Mr. Coleman: It was an attempt to control the bulk of the house adjacent to two houses that are single-story between them.

Comm. Williams: I do understand that, and we've had discussions before with other language that addresses some of that bulk and yet allows the design of the structure to be part of the house.

Mr. Coleman: My opinion would be that the architects in the city would be creative enough to make the design look good and fit in.

Comm. Williams: As one of those architects, I disagree with the way this is written in that respect. I'm not alone. I've taken the opportunity to speak with several colleagues, one of whom was here at the last Public Hearing. The city has hired his firm to be design consultants on a couple of projects the city has looked at. He read this and went through the "what ifs?" and has the same opinion.

Mark, you made a comment about allowances for setback increases. The way it's written, it allows for the overall height of the house to increase; but it does not allow for the height of the walls to increase. Is that indeed the intent? If I pull that wall back to the center of the house and it's 50-100' away from my property line, I'm still restricted to 5' for wall height, but the ridge of the house could potentially be 35'.

Mr. Klein: The 5' only comes into play on the 1.5-story and not on the two-story where it was 35'. The wall height would not come into play there. However, on the 30' on a 1.5-story, yes, that's the intent.

Comm. Williams: Again, regardless of what my setbacks might be from the property line, if I'm doing a 1.5-story, I'm limited to a 5' wall.

Mr. Klein: Right.

Comm. Williams: Most of the time when you find a 5' high outside wall, it's referred to as a knee wall. As designers, we try to stay away from them whenever possible because it almost makes that wall unusable, except for putting furniture against it. It might work for a kid's room, but not anyone taller than 5'. I'm trying to wear the hat as a Commissioner trying to control some of the out-of-control handful of big buildings that have caused damage to the neighborhood, but still leave a homeowner some opportunity to increase the value versus increase the liability of the property. With something like converted attic spaces, you have to live with it one way or the other. Having dealt with this several times, it does make for a very awkward room overall. I'm just concerned about limiting this upper level, regardless of whether it's 50% or less than the second floor, are we really doing that owner a service in helping them add value to their homes?

Mr. Lambers: The answer is we will have a negative impact on people to do with their homes what they can do today. This will be a restriction that doesn't exist now that will limit what they can do when they have the situation of two single-story homes beside the home in question.

Comm. Williams: It's restricting what they can do with the property and potentially restricting the value of the property.

Mr. Lambers: Yes, and the idea is that all of the complaints we've had have been with this circumstance. With the other thing we have, everything's pretty straightforward with no problems. The controversy is going to be with the one proposal we're dealing with right now in how to reasonably allow growth and yet limit it to where you don't have what's occurred in the past between two single-story homes. This will not be perfect.

Comm. Williams: We have the neighborhood in North Leawood that is a mix. You can go through a block and have all ranch homes; you can go on another and have a mix of two-story, 1.5-story and ranch homes. I get very concerned if we start to restrict what people can do with their homes, ultimately affecting the value of the homes. I know the opposition says the additions affect their property value. Unfortunately what we're seeing right now in Leawood is not the case.

Mr. Lambers: This came out of a private meeting with the Homebuilders Association rep and homebuilders. That's where they went over the original proposal. They felt like the 1.5-story between two single-story ranches was a reasonable restriction. I think that if there are specifics with regard to design of a home, that's where the BZA comes into play to provide an appeal process.

Comm. Williams: When you discussed the 1.5-story with the Homebuilders Association, did you define it as having 5' walls?

Mr. Lambers: We didn't get into those specifics, just that a 1.5-story with a generic definition was not unreasonable between two one-story ranches.

Comm. Williams: I've gone out and searched trade publications and documents and talked to realtors. Without any exception, a 1.5-story allows you an 8' wall at least. It may limit you to 50% of the floor area, acknowledging that while not always a full limitation, it's not a full second story on the house.

Mr. Lambers: The 50% gets us to that point.

Comm. Williams: Yes, I think 50% may be a reasonable accommodation in that regard. My issue is strictly the 5' high walls. I don't think that really accomplishes what we're trying to do here. It may lower the height of that wall, but it doesn't provide the homeowner with quality, value-added space and may be a detriment to the value.

Mr. Lambers: If we were to go to 8', that would reduce the pitch of the roof, correct?

Comm. Williams: In some cases, maybe so. You have some cases of a shallow-pitch roof and some that are very steep. If you try to do a 50% on one of these steep roofs, to try to replicate that roof would not work well at all. In that particular case, you probably wouldn't be able to meet that 30' limitation.

Mr. Coleman: You can envision the house that has a second story on it where the roof edge starts at the top plate of the first floor and goes up at a steep pitch with dormers on it. The area between the interior wall and the roof is often used for storage. The actual ceiling height on the second floor could easily still be 8'. The code requires a minimum of 7' for habitable space. The idea of 5' was to give a maximum beginning of where the pitch would jump off. Starting at the floor, you'd have a lot more storage space, whereas if you have it 5' up, you have much less. You only have really maybe 2' of the depth of a closet.

Comm. Williams: I'm doing a project now in which the existing floor plate is about 22' wide. They already have an exterior wall that probably is already at 5'. That house has an 11-12 pitch. To get a usable closet, we have to come in 4'. We can use the space for storage, and we are going to do that in a substantial part of this. But even at that, to

get to an 8' ceiling, you do have the sloped corners throughout the room. That's a very steep roof.

Comm. Jackson: Could I break in with a suggestion? Would it be possible with the exceptions language for the BZA to also look at the 5' description on the size of the second story and the 50% number?

Mr. Coleman: I wouldn't have any objection to that.

Comm. Williams: If I may, having presented to the BZA on another issue and knowing several members –

Mr. Lambers: This is going to be different. If we do it, there would have to be a limitation. You indicated 8' would be a reasonable amount.

Comm. Williams: Yes, so you can meet minimum ceiling height on the inside and have reasonable room.

Mr. Lambers: They're allowed 5' and can appeal another 3'. The BZA will have a separate set of rules and guidelines, not being governed by state statute. This will be totally different than what you've taken to them before.

Comm. Williams: And I can appreciate that. Where I was going with my comment is while that case was dealing more with state statute is that I've heard comments out of members of the BZA that state, "flat-out, no deviations or variances." They just don't want to begin to look at situations like this.

Mr. Lambers: That is because the state statute is very specific. You go with a "no" against you. In this case, they will have a separate guideline.

Comm. Williams: Fence height, fence types – those aren't state statute issues.

Mr. Lambers: No, but the reasons that have to be found are.

Mrs. Shearer: Could I interject about variances versus exceptions because it sounds like that might be a point of confusion? This is setting forth an exception that the BZA can grant, meaning that if they meet these three criteria as Scott said, it's a "yes". As far as a variance goes, Scott phrased it well saying you go in with the presumption that you're not going to get the variance; but if you meet the five factors that are set forth in the Kansas statutes, then the BZA can grant a variance. This is an exception, not a variance.

Comm. Williams: Again, my only point is their willingness to look at the exceptions and not just take the position that, "It says 5', and it's going to be 5'. I don't care."

Mr. Lambers: Again, we will have to educate them that this is a total separate process from their normal functioning. It will require some work on our part to change their mindset that it is not in their official capacity as BZA as set up by state statute. The Council insisted we have an appeal process. We felt that we couldn't come to the Planning Commission, which is necessary before going to Council. The belief was the BZA would be the best choice because if a property owner is aggrieved, they can quickly

go to court and sue the city, therefore exhausting administrative remedies. That's why we've set up this second process, if you will.

Mrs. Shearer: I also serve as counsel to the BZA. Off the top of my head, I can tell you we deal with fence height exceptions and side yard setback exceptions when it comes to building an addition. I don't perceive there being any issues with them looking at the exceptions as set forth in the LDO.

Comm. Williams: Your experience is different than the one I had for two hours with the BZA over a rear yard setback. As you're saying, you're saying it's different.

Mrs. Shearer: Rear yard would be a variance; side yard is an exception.

Comm. Williams: Right, it comes back to the attitude of the BZA and what they're willing to consider without having to go to court.

Mr. Lambers: If the appeal process doesn't work, we'll have to make changes one way or the other. The idea is to give the property owner a reasonable expectation to go forward. We can't draft an ordinance for every "what if?" That's why with the limitations we have, I think the 2' (and in this case an additional 3') is fine. They're going to have to show a design as to why it has to work and go from there.

Comm. Williams: I'm not having any real issue with the overall height of the finished structure. The thing that bothers me is this 5' wall that strikes me as being a little arbitrary to what is the norm in the housing industry for a 1.5-story house.

Mr. Lambers: Again, if we have multiple appeals to the BZA on this to where the 5' appears to be too low, we can go back in and look at an increase. We did that with the RV ordinance with a lot of standards that we picked out of thin air, tried for three years and found most of the ordinances to remain intact.

Mrs. Shearer: I'll give a little history on writing this. Richard, who has a master's in architecture, came on with our staff. The 1.5-story definition got added this week as a result of meetings that Mark and I had with Richard and talking to Patty Bennett and Scott. This definition that is causing concern actually comes from the building code that addresses a 5' wall in relation to a second half story. When we get into 8' and 10', we're getting into a whole second story, rather than a half story.

Chair Rohlf: I'd like to get to the Public Hearing if no one else has any comments. These people have been waiting quite a while. If there's anyone who wishes to speak about these multiple cases, please raise your hand.

Public Hearing:

Mack Colt of 21225 West 96th Terrace, Lenexa, KS, appeared before the Planning Commission and made the following comments:

Mr. Colt: I'm a homebuilder and do quite a bit of remodeling primarily in old Leawood. I've been doing this for fifteen years. I'm not an architect, but I design my own homes. I understand the terminology. I'm a civil engineer as well, so I come from an analytical standpoint. I just found out about this hearing this afternoon, so I didn't have a lot of

time to prepare. I was present at the last discussion and was also part of the group that came over with the HBA to talk about the wording prior. I do remodels, spec homes and people living in and moving to Old Leawood. I've got a good grip on where the city's coming from and why this has come about. For the most part I agree with it. However, looking at the way this is worded, the I first noticed the height limit that talks about "The lesser of 35' is measured at grade at the front door or limit imposed by Subsection E below." Is this the existing grade or the new grade? In the case of a tear-down/rebuild, a lot of times we're changing the grade. I think that would need to be clarified.

The biggest issue I see, though, is the definition of the 1.5-story structure. As far as I know, the industry standard definition is a house where the master bedroom is on the main level and one or more bedrooms are on the upper level. Regarding this 5', first of all, the second-floor wall heights vary. Some of them are gables, some hip roofs. If the walls cannot exceed 5' and you've got a wall "as measured from the bottom of the second floor elevation" and come up 5', you've got a header over the window with the top of the window at 4'. So if it's a 1.5-story, you've got a bedroom upstairs. To me, egress windows are going to have to be on the floor and go up to 4'. I've never seen a 1.5-story that would meet this criterion. Furthermore, there's no definition for a 2-story, so maybe having a definition of a 2-story structure would be necessary.

The next thing is 2A, where it states, "The second half-story not exceeding 50% of the total square footage of the main story of the subject dwelling." Is this the main story living area, or does this include the garage, etc? Is it the footprint? There again, that part talks about the grade as measured at the front door. Is that the existing grade or the new grade? Then in 2B, "if there's one single story dwelling adjacent or no adjacent, then the height shall not exceed 30'." The paragraph before talks about between two single-stories, and I'm confused as to why there's another paragraph that talks about just one. 2C has something that jumped out at me. I don't know if this would happen a lot in Old Leawood because there are not many 2-stories, but the way 2C reads, if you're putting a house between two existing 2 stories, then your height is limited to the height of the two adjacent houses. Well, what if you've got two 2-stories and the highest one is 24' or 26'? Then you're further restricted, and it doesn't seem logical that you would have to have an even shorter house if you're between them.

In Part 4, it talks about an additional 1' of height for every foot added to the side yard setback. Is that both side-yard setbacks, or can you go 2' on one side and no additional on the other side? I'm not clear on that.

Probably the other big thing I see is the grade change. It talks about not altering the grade by more than 1'. After 300+ houses, I can tell you the hardest thing to get right on a house is drainage. Building in Old Leawood has challenged me even more because a lot of the houses we're tearing down or remodeling have current drainage problems. The way I read this, I'm not sure if that means at any point on the lot you can't change it by more than 1' or the average grade; it's pretty unclear. I know where they're coming from on this – it's people coming in and trying to get a walk-out on a lot that really wasn't made for a walk-out and things like that. Just establishing a correct grade without it looking funny, I think that's going to be too prohibitive. Those are the issues I see.

To recap, the biggest one is the definition of the 1.5-story. I think if you're going to talk about wall heights, it maybe should be defined as the plate height that the roof bears on

or something like that versus just saying the wall height because even a small dormer is going to be taller than 5' off the second floor. Thank you.

Chair Rohlf: I believe there's another gentleman in the back who would like to speak.

David Conderman of 3208 W. 81st Terrace and 3201 West 82nd Street, Leawood, KS, 66206, appeared before the Planning Commission and made the following comments:

Mr. Conderman: Similar to Mr. Colt, I think the overall intention is a really good one. The problem is with some of the descriptions and then maybe not enough clarification on some of the issues. For instance, I happen to have just purchased a house with major foundation issues. We had no choice but to tear the house down and rebuild. We live next door to a ranch, but it is an old saltbox - kind of what you'd think of as a Cape Cod. It has gabled ends. I haven't measured the house, but I would guess it's somewhere in the range of 23-24' tall because it's got a 12/12 pitch and a pretty wide berth down below. Consequently, I'm not sure where you'd take the 5' into account. That's a ranch with a wall on the side of the house that faces my house that's a continuous, 23-24' tall wall. If I were to live by the rule that you set forth, my side wall would have to be probably no more than 13-14' tall, whereas the wall next door to me (even though it's a ranch) is 24' tall. It doesn't make a whole lot of sense. On the other side, I have a rather large split level. There's no account given at all whatsoever that talks about a split level. What rules would I follow if I've got a split level on one side and a ranch on the other side with a 24' gable wall? I think the idea behind the 1.5-story is a good one, and I agree with the limitation of the roof on the second floor. As a matter of fact, it was one of my ideas when I came and talked to the group about four months ago. I think it certainly makes sense if you've got a subdivision or a street where there are a lot of ranches that having a 1.5-story on either side is a great idea. I think the whole intention of trying to keep the community and keep the homes looking the same and not overbuilding on one lot versus the rest of the lots is important. I just think the descriptions need to have a bit of work done to them. The last thing I would say is I think that this is something if we could sit down and work together to work out better definitions, it could certainly work. With the definitions the way they're currently written, I don't think it works well for our market.

Chair Rohlf: Is there anyone else who would like to speak about this case?

As no one else was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Heiman. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Chair Rohlf: Can I close the Public Hearing for all of these cases collectively?

Mr. Lambers: Yes, and I want to agree that the notice of this went out late to the Homebuilders Association. They have not had, in my opinion, ample opportunity to respond. It was really an intention to get this to you to let you know where we are with it since it's different than what was presented last time. If we have an issue of definition of a 1.5-story, it would be appropriate to see what the Homebuilders Association can come back with for that definition to deal with the issues. I would like to see this one continued to a future meeting so we can have that information and make a decision on it. The other LDO amendments will go before the City Council and we'll be done with them. We're going to have to have a significant amount of lead time on this because the issue

of tearing down homes to rebuild is common, and there could be pending sales out there. I'm thinking a minimum of 6-month lead-in time before these restrictions go into effect so as not to impair any sales out there.

If there are more questions of Staff, that's fine. If there are any more issues other than the definition and dealing with the wall, I think it's really straightforward. I'll answer some of the questions they asked. Regarding the grading, the 1' counts against the height. If there are storm drainage or sewer issues, that's for the engineer to make their case. If there's a strange situation with the house next door, that's what goes to the BZA as an appeal to get some additional footage. We tried to come up with a matrix with all the different house styles. Split level is not in there, but basically it would be 30' – the same as 2-story. The height of the existing house will be permitted so that if they have a 1-story with a very high-pitched roof and the calculations come in that they can only get so many less, the height of the existing home does govern. It's the higher of the two. There will not be a situation where they tear down a home and have to bring it down.

Comm. Roberson: So you're looking for a continuance of the definition of a 1.5-story only?

Mr. Lambers: At this point, yes. Have the Homebuilders get back to us within ten days and give Richard a chance to review it, followed by a meeting with them if necessary. So I'd say in four weeks, bring it back to you for your consideration.

Comm. Roberson: I would agree to that after listening to Mr. Williams' description of a midget room.

Comm. Heiman: I'd like to make a comment. I was a resident in the old part of Leawood for seven years and was involved in several remodels, including one of my own. I had several of these knee walls that did not tend to hamper the usage of the room. The house sold for what I thought was a very good price. Several others I know are in the same boat. I think we lose sight of the real reason why people live in the old part of Leawood, which is for the character and the charm of the homes as they are and trying to keep them as close to what they are when you do these remodels. If you want a 1.5-story home, move south. It doesn't make sense to me. One of the reasons we left there was this very notion – that people were tearing down homes and building bigger homes that just didn't fit. It's disheartening to drive through the old part of Leawood now and see some of these homes like this. I like it the way it is. I think the restrictions are there for a reason. I hate to continue it for the very reason that Scott mentioned. The longer we wait, the more these are going to be torn down and these things are going to happen.

Mr. Lambers: I can tell you what will happen. The Homebuilders will come to the Council and say, "We didn't have a chance to go to the Planning Commission," and the Council will remand it back here. I just want to avoid that. We've got our definition from the building code. Let's see what their definition is and see if we can come together with something Richard believes still accomplishes this. Again, we'll have probably a limitation and an appealable limitation above that and be done with it hopefully within four weeks.

Comm. Roberson: I guess I misunderstood again, then. You're suggesting we go ahead and pass this tonight?

Mr. Lambers: No, continue it. We have our definition based on the building code of a 1.5-story. Let them bring back their definition of it.

Comm. Roberson: But you're only suggesting we continue the 1.5-story definition, is that correct?

Mr. Lambers: No, I'm saying we continue all the ones dealing with height until then. This is the only issue when we come back to you that we'll discuss.

Chair Rohlf: They did make some comments. Do you think any of those should be incorporated into the language?

Mr. Lambers: The living area should be mentioned in the square footage, so totally enclosed areas and not patios or garages, etc.

Chair Rohlf: I thought some of those were good points.

Mr. Lambers: Right, and I know there was concern about the grading. That's going to be done on a case-by-case basis with the City Engineer.

Comm. Roberson: Again, so I understand, you're suggesting this will be done in four weeks and back to us?

Mr. Lambers: Yes, we have some busy agendas; and I want to make sure they'll have ample opportunity to get it to us and have a meeting if necessary.

Chair Rohlf: If you do open this up for a meeting and they all come together, would it possible for them to have a spokesman or two? Last time we'd have a number.

Mr. Lambers: You've already had the Public Hearing. We would present their information in writing as well as any recommendations.

Comm. Williams: Scott, Item 4 deals with allowances for setbacks and increases. Can we re-examine it to look at increases in the height of the wall if we're going to keep a starting point at 5' so that if you're going to come in from the side yard and the edge of the house, which is somewhat the goal to reduce the mass and get to the 50% on that second floor, but still then allow for the opportunity of creating a more standard wall height? The builder spoke about the windows, and I didn't even think about that aspect. That ends up being a problem. This would allow a more standard, usable wall construction and allow you to address dormers. By this definition, dormers would not be allowed because as was discussed, it's 5' for the wall and that's where your roof starts.

Mr. Lambers: Again, that's why I asked the question about gaining the 3' and put it in the second-story wall. That gives them the 3' that you say is necessary for that space to be usable. I think that's how they would achieve it - through that process. What you're saying the circumstance would be is if they can't get that 3' with the side yard encroachment, but they still say they need it. If the question comes in with another 3' so it's a 6' increase, we still have an overall maximum height and so we'll limit that.

Comm. Williams: Right, you still have that maximum height.

Mr. Lambers: Again, I would say that is a way we could probably say it could be achieved. They have to come in and get Staff approval. If they can't achieve it, it goes to the BZA.

Comm. Williams: Maybe addressing the wall height and your comment about the farther they come in, the higher they go with the wall; maybe you do set a maximum wall height. That height might be equal to the wall height on the first floor. Again, you're not changing the overall height of the house, but you're having a second floor that is comparable to the first floor.

Mr. Lambers: Right, and with the cap on the height, that's why I said earlier that they may want the 8' and then require a softer roof pitch.

Comm. Williams: In that case, roof angles and roof pitch don't necessarily match the house or work with the house; but that's what they end up having to do in order to stay within the height limitation.

Motion to continue Case 56-06, Case 57-06, Case 77-08, Case 55-06, Case 58-06 and Case 53-06 to October 14th was made by Roberson; seconded by Williams. Motion passed with a vote of 6-1. For: Roberson, Neff-Brain, Rohlf, Munson, Williams, and Heiman. Opposed: Jackson.

CASE 79-08 LDO AMENDMENT – SECTION 16-2-9.2 PERFORMANCE CRITERIA; Request for approval of an ordinance to the Leawood Development Ordinance.

CASE 80-08 LDO AMENDMENT – SECTION 16-4-5.7 - OFFSTREET PARKING – LIGHTING; Request for approval of an ordinance to the Leawood Development Ordinance.

Staff Presentation:

Assistant Director Mark Klein provided the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, these two Leawood Development Ordinance amendments are proposed with regard to lighting. One is within the non-residential uses section, and the other is for off-street parking requirements within office, commercial and industrial districts. What this ordinance is meant to do is actually three-fold. One is to clarify how the measurement of light is taken. For instance, currently we have no more than .5' candles permitted at the property line. This clarifies how the instrument that measures the foot candles is to be held and at what height. In addition, it is also primarily intended to address a problem that we've had with a number of the developments as far as the lighting bleeding off and the hot spots that you see from residential and the adjacent properties. In addition to that, it's also addressing a problem that we've seen with uniformity of light; in other words, areas that might be very bright and then other areas that are fairly dark. We're looking for uniformity across the site to improve safety as well. Staff is recommending approval of these two amendments and would be happy to answer any questions.

Chair Rohlf: Does anyone have questions for Staff on either one of these two cases?

Public Hearing:

As no one was present to speak, a motion to close the Public Hearing was made by Jackson; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 79-08 – LDO Amendment 16-2-9 – Non-residential uses was made by Williams; seconded by Heiman. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

Motion to approve Case 80-08 – LDO Amendment 16-4-5-7 – Off-street Parking was made by Williams; seconded by Roberson. Motion passed unanimously with a vote of 6-0. For: Roberson, Jackson, Neff-Brain, Munson, Williams, and Heiman.

MEETING ADJOURNED