

**City of Leawood  
Planning Commission Minutes**

November 23, 2010

Meeting - 6:00 p.m.

Dinner Session – No Discussion of Items – 5:30 p.m.

Leawood City Hall Council Chambers

4800 Town Center Drive

Leawood, KS 66211

913.339.6700 x 160

**CALL TO ORDER/ROLL CALL:** Pateidl, Roberson, Jackson, Rohlf, Williams, and Ramsey. Absent: Neff-Brain. Arrived after roll call: Elkins and Heiman.

**APPROVAL OF THE AGENDA:**

A motion to approve the agenda was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Williams and Ramsey.

**APPROVAL OF MINUTES:**

Approval of the minutes from the October 26, 2010 Planning Commission meeting.

A motion to approve the minutes of the October 26, 2010 Planning Commission meeting was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Williams and Ramsey.

**CONTINUED TO DECEMBER 14, 2010 MEETING:**

CASE 110-10 – CAMELOT COURT – CAMELOT COURT WINES & SPIRITS – Request for approval of a Special Use Permit and Final Sign Plan, located at 11841 Roe Avenue. **PUBLIC HEARING**

CASE 99-10 – BI-STATE CENTENNIAL PARK – SALES INJECTOR DEALER SERVICES – Request for approval of a Final Sign Plan, located at 1920 W. 143<sup>rd</sup> St.

CASE 104-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-6.13 (Permanent Sign Regulations – BP District) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

**CONTINUED TO JANUARY 25, 2011 MEETING:**

CASE 56-06 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – Section 16-2-5.3 (R-1 District) – HEIGHT – Request for approval of an amendment to the Leawood Development Ordinance pertaining to the maximum permitted height of residential structures in the R-1 District. **PUBLIC HEARING**

CASE 105-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2.7 (Table of Uses) – Kennels – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

**CONSENT AGENDA:**

CASE 106-10 – VILLAGE OF CAMDEN WOODS, 94<sup>TH</sup> PLAT – Request for approval of a Final Plat, located south of 143<sup>rd</sup> Street and west of Kenneth Road.

CASE 108-10 – MARKET SQUARE CENTER – EDWARD JONES – Request for approval of a Final Sign Plan, located at 13350 Pawnee Lane.

CASE 109-10 – TOWN CENTER BUSINESS PARK – LOT 1 – Request for approval of a Final Site Plan, located at 11500 Granada Avenue.

CASE 111-10 – MAXUS PROPERTIES – LEAWOOD AT STATE LINE APARTMENTS – Request for approval of a Final Site Plan. Located at 2140 W. 137<sup>th</sup> Terrace.

CASE 113-10 – CAMELOT COURT – GREAT CLIPS – Request for approval of a Final Sign Plan, located at 4256 W. 119<sup>th</sup> Street.

**A motion to recommend approval of the Consent Agenda was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Jackson, Williams and Ramsey.**

**NEW BUSINESS:**

CASE 107-10 – ONE NINETEEN – TRADER JOE'S – Request for approval of a Final Sign Plan, located at the southwest corner of 119<sup>th</sup> Street and Tomahawk Creek Parkway

**Staff Presentation**

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Madame Chair and members of the Planning Commission, this is Case 107-10 – One Nineteen – Trader Joe's – Request for approval of a Final Plan. Trader Joe's is proposing the building at the southwest corner of 119<sup>th</sup> Street and Tomahawk Creek Parkway, which was recently approved for the Dean & DeLuca building. Trader Joe's will occupy the majority of the existing building but will leave a small portion remaining to the south. Changes to the site include some restriping of a few parking spaces in order to align the ADA ramp with the main entrance and an addition of a sidewalk connection from the sidewalk along 119<sup>th</sup> Street to the main entrance. Changes to the elevation include replacing the main entrance doors with automatic sliding doors, frosted glass windows on the north and west elevations to accommodate for coolers on the inside of the store and fabric awnings in the color jockey red, the same as La Bodega, on both the north and west elevations. A cart corral is proposed adjacent to the west side of the building. It will be the same brick as the building and will completely screen the shopping carts from public view. Three wall signs are proposed. Per the sign criteria for One Nineteen, a maximum of three wall signs are allowed per outparcel tenant. This application meets these guidelines, but per the Leawood Development Ordinance, a maximum of two signs are allowed. The applicant is requesting a deviation for this. Per Section 16-4-6.3 of the LDO, deviations in size, colors, location, number of signs and illumination may be approved by the Governing Body after recommendation by the Planning Commission if it is deemed that an equal or higher quality of development will be produced. Staff recommends approval of this application and would be happy to answer any questions.

Comm. Williams: The frosted glass is on the west?

Mrs. DeBoer: It is on the west and the north, facing the parking lot.

Comm. Williams: Will anyone be able to see anything through this frosted glass?

Mrs. DeBoer: I believe not, but perhaps the applicant could answer that more definitively.

**Applicant Presentation**

Jeff McMahon with RED Development, 4717 Central, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. McMahon: We take not exception to any of the stipulations. We've been working with staff very carefully on this project. Mr. Williams, the frosted glass is really an alternative to a dark spandrel glass. It will be opaque, and we think a frosted glass is a nicer look.

Comm. Williams: Will light be able to come through it?

Mr. McMahon: No.

Comm. Williams: It will, in essence, be a dark wall.

Mr. McMahon: Correct. With that said, I have no more comments. I would like to introduce Doug Yokomizo, who is the VP of Real Estate for Trader Joe's. I'd like him to make a few statements.

Doug Yokomizo, VP of Real Estate for Trader Joe's, appeared before the Planning Commission and made the following comments:

Mr. Yokomizo: I just wanted to say how excited we are to be finally entering the Kansas City market. This region has been one of our most requested areas for many years, and we've been looking for a good site for a long time. We thought we had found something on the Kansas City side, and RED Development let us know about another site here in Leawood. After one look at the site, we said, "Let's do two." The members of the community and staff have been great to work with. I'd like to address the question about the glass. It will be frosted to block the view of the backs of cases. Above 6 ½ feet, it will be clear with light coming through.

Comm. Williams: Is that line corresponding with the window mullions shown on the elevations?

Mr. Yokomizo: I think our architect might be able to better answer that question.

Comm. Roberson: When do you plan on opening?

Mr. Yokomizo: We'd like to open as soon as possible. If everything goes smoothly, we're looking at late spring or early summer.

Comm. Williams: With the frosted glass wall, do you anticipate using the panels as advertising in any way?

Mr. Yokomizo: We do not put signs in the windows or anything like that. Every one of our stores is slightly different because we go into a lot of existing space. We like the look of that center, and we want to make sure we fit in with what's there right now.

*Comm. Heiman joined the meeting.*

Chair Rohlf: I would like to tell you how enthusiastic everyone seems to be about Trader Joe's. I'm glad you are going to enter our market. I do have a couple questions for your architect.

*Comm. Elkins joined the meeting*

Kevin Campbell, Soup Studios, 6320 Brookside Plaza, Ste. 511, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Chair Rohlf: Is it correct that you will not be taking all of this building?

Mr. Campbell: That is correct; there will be an adjacent tenant to the south.

Chair Rohlf: What are these elevations reflecting? Is the South Elevation the existing elevation?

Mr. Campbell: Yes, the South Elevation is what exists. We are showing the loading dock area, where we plan to conceal everything.

Chair Rohlf: So the space that is unoccupied sits next to the South Elevation. Where would the access be for that particular tenant space?

Mr. Campbell: The tenant space jogs back and wraps around the tenant to the south and has access to the loading dock.

Chair Rohlf: Do you have any idea what might be going in there or what you would perhaps want to see there?

Mr. Campbell: We will have a pallet storage rack. If you look at Detail 8 on Sheet A102, you will see the electrical transformer back there in the pallet storage and a dumpster.

Chair Rohlf: How much square footage is left?

Mr. Campbell: Approximately 4,400 square feet.

Chair Rohlf: Do you have any idea what type of tenant you anticipate going in there?

Mr. Campbell: I do not. Jeff might know better than I would, but I would anticipate a small retail user.

Chair Rohlf: I am only asking because I do have some concerns about parking in that area. I don't know how late your stores are open.

Mr. Campbell: The store is open from 8:00 to 10:00 daily, seven days a week. Obviously, we don't know about the future tenant's hours.

Chair Rohlf: Mark, have we looked at the parking impact of that particular area with La Bodega opening up as well?

Mr. Klein: We are aware that parking is critical over there. I might let the applicant speak a little more to that.

Mr. McMahon: I would imagine you are wondering if the other tenant would be another restaurant. Right now, it is not planned to be a restaurant. We understand the parking down there is a challenge because La Bodega is going through their honeymoon period, and that will calm down just a little bit. We are doing a study of the parking at that end of the project. We are looking into providing complimentary valet parking for all the restaurants in the One Nineteen shops. Certainly, that is not in front of this body today, but we fully intend to bring it back when applicable.

Chair Rohlf: Do you anticipate the drive-thru remaining there for an additional tenant?

Mr. McMahon: I believe the approval is only for Dean & DeLuca, so if we use the drive-thru, I believe we need to come back before this body to get a new approval. We don't know who that user will be. If it is someone that utilizes the drive-thru, we will be back; if it is not, we will look at how to modify the side of the building to eliminate it. Right now, we are just leaving it as is until we figure out who will be there.

Chair Rohlf: Is this particular building average size for Trader Joe's?

Mr. McMahon: I believe this is an average size. The one we're doing in Kansas City, Missouri is very similar in size.

Comm. Williams: Mr. Campbell, I'd like to go back to the glass that is supposed to be clear above the 6' line. Could you confirm that? Is that hitting a mullion that changes the pattern in that window wall? You are currently showing an awning over what would potentially be that area, so it is difficult to see what that window wall will look like.

Mr. Campbell: There is a horizontal mullion at that height, so there is a break between the frost and the clear.

Comm. Williams: Is the clear broken up, or is it just a large horizontal band of glass?

Mr. Campbell: It is broken up with the vertical, similar to the frosted glass. It will contextually work as clear versus frosted.

Comm. Williams: From the exterior, to a large extent, that clear glass will be covered over by the awning that you depict in the elevations?

Mr. Campbell: That is correct. We did lower the clear glass where the coolers allowed us to in order to bring more light into the space. The awnings will cover the transom glass.

Comm. Williams: Looking at the North Elevation on the west end, I see most of the glass is shaded with four sections that are not shaded. Would those be clear glass at that point?

Mr. Campbell: Those would be.

Comm. Williams: Is the west side clear glass, also?

Mr. Campbell: Yes, it is.

Comm. Williams: So the only frosted glass we're talking about is on the north side of the building.

Mr. Campbell: The majority is on the north. There is one storefront section on the west that has frosting.

Chair Rohlf: Does the red in the signs match the awnings?

Mr. Campbell: We looked at that with staff and Trader Joe's. We feel the red will complement the red in the awning. We wanted to use what was previously approved with La Bodega for the awning.

Mr. Klein: The jockey red is exactly what La Bodega is using.

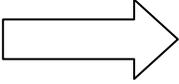
Chair Rohlf: How does it work with the lettering in the signs?

Mr. Klein: Being passed around right now is the awning material, which was approved with La Bodega.

Mr. McMahon: I would like to add that the tenant's national brand on signage is critical. We understood the desire was to limit the number of colors of awnings. The standard red of Trader Joe's was close to that awning, and they were good to keep the change.

Chair Rohlf: Are there other questions for the applicant? This takes us up to additional discussion. Staff recommendations are pretty straightforward, so unless there is anything further, I would ask for a motion.

**A motion to recommend approval of CASE 107-10 – ONE NINETEEN – TRADER JOE'S – Request for approval of a Final Plan, located at the southwest corner of 119<sup>th</sup> Street and Tomahawk Creek Parkway subject to the six staff recommendations – was made by Roberson; seconded by Jackson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.**

 CASE 112-10 – PARK PLACE, BUILDING J AND 5<sup>TH</sup> PLAT – Request for approval of a revised Preliminary Plat, Final Plat, Revised Preliminary Plan and Final Site Plan. **PUBLIC HEARING**

### **Staff Presentation**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission, this is Case 112-10 – Request for approval of a Revised Preliminary Plat, Final Plat, Revised Preliminary Plan and Final Site Plan for Building J, which is located east of the intersection of 116<sup>th</sup> Place and Rosewood Street, just east of the recently completed Building G. Building J is proposed to be a three-story, 54,569 square foot multi-tenant building with ground-level retail uses and second and third-level office uses. The plan meets all the applicable bulk regulations with the exception of the internal lot line setback, which is discussed in the report. The applicant is not requesting a deviation from these setbacks, and staff has learned that there is not a deviation available. Staff is recommending that lot lines be adjusted prior to the Governing Body's consideration of the Plat and Plan to provide adequate setback on the north and east sides of the building.

Rosewood Street, which is a north/south street, was recently constructed from 117<sup>th</sup> Street north through Parking Garage B to its current terminus at its intersection with 116<sup>th</sup> Place. From this intersection, it will continue north to its intersection with 115<sup>th</sup> St, which is an east/west street that will eventually provide access to the residential portions of Park Place to the north and east of Building J. A raised crosswalk is proposed for the north side of the intersection of 116<sup>th</sup> Place and Rosewood Street, which will provide pedestrian access crossing from Building J across Rosewood Street to the north side of 116<sup>th</sup> street. An additional raised crosswalk is proposed to cross 117<sup>th</sup> Street north of Building J to provide future pedestrian access to the residential portions north of the building. A covered pedestrian walkway is proposed to connect the northeast corner of Parking Garage B with the south side of Building J, providing weather protection from the inside of the garage to the elevator lobby in Building J. The plans propose Building J to frame the east end of 116<sup>th</sup> Place at its intersection with Rosewood Street with an outdoor courtyard space, which would contain an art or water feature. Retail storefronts are proposed to occupy the ground level of the west elevation of Building J facing Rosewood Street and portions of the north and south elevations. The streetscape along the west side of Building J along Rosewood Street provides an urban context that matches the streetscape along Ash Street between Buildings A and B, as well as along 116<sup>th</sup> Place along the recently completed building. It would include brick pavers, landscape planters and ornamental street lights. The applicant must submit a future plan for street furniture, as was recently done for Building G. The ground level of the north and east sides of Building J are more suburban in context, as only portions of the north and south elevations will be occupied with retail storefronts. The entire east elevation is occupied by a parking garage, which is proposed to contain thirteen spaces. Access to the garage will be provided through a temporary driveway connecting from 115<sup>th</sup> Street north of Building J, around the east side and

then to the southeast corner, where it would enter the building. Traffic would exit out of the north side of the building to 115<sup>th</sup> Street. A pedestrian Via is proposed to connect the courtyard on the west side of Building J through the parking garage to the east side of Building J, where it will connect to a new sidewalk in the future to provide direct pedestrian access to residential portions of Park Place east of Building J. This Via is proposed to be paved with brick pavers to match those used elsewhere in Park Place.

The elevations are proposed to be constructed of clear glass windows, off-white stucco and brick in four different shades. The Staff Report provides an illustration of the plans originally submitted to staff on October 20<sup>th</sup> versus those before you this evening. The proportion of brick to stucco materials has changed between the two plans. The originally submitted plans contained a greater proportion of brick than the current plans, and staff recommends that the current plans be revised so that the proportion of brick matches that of the originally submitted plans. Staff has concerns with the design of the space with Building J between the building and 115<sup>th</sup> Street, as this space appears to be a leftover open space without a very clear purpose or use. In staff's opinion, this would function as an open grassy lawn and consequently would not have urban context, as is the case with the remainder of the development. Staff recommends that the applicant thoughtfully consider the design of this space so that it is consistent with the urban character of Park Place. Staff is also concerned with the area northwest of the intersection of 116<sup>th</sup> Place and Rosewood Street. The plans do not clearly indicate if the existing sidewalk on the north side of 116<sup>th</sup> Place would be extended eastward to connect with the crosswalks at the intersection. Staff believes the plan should be revised to show that connection. Staff has also had ongoing concerns with regard to the fact that no residential floor area, originally approved with Park Place, has been constructed. Original Preliminary Plan approval in 2003 required that at least 20% of the floor area of the first phase of the development be residential. All of the commercial floor area in that phase, as well as a portion of the commercial floor area in Phase Two, which we are now in, has been constructed, and the developer has moved forward with the proposed plan, which is a commercial building.

Staff is supportive of the building location and the orientation of the building, as well as the fact that the building is designed for ground-level retail uses along the entire west elevation. Staff also finds that the courtyard and the proposed water or art feature can be designed to provide an attractive visual termination for the east end of 116<sup>th</sup> Place, particularly once the specific art and water feature is selected and following the construction of the future building at the northwest corner of 116<sup>th</sup> Place and Rosewood Street. Staff is recommending approval of Case 112-10, subject to the stipulations in the report and would be happy to answer any questions.

Comm. Pateidl: The original plans for Building J were submitted on October 20<sup>th</sup>, and you've now got revised plan. When did you receive them?

Mr. Rexwinkle: November 11<sup>th</sup>.

Comm. Pateidl: Have you had any opportunity to discuss the changes with the applicant?

Mr. Rexwinkle: We have not had a meeting since November 11<sup>th</sup>.

Comm. Jackson: Was the parking just one level?

Mr. Rexwinkle: The internal parking garage is thirteen spaces on the ground level only.

Comm. Jackson: Is that supposed to be for the office space?

Mr. Rexwinkle: I believe so.

Comm. Jackson: Isn't there also supposed to be a connection from the garage just built to that building?

Mr. Rexwinkle: I believe the intent is for that to be additional parking for tenants in the new building.

Comm. Jackson: Without the residential being built, is there anything in our code that says they can't have the density that they have in there?

Mr. Rexwinkle: The only thing our code says is that, in this MX-D District, 20% of the floor area built has to be residential; it doesn't say anything about timing. The original stipulation that I referred to in the report was a stipulation required by the Planning Commission and City Council in addition to what the LDO requires. There was a stipulation that really had to do with timing. They wanted to see a portion of the residential constructed with the first phase of the commercial. The LDO itself does not specify when the residential needs to be built.

Comm. Jackson: Obviously it hasn't been built and won't be built soon. Do we need to explicitly put that into the new stipulations if it doesn't need to be there?

Mr. Rexwinkle: This is a Revised Preliminary Site Plan, so all of the original stipulations from the original plan can be restated or omitted at this time. We are raising the issue with this request because now would be the opportunity for the Commission to discuss with the applicant when he plans on moving forward with residential development and if the 20% stipulation is practical or appropriate now. That stipulation was originally approved in 2003, and as we know, a lot has changed since then.

Comm. Ramsey: If, due to market conditions, they cannot go forward with the 20% now or at any time in the near future, does that mean that they are now in the wrong zoning area?

Mr. Rexwinkle: The original development was approved for somewhere over 1.2 million square feet. At the time they are built out, whenever that occurs, as long as 20% of the 1.2 million square feet is residential, they're complying with the zoning.

Comm. Ramsey: What if they never meet it?

Mr. Rexwinkle: They would have to rezone the property. The LDO itself doesn't specify timing of when that proportion gets built, but the stipulation that was originally approved did. The original Preliminary Plan tied to that stipulation showed the residential floor area as close to half of the total floor area, making it about the same as the commercial. As long as that plan stays in effect, the plan is compliant with the zoning ordinance. We bring it up now because it is a Preliminary Site Plan and we're getting toward the end of all the commercial buildings, so we just wanted to raise the issue so that the Commission is aware that, while we've constructed a lot of the commercial space, we haven't done any of the residential. It might be a good time to discuss changes.

Comm. Ramsey: Have they discussed residential with you at all?

Mr. Rexwinkle: Yes, and I think they're happy to discuss it this evening from their perspective.

Comm. Ramsey: What is the reason for the change in the amount of brick?

Mr. Rexwinkle: I don't know. There are other things that changed with the building, but this is the one change that staff is concerned with.

Comm. Williams: I'd like to go back to the comment about the green space to the north, roughly to the southeast of Building R2.

Mr. Rexwinkle: We're referring to the space immediately north of this building, just southeast of what would be 115<sup>th</sup> Street and Rosewood, directly north of this building.

Comm. Williams: When this plan was originally presented, that space was in there, as I recall. What has changed now from staff's perspective with wanting to see that space different?

Mr. Rexwinkle: The original Preliminary Site Plan approved in 2003 and the last Master Plan approved with Building G did not show that space. The street layout was different. This building was farther south on the site, and as a result, 115<sup>th</sup> Street continued on a southeast trajectory instead of curving due east like it's proposed to now. That space, as it is shown on the plan tonight, was not quite the same. Our concern is that this is the first open space we've seen in the development that doesn't have a clear purpose. The character is a bit more suburban, and there is nothing wrong with that; it is just inconsistent with what has been done so far, and we wanted to point that out.

Comm. Williams: Wouldn't that development take place with the future development of the residential tower?

Mr. Rexwinkle: We are pointing it out because they're proposing to build 115<sup>th</sup> Street with this building, so the street and buildings will get built with a space between the two that might be an odd shape or a difficult site to develop in the future. It is not proposed to be developed in the future with this Master Plan, so it would remain an open space.

Comm. Williams: Is it then south of 115<sup>th</sup> Street?

Mr. Rexwinkle: Yes.

Comm. Williams: Your comments make a whole lot more sense to me about the need to develop this to be more in keeping with the urban environment of both this building and the adjacent commercial development.

Mr. Rexwinkle: One of the changes we reference between the original plan and this one is the plan that staff received on October 20<sup>th</sup> showed a patio for a potential restaurant space. We had no problems with that, but when it was resubmitted, it was shown as a grassy area. We just want to know how it will be used.

Comm. Roberson: Can you point out the space?

Mr. Rexwinkle: *(Refers to plan and goes over locations)*

Comm. Williams: Looking at one of their Site Plans, it would appear that, based on the grades they illustrate, they may have a fairly steep slope.

Mr. Rexwinkle: There is a slope there.

Comm. Williams: But there is no landscape plan for that area?

Mr. Rexwinkle: Correct.

Chair Rohlf: While we have that plan up there, Mr. Ley, could you help me with your comment about the future road on the east side of Lot 18?

Mr. Ley: *(Refers to plan)* They are showing a proposed access road right here, and on the previous plan, it used to be more of an access for the trucks to supply the buildings in this area. That was going to be a right

turn only. They are looking at converting that to a two-way roadway with a right-in, right-out. The concern is the turn lane going over into Town Center. That's why we stipulated that it needed to be shifted over where they can construct an island down 117<sup>th</sup> Street to create a right-in, right-out or just eliminate that access.

Chair Rohlf: Currently, where does 115<sup>th</sup> Street stop? Does it dead end now?

Mr. Rexwinkle: It ends somewhere behind the future Axis Lofts building, I believe. The applicant could probably answer better, but I think it extends near the northwest corner of the proposed building and then ends in terms of an actual street.

### **Applicant Presentation**

Jeffery Alpert, Park Place Village, LLC, appeared before the Planning Commission and made the following comments:

Mr. Alpert: I appreciate the opportunity to present and hopefully receive approval for the latest building at Park Place. This is Building J. As you can see, it's a three-story building that will be located at the east end of 116<sup>th</sup> Place as a visual termination to 116<sup>th</sup> Place. Ground floor will be primarily retail space with parking behind. The upper two levels will be office space. The building is being built specifically to accommodate an office tenant. This will be the national headquarters of an international financial services firm who, we think, would be a great addition to the city of Leawood. We're very excited to have the opportunity to create a new home for them in Park Place. I'd like to introduce our consultants who have been working on this. First is Judd Claussen with PEI, our civil engineer, who will walk you through the site and circulation, addressing civil-related issues. Then Gary Schuberth, our architect of record with Opus A&E Group, will discuss the architecture of the building. We also have Chris Dring here with Young & Dring Landscape Architecture. Chris has been our landscape architect throughout the development of Park Place. I'll come back and discuss specifically some of the issues that you have started to discuss with respect to some stipulations. I think we can allay most of your concerns with regard to some of staff's concerns.

Judd Claussen, Phelps Engineering, 1270 North Winchester, Olathe, KS, appeared before the Planning Commission and made the following comments:

Mr. Claussen: (*Places Master Site Plan on the overhead*) I am the civil engineer for the project. First, I just wanted to go back to the Master Site Plan. This is in your packets. The highlighted building is Building J, and that is the one we're talking about. It sits at the end of 116<sup>th</sup> Place; it is the east/west street that was constructed in the initial phase, and we completed Building G on the south side. It sits right at the end of that street. One of the questions asked was where the street connects to the northwest of the new building. That wraps around and ties in to that street. There is a temporary parking lot in that location. Some of that parking lot will be removed as part of this project, and the road is reconnected. We can get into that in just a little bit. That is the location of the project.

(*Site Plan placed on the overhead*) Starting at the west end of the building, it is centered on that intersection at 116<sup>th</sup> Place and Rosewood Street. That is all in and constructed. You can see Building G at the lower left corner of that intersection. You see the crosswalks there off G. There are two of them that go to the east to Building J. Those are built and just recently constructed, as well as the crosswalk that goes north. A new crosswalk on the north leg of that T intersection will be constructed, completing all three legs of that intersection. Staff asked about what happens at the northwest corner of that. We plan to construct sidewalk between there and build a connection back down to that temporary parking lot that is at the northwest corner of that intersection that you can see on your plan. This building sits back off the curb line 20 feet, just exactly the same as the other buildings out there. The streetscape is the very same feel. You've got the raised-curb islands with trees, the brick paver pattern and carpet patterning for the pavers that is all continued with this project on that west side. You've got your storefront retail along that west façade on the first floor on both the north and the south sides of the first floor plan, which is what you see in

the Site Plan. In the middle is a Via that is open, similar to the other Vias in the Aubrey Building, the Becker Building and the recently completed Building G. That Via is a pedestrian walk-thru that will connect to the east in the future. At the north end, we're constructing the north leg of the street at 115<sup>th</sup> Terrace and stopping that at the northeast corner of the building. In the future, we'll be constructing a similar roundabout to what we have right now in front of California Pizza Kitchen / Aloft Hotel area right by the skating rink. That will be a future roundabout with the north leg going up to Town Center Drive and the south leg curving off to the southeast to the future residential. Going back to the Master Plan, you can see the roundabout in that drawing with a connection to the northeast that goes to Town Center and the southeast connection that goes off to the future residential. In the interim, we will build a temporary drive that will connect to the southeast corner of the building. It is a one-way drive for the reserved parking spaces that are on the east portion of the first floor plan. Along the south side of the building is a streetscape as well. It is all pavers, and it has a covered trellis above the walkway. That trellis will tie into the garage, which is located in the lower left corner of the Site Plan here. This will actually have a covered walkway from the parking garage along that south side of this new Building J and into the interior part of Building J.

*(Landscape Plan placed on the overhead)* This is a simple rendition of the Landscape Plan, but you can get an idea of what will be green under this phase. We are repeating the tree pattern that started with Building G on the left side. The trees are out front with the islands. We do have plans for that future green area that was discussed. I'll let Gary get into more detail about that. That is something I think you'll see coming forward with a tenant finish of that north retail space. You can see the temporary service road that loops off to the east side that loops around to the southeast corner. Then you'll see the paver sidewalk on the south side.

*(Streetscape placed on the overhead)* Again, this is very similar to what you just saw. The grey areas are the pavers, which are consistent with what we've built out there before. Pavers go through the Via area, similar to A and B, with an opening at the east end of that building for the future pedestrian connection that goes off to the east.

Gary Schuberth, Opus A&E Group, 460 Nichols Road, Suite 300, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Schuberth: *(Aerial views placed on the overhead throughout the presentation)* This shows some of the other buildings as they would be built out. The building is designed with a courtyard feature – a notch taken out of that west façade at the center of the building that, as Judd mentioned, centers on the road. The courtyard will have either a water or art feature as a focal point as a terminus up the road heading west into the building. The first floor with dark areas shown in glass will have designed retail storefronts when the retailers come into the leases. The second floor above the retail on the west façade is a balcony that continues across the front of the building on both the left and right sides of the courtyard with a standing-seam metal awning covering it. Coming around the building, looking at the southeast, is the covered trellis that connects from the east on the south side of the building, leading up to the parking garage. This would provide overhead cover leading into the south side of the building under the parking area. You go from the large parking garage down the south façade toward the east and into the covered parking area of the building over to the building lobby. The east view shows the Via entryway at the center of the building at the first floor and the covered trellis on the left side. An aerial view shows the future build-out of the Via walkway. It shows the one-way drive at the left side, going into the parking. The north façade shows where the cars exit the parking garage. The right side shows the second-floor balcony over the retail and the sidewalk that leads on the west façade from the north.

I'd like to describe the materials on the building. We have four different colors of brick with pre-cast stone, combined with stucco. I changed some of the materials because I wanted to go with some lighter colors. The stucco is above the 25%, and I'll show a chart that gets us back in-line with the desired quantities of materials.

The right side shows the museum walkway. There is a retail lease on the west side, one on the north and one on the south. An elevator lobby goes up to the two office floors. Stipulation No. 9 asked

about the height of the mechanical screen roof and parapet. At the corners of the building, the parapet would be 1 foot above the actual roof, and we have a 4-foot parapet and then 8-foot, 10-foot and 12-foot at the rooftop mechanical units at the highest point. Our intent is that the top of that mechanical screen parapet would match the top of the rooftop equipment. We haven't specified the exact equipment yet.

Mr. Claussen: (*Referring to Stipulation #10 overhead*) This exhibit is for the northwest corner of the intersection. Stipulation No. 10 asked to build the sidewalk connection. At the north leg, we are building a new crosswalk. The west leg already has one. We will put in some sidewalk in that quadrant of the intersection, and then we'll have some steps down. That temporary parking lot sits lower in grade, so we'll make a connection back down to that temporary parking lot. It all matches up for the interim. Keep in mind that the temporary parking lot is meant to be temporary. Future building F2 on the Master Plan is scheduled to go there.

Mr. Schubert: Regarding the north side of the building, we had originally shown a patio there. The intent for that north retail tenant would be a restaurant with a patio. We decided not to show it since it could be specific to that tenant, which we don't have right now. This would be the intent of what we would do if a tenant were there (*Plan placed on the overhead*) This shows a plan view and a cross section. The left side is the street with a low wall. Then the grade would slope up to that patio. We would have railings in some areas where the drop would require them. That would be one option for a tenant patio. If we didn't have a tenant that wanted the patio, we would propose more of a public patio feature that could be accessed by a ramp from the public sidewalk or from the steps on either side, trying to bring some streetscape and public interaction closer to the street.

With regard to the materials, we have recalculated and called out the cast stone at the lower portions of the building. We have stucco at the upper parapet cap and rooftop screens. Below the third-floor window line would be masonry material. We are now at 21% for stucco material, keeping us below the 25% maximum. We'll take questions now.

Chair Rohlf: Mr. Alpert, you wanted to finish the presentation?

Mr. Alpert: Yes, I just want to reiterate the stipulations I felt needed further discussion, which are Nos. 10, 11, 12 and 13. Other than those four, we certainly agree and accept all the stipulations included in the Staff Report. To whatever extent we need to make you comfortable, we want to do that with each of these and have whatever discussion you feel is appropriate.

Chair Rohlf: Before we touch on the residential situation, I would like to point out that I thought the chart showing material percentages was helpful. Does staff feel that it brings it back to what we viewed previously?

Mr. Rexwinkle: The comment had more to do with specific elements being brick.

Chair Rohlf: Could we go back to the presentation with the Architecture that shows the building elevations?

Mr. Rexwinkle: We would be happy to take a look at them. It looks like they have revised the elevations and elements that are addressing some of our comments, including proportion of building materials.

Chair Rohlf: Can you show me where your areas of concern are?

Mr. Rexwinkle: (*Referring to overhead*) On the North Elevation, the horizontal elements below the window had been cast stone, had changed to stucco in the proposed plan and now look to be back to cast stone.

Mr. Coleman: Is this a new drawing that we have not seen before?

Mr. Alpert: Yes.

Mr. Coleman: So they are presenting a new design.

Chair Rohlf: Yes, and in the Staff Report, staff had asked that anything like this be done prior to Governing Body's consideration. I just wanted to see if we were closer.

Mr. Rexwinkle: Because of the time frame within which we work, it is very difficult to allow the applicant more time to revise plans after a resubmitted plan. That is why the stipulations are written to include, "Prior to Governing Body." We see several things in their presentation that appear to change the plans. If those are presented to us tomorrow or early next week, we should have ample opportunity to review them. It looks like they are much closer to satisfying our concerns.

Comm. Ramsey: How will this building look, compared to the other brick buildings within Park Place? Will it be substantially different?

Mr. Rexwinkle: In terms of building materials, each building has different materials. Building G had several more types of materials. We don't have a problem with the number of materials on the building; we just had an issue with the change from the original submittal and the revised submittal.

Comm. Ramsey: So it's not that it won't blend in or look appropriate to the site; what is being discussed here is what was originally submitted, versus what they came in with now.

Mr. Rexwinkle: Correct.

Chair Rohlf: Questions for anyone representing the applicant?

Comm. Ramsey: Jeff, would you address the 20% residential issue, please?

Mr. Alpert: I'd be happy to. When we originally obtained our zoning, one of the stipulations was that we would build 20% of the square footage as residential. During the course of the period subsequent to achieving that zoning, we actually brought two different residential buildings before the Planning Commission and received approval for both. One was the Meridian, which were five-story and eight-story towers that were connected. The second was the Axis Lofts, which was a 26-unit, four-story building. Somewhere around 2007 when we were under construction with the first phase of Park Place, we were working toward getting the residential going, and the bottom fell out of the residential market. We actually had to abandon the first building we had approved, but we still have the plans done and ready to go for the Axis Lofts. From talking to staff, my general understanding is there is concern that the commercial portion of the development will encroach on the residential portion to the extent that the residential portion may go away. I can assure you that we have every intent of having residential development of a volume consistent with our original zoning at Park Place. We think that residential is a critical component of what we're trying to do, and we want it on the project. The reality is that the market is not there, nor is the financing. Staff offered a couple alternatives to address the situation because we do understand that we are in violation of the stipulation since we have built more commercial than we should have before we built that 20% residential. Of the two alternatives, the first would require us to build the 20% before bringing another commercial building to the site. That would shut the project down. Park Place is one of the most active developments in the entire metropolitan area right now. We do have commercial opportunities that continue to present themselves, just like this tenant who is driving the development of Building J. We don't want to see ourselves in a position in which we lose momentum, particularly in the current economic environment. We would like to request the consideration of the second alternative, in which we would present a phasing

plan or give an updated version of how we see the residential developing out, with the understanding that we have no intention of reducing the number of units or changing the actual land uses as shown on our Master Plan. We hope you understand where we are in terms of the economic climate.

Chair Rohlf: You believe you will retain the basic overall plan of the residential; we will not see a shift in the type of residential buildings?

Mr. Alpert: We are committed to residential. By its nature, we are looking at high-density residential. In order to get 350 units on the ground that we have designated, it will be medium – high density. We continue to monitor the market for new product types that might be appropriate.

Chair Rohlf: What is left in commercial? I know it has Building K and the area to the north. Mark, I know we were charting commercial usage and borrowing from one building to another. How do we stand on that?

Mr. Klein: We are still maintaining the total square footage of the project. They have shifted from one area of commercial to the other with each phase.

Chair Rohlf: If they build out the commercial as originally shown on our plans, everything should be fine.

Mr. Klein: That is correct. They have a Master Plan that is built and the commercial they are constructing. At some point, if they begin to eat into the residential, you would see that at that time. Someone asked about violating zoning. Again, you would see that when they came forward with that plan. As each project comes forward, you will have the opportunity to see what they are doing. They are trying to be up-front about what they are doing at this point. Regarding the residential, Mr. Alpert indicated difficulty with that, given the current market conditions. The other option is to show a phasing plan with the next application.

Chair Rohlf: When would we see this? Building K is left?

Mr. Alpert: Building K sits directly south of Building J, and it is a commercial site. Then directly west of Building J is what we call F2, which is the continuation of the already constructed Building F. On the northwest corner of the site would be our second hotel site with a seven-story, 230,000 square foot office building with a third parking structure that would serve the hotel and that office building. As an aside, in the latest hotel performance reports for our market, the Aloft Hotel was the highest performing hotel in its category of any hotel in Johnson County. We continue to see large signature tenants in the market who could be potential candidates for our seven-story office building, including someone looking for corporate headquarters with a high-profile identity, much like all the office that we have been able to attract to Park Place. They continue to see the value we have created with an environment that is not isolated. This has put us ahead of every other project in the metropolitan area.

Chair Rohlf: It has been a very exciting development, but sometimes, these potential tenants come in rather quickly. If we stipulate to the second alternative with No. 12, would you be in a position to offer that residential plan?

Mr. Alpert: We can lay out a proposal for how that residential might look. To be perfectly candid, I'm not sure it would be much different from what we already have. A lot of the buildings you see, particularly on the east portion of the site, are really designed as placeholders. The design and research that need to go into the development of a building like this have not been done yet. We probably have close to \$2 million in pre-development costs already expended for residential development on this site with nothing to show for it. We're very sensitive to being sure we have a very strong likelihood of getting a building going before we go through the process of design, marketing and financing.

Comm. Ramsey: Jeff, you're the market expert here. This is what you do for a business. Surely, you can come back with an analysis of time phasing, based on the best information you have to-date, to give us some indication of what that 20% is. Otherwise, it's nothing more than a lick and a promise.

Mr. Alpert: We'll use our best efforts to get you this information. In 2007, I would not have been able to predict that the bottom would drop out of the condominium market.

Comm. Ramsey: I understand, and I'm not expecting you to come back in with dates by which the residential will be built. What I think will be very helpful is to have an analysis of what your best take is on the market, where we're going and how you see the development building out.

Mr. Alpert: We'll be happy to do our best to provide something you can all be comfortable with.

Chair Rohlf: That's all you can do. I would ask staff if there is a downside to adopting that particular stipulation. Would you tell me again what we would be doing?

Mr. Klein: Currently, Stipulation No. 12 provides two options. One is that the next building you would see would be residential, and it would be 20% of the first phase. The second option is to require a phasing plan as far as the remainder of the development and the estimated timing of what will happen. If that changed, he would be back before you.

Mr. Alpert: The best I can do for all of you is to reassure you that the land areas designated for residential will be residential at some point in the future. The configurations or unit types may be different, but we intend to build the residential.

Chair Rohlf: What is the status of the Phase One Residential Plan? Would they have to resubmit that?

Mr. Klein: They had the Meridian, which was the tower element just before the market went south. My understanding is the developer has abandoned that plan. They then came in and got the Axis Lofts approved with just under 40,000 square feet. That plan is still valid.

Comm. Roberson: I empathize with you, and from a banking standpoint, I fully understand what you are saying. I think this Planning Commission would not approve any additional commercial buildings located in residential lots. I would like to point out that the residential component of 133<sup>rd</sup> and Roe has been foreclosed upon and that the residential component in the Villaggio has not been built and is incurring significant financial difficulty. Similarly, another development south on Kenneth Road is stalled. I fully support the delay in this because the last thing you want to do is build a residential component and have it sit empty.

Mr. Alpert: What has changed between when those projects were built and today is that there is likely not a financial institution that would loan money on them today.

Comm. Roberson: I would agree with that.

Mr. Alpert: That is why we see nothing coming out of the ground.

Comm. Jackson: Mr. Alpert, what was the size and cost of those condos that were originally planned?

Mr. Alpert: The first building we designed was the Meridian with pour-in-place, very expensive construction. It had 51 units ranging in size from 1,400 square feet to 2,800 square feet. It had underground parking and outdoor spaces. We had reservations, but we would have had to sell the units for \$550 - \$600 a square foot

to barely make enough money to justify construction. The Axis Lofts building was designed specifically as a four-story building because keeping the building that height allowed us to build out of wood, allowing us to be more competitive with other residential developments. Even at that point, the market wasn't there.

Comm. Jackson: Is it your assumption that the luxury high-end condos will be able to be built in the future, or do you think you will have to go to some lower-quality units?

Mr. Alpert: I would like to think there is still a market for a luxury unit. We're not seeing it today. The development that was foreclosed is still not selling, even at probably 40 cents on the dollar. We have to look at what's out there. The indications we need that things are turning around are when existing inventory is being absorbed at prices that are consistent with what we would have to charge to get our product going.

Comm. Jackson: Is there a market for lower-end housing?

Mr. Alpert: The only active residential market segment is apartments, which are pretty strong. We're looking at those, but there are issues with our zoning. Right now, our zoning will only allow 25% of our units to be less than 1,000 square feet with a minimum of 750 square feet. That is a part of the MX-D zoning ordinance. To do an apartment development at Park Place, you would have to somehow either grant us a deviation or amend the ordinance in order to allow apartments. I think we could do a luxury apartment project, which is in short supply, and do something terrific.

Comm. Jackson: I would be receptive to looking at something like that if we could make a deviation. I think it would be beneficial to Leawood. I'd like to make a couple comments on the actual building. You have the breezeway and walkway right through your parking garage there. The way the parking garages have come out has not been exciting to any of us. I'd prefer to see that underground with a breezeway not walking through a parking garage. Would that be possible?

Mr. Alpert: We have designed some features into that with walls that would screen the parked cars. I don't know that we can really do much. There is an angled parking portion and then the drive lane to get through. Obviously we can't separate that drive lane as it has to be accessible. We've looked at short walls that would enhance the pedestrian experience throughout. It's not a lot different from the Vias we have now.

Comm. Jackson: Did you look at putting that underground?

Mr. Alpert: It becomes a cost issue. A surface parking space probably runs about \$3,500. A structured parking space runs probably \$15,000 - \$16,000. An underground space runs somewhere in the neighborhood of \$25,000 - \$30,000. It becomes prohibitive in the context of creating an economically viable building. When you look at underground parking, much of it has been done with TIF, such as West Edge and Power and Light. We don't have the benefit of that. Without some kind of public subsidies, we can't afford to build underground parking of any significance.

Comm. Jackson: The tenant won't walk from the garage to that space?

Mr. Alpert: It was really a combined thing. It was an amenity for the office tenants to allow some of their executives access to parking under the building. The buildings we previously built - Aubrey, Becker and Gibson - are very narrow, while Building J is much deeper and more rectangular. That was done specifically to provide the footprint and floor area this tenant requires. It is not as compatible for retail. Part of the reason our buildings are so narrow is that it is more consistent with what retail requires, which is more storefront and less depth. In designing this building, we created retail spaces that had that similar depth to what we've provided in other parts of the development and then utilized that space in the back portion for this parking amenity.

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

## **PUBLIC HEARING**

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

Chair Rohlf: This takes us to questions and discussion. We do need to resolve the issue of Stipulation No. 12. It appears that the second option is the best for everyone. The presentation on Stipulation Nos. 10, 11 and 13 will give staff an opportunity to look at those before the Governing Body hears the plan to ensure they are satisfied with the changes, particularly on No. 13 with the materials issue. If we have other discussion points, please bring them up. If not, I would ask for a motion.

A motion to recommend approval of CASE 112-10 – PARK PLACE, BUILDING J AND 5<sup>TH</sup> PLAT – Request for approval of a Revised Preliminary Plat, Final Plat, Revised Preliminary Site Plan and Final Site Plan, located east of the intersection of 116<sup>th</sup> Place and Rosewood Street, with all 28 staff stipulations, including the second option on No. 12 – was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Williams, Elkins, Heiman and Ramsey.

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

## **PUBLIC HEARING**

### **Staff Presentation**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 56-06 – Leawood Development Ordinance Amendment to 16-2-5.3 in the R-1 (planned single-family, low-density residential) District. This is a subject the Planning Commission and staff have worked on since 2004. It was divided into two sections, including residential. It went before the Planning Commission and then on to City Council. Planning Commission recommended it for approval, and then City Council decided they would like to see the massing component go along with it concurrently. The proposed ordinance will only apply to tear-downs and rebuilds or remodels within the R-1 and RP-1 Districts and will not apply to lots that have not been constructed upon. The proposed amendment will consist of two components and will create a building envelope in which tear-downs or rebuilds of remodeled homes can be constructed. The residential height component restricts height of tear-downs, rebuilds and remodels based on the adjacent homes. This is being done to ensure the tear-downs, rebuilds and remodels will fit with the overall size and character of the neighborhood. The limitation on residential height will comprise the top of the building envelope we're trying to construct. The second major component is the residential massing, which restricts overall above-ground building area and placement of the house on the lot. This is to ensure the size of the tear-down, rebuild or remodel is in proportion with the size of the lot and that the placement of the lot has no adverse impact on the adjacent homes. The limitation of residential massing will comprise the size of the building envelope in which we are trying to construct for a limitation of overall building area that can be constructed within that lot.

I'll cover residential height first. Currently, the ordinance only limits residential height to 35 feet within both the R-1 and the RP-1 Districts. It does not specify from where the height is measured. Originally, this was brought forward partially because of the ambiguity of that measurement source. The proposed limit is 35 feet as measured at grade at the front door, which is consistent with other LDO

amendments we have made to other residential districts that have been approved by both the Planning Commission and City Council. That is consistent with what we've done within other residential districts. The height will be determined by two cases in which the tear-down and rebuild will be constructed. One is if the rebuild or remodeled dwelling is situated between two two-story dwellings, and the height of the building can be no taller than the taller of the two-story dwellings on either side. A two-story dwelling is defined as anything that has living area above the main floor on which the main entrance is located. Therefore, a 1 1/2-story house would also be considered a two-story house by this definition. This also addresses a limitation at the minimum side yard setback, which is 15 feet in the R-1 District. At the minimum setback, the vertical wall at that point can be no more than 15 feet in height. From that point, for every foot from the side yard setback, an additional 1' in height is allowed, creating a 45-degree building envelope, up to a maximum of the higher of the two adjacent buildings.

The second situation is a building constructed between anything other than two two-story houses on either side. The height limitation of the vertical wall at the minimum required side yard setback of 15 feet within the R-1 District is no higher than 15 feet. For every foot away from the side yard, an additional foot in height is allowed. The difference between this and the previous example is a height limitation of a maximum of 30 feet with the second example.

A few regulations accompany this. In the case of a rebuilt or remodeled dwelling, it may be built to the height of the dwelling existing prior to demolition. The side yard setback and building envelope limitations would still apply. An increase in height of 1 foot for every 1 foot in side yard setback is provided above the minimum side yard setback required up to a maximum of 3 feet. This does allow some flexibility as long as the house steps away from the minimum side yard setbacks. The Board of Zoning Appeals may also grant an exception for an additional 2 feet in height, which would not be available if additional height was already obtained due to stepping back from the setback line.

The second major component to this is the residential massing. Currently, there is no regulation within any residential districts with regard to massing. Staff has tried to create something with flexibility and has come up with three components to residential massing. The first is a formula that limits actual square footage allowed on a lot. The formula would be a citywide average of the F.A.R., which came out to .23, multiplied by the base lot area of that zoning district, which is 15,000 square feet in the R-1 District and 12,000 square feet in the RP-1 District. This would create the base. Then we have three adjustment factors. The first is lot width divided by base lot width. This allows additional floor area to be constructed if the lot is wider than what is required by the LDO. Currently, the LDO has a minimum frontage of 100 feet, and we are proposing to add a category for lot width of 100 feet. The difference between the two is that lot frontage is measured at the right-of-way line at the street, and lot width is measured at the building setback. In situations with cul-de-sac lots, the measurement would be where the building setback is. The base lot width is 150 feet within the R-1 District because a 15,000 square foot lot is the minimum requirement within the R-1 District. The second adjustment factor is lot depth to base lot depth. Again, this attempts to allow for more square footage if the lot is deeper than 150 feet, but it also penalizes if it is shorter than that. The base lot depth is taken at 150 feet, due to the multiplication of the lot width by lot depth equaling 15,000 square feet. We are also proposing a garage allowance at 450 square feet because the LDO requires a minimum of two enclosed garage spaces with single-family homes, and that comes out to 450 square feet. Anything additional would count against the overall square footage.

Another component of massing is the placement of the house on the property. We are attempting to discourage a house to be constructed behind another house. In order to do this, we have the requirement that the house can be built no further back than the midpoint of the two adjacent houses. The last component is an adjustable rear yard setback, which intends to increase the rear yard setback as the lot gets deeper. This is to prevent someone from building a single-story house that expands out the back and cuts off views of the adjacent lots. These are the components of the height and massing. Staff would be happy to answer any questions.

Chair Rohlf: Before I turn it over for questions, I want to express my appreciation to staff for the years of hard work that have gone into the revisions. I think we have come up with something that is very helpful. Questions for staff?

Comm. Elkins: I note that we specifically call out in both memoranda that these regulations are intended to apply to lots that have never been constructed upon, limiting the impact to tear-downs and rebuilds. Can staff address the justification for drawing the distinction between a circumstance with two existing houses with a vacant lot between them and a situation in which three existing houses are built and the one between is torn down in order to be rebuilt?

Mr. Klein: We're writing an ordinance that would apply citywide, covering a wide range of situations. It was difficult to arrange a situation targeting the situation you mentioned. The thought is that the homes on each side will be impacted by construction of the house on the center lot; therefore, the current regulations would restrict that house a bit more and lessen the impact. The other reason is we did not want to curtail houses that are constructed in a brand new subdivision. The houses in these would not have as much impact since the whole subdivision would be constructed at the same time, and the buyer would have some idea of the types of houses being constructed.

Comm. Elkins: Because I have to depart, I would like to ask for leeway in commenting during the questioning period. I struggle with this distinction because it seems to me that what justifies the regulation we are proposing is a recognition that the owners of an existing structure have an expressed right of enjoyment of their property as it is built and a reasonable expectation that the aesthetic from all angles will not be unduly disturbed. It is difficult for me to distinguish between the circumstances. I concede that the greatest need is during a tear-down and rebuild, but I see an equal interest in recognizing the expectation of existing homeowners in a situation with a lot that has not been built yet. Having said that, I am still reluctantly supporting the proposal because I think it achieves all that we have been trying to do as long as I have been on the Commission. My concerns should not be construed as criticism of the work staff has done; I just feel, from a policy perspective, we should be protecting and recognizing expectations of owners in new construction. I expect I will need to excuse myself before we vote, and I want the record to reflect that this does not suggest disapproval of any sort.

Chair Rohlf: Mr. Coleman, your memo about the meeting with Mr. Colt is not clear to me on how it fits in.

Mr. Coleman: Mr. Colt is here, and one of the main concerns he had about the ordinance was the side yard setback that goes back one-for-one at a 45-degree angle. He thought that was overly restrictive. We discussed it, and we are willing to compromise. We looked at some of his plans he has built in North Leawood. The ordinance is such that not every house plan will fit within the envelope. We were fine with increasing that side yard height up to 20 feet, but no more than that. I have an illustration to explain the impact on one of the existing houses that was built up there (*Places diagram on the overhead*). The black line is the 45-degree angle. You can see the roofline that encroaches into the angle. Otherwise, the house fits within the envelope. We did go and look at the plans. For example, this house would have to be modified by moving this roofline back. It happens that the second-story of this plan is attic space, so it wouldn't actually affect the floor plan. It could be moved back and not affect the overall plan of the house. That is one way the plans could be modified to fit in to the ordinance. The red line is the additional 5 feet so it wouldn't have to be moved back quite as far. We are fine with going that far, but anything farther would negate the idea of pushing the envelope of the house toward the center of the lot. As the ordinance shows, the smaller the lot, the more restrictive it gets.

Chair Rohlf: So that will be incorporated into the ordinance?

Mr. Coleman: It will be if you so choose. It is not in the ordinance currently.

Comm. Williams: We have discussed this several times in the past. This goes along with some of the comments you just made. Willingness to increase the side yard to a 20-foot height is a step in the right direction for what could be a house sitting between two single-stories or a single-story and a two-story. I say that because what is very common in the older section of Leawood is a ranch house with gabled roofs. From our previous discussions, the wall height has been defined as including the gable roof. The illustration a moment ago showed a gabled roof on the side yard. It increases, but at the same token, it is a gable that is proportionally reducing in size as it goes up. That reduction is a factor of the roof slope. If we stayed with the 15-foot dimension on that ranch house, it would limit the gable. A ranch could not comply with the 15 feet because the floor line is typically 1 ½ feet out of the ground and the floor construction is typically 12 inches with another 8 feet on for the ceiling. Then you've got ceiling structure and a roof. A hip roof would not be an issue, but then we are dictating that all roofs on these side yards become hip roofs, which is not necessarily the style that is consistent with the old areas of Leawood. I would concur with the idea of increasing that to 20 feet. I have a little problem with the scenario with two two-story houses on either side of a lot. Again, you've got 16 feet before you even start trying to incorporate any roof design, floor structure, grade considerations. If you've got those existing conditions and then tell the new owner that he cannot build up to a standard wall height comparable to the neighbors', I feel that is unfair. If I understood your comment, you said a rebuild may be build to the height of the previous dwelling, but you commented that the side yard wall height would still apply. That is penalizing this new house if it is a full two-story house because they could not go back and rebuild the house they had.

Mr. Coleman: It has a provision that you can rebuild the same house.

Comm. Williams: But that's not in here. Mark's comment was that the side yard wall would still apply.

Mr. Klein: That is if it is torn down. If it is destroyed by fire, you could rebuild.

Comm. Williams: But that is not in here. When we're all gone and somebody comes in with a house plan to replace a demolished structure, it will not be clear that they can rebuild the same house they had before.

Chair Rohlf: That is not in #2 in 5?

Ms. Shearer: Actually, under E(2), "Rebuilt or Remodeled Dwelling Height Limit Modified: In all cases, however, a rebuilt or remodeled dwelling may be built to the height of the previous dwelling existing prior to the demolition."

Comm. Williams: What Mark said was that the 15-foot side wall height limitation would still apply in those conditions. The overall height of the house can be built, but the side wall conditions would still apply.

Mr. Coleman: That is correct.

Comm. Williams: So if I've got a full two-story house with a gable section, you're saying I can put that back?

Mr. Coleman: You can build the original house back, but if you change the house plans, you would have to conform to the ordinance. If you tore down a two-story between two two-stories, you might have to start your two-story farther back from the original line.

Comm. Williams: Even though my foundation is still in place.

Mr. Coleman: We have several houses up north that are actually built within the current setbacks, maybe 8-10 feet from the property line. If they burn down, they have a right to rebuild that house. If they were to tear

it down, they would have to go to the BZA to rebuild. Also, the BZA is an avenue for some of the issues that might come up in which it is justified that they violate the envelope.

Comm. Williams: That gets to another issue. If, in these conditions, they have to go to the BZA, will they have to meet and satisfy the Golden Rules?

Mr. Coleman: It is an exception for the side yard.

Ms. Shearer: There are exceptions written into this amendment, and then there are five factors which are required to be met to get a variance. The Golden Factors have nothing to do with a variance. These apply to rezoning and plans.

Comm. Williams: That has changed since the last time I went before the BZA.

Mr. Klein: I think there is a little bit of confusion. The Golden Factors are for rezoning. I think what you are thinking of are the five factors for the variance. This is an exception, which has a lower standard to meet than a variance does.

Comm. Williams: So if we pass this, and despite all the clarification we just had, a lawyer is not going to have a heyday with this? When we're all gone and somebody wants to either rebuild the house or build a new house, will the requirements be clear, and will we be penalizing them? I look at this first stipulation of a side yard smaller than your neighbor's wall as a penalty.

Mr. Klein: I understand what you are saying. I am just trying to explain what is currently proposed. If you have concerns that a two-story should be allowed to be reconstructed without the 15-foot side wall limitation, then you can certainly suggest it.

Comm. Williams: I understand. Again, I'm just trying to bring up these questions because I've had discussions with colleagues that do a lot of new home design in Leawood. Without exception, they all look at the 15 feet on the side yard and see it as terribly restrictive. It is fine to have control, but this goes beyond what would be normal construction.

Comm. Roberson: What do you recommend? We've approved this in work sessions, and to argue this point now is pointless.

Comm. Williams: My recommendation in terms of A(1) would be to eliminate the 15-foot maximum wall height and allow it to be approximately 20 feet or no greater than the adjoining houses. If you want to use the average of the adjoining houses, that would be fine. It still does not address the gabled roof, which is unfortunate. On Item 2, going from a 20-foot height on that one would be reasonable.

Mr. Coleman: The compromise was up to 20 feet on all of them.

Comm. Ramsey: Are you recommending going to the 20 feet?

Mr. Coleman: We are not recommending it, but we would accept it if the Planning Commission chooses to.

Comm. Roberson: If the 20 feet is unworkable for some reason, they can go to the BZA and get an exception?

Mr. Klein: It would be a variance, but yes.

Mr. Coleman: Not every plan will fit into this.

Comm. Roberson: Getting back to Commissioner Williams' point, I happen to agree with him on that one section where it is not very clear that you can rebuild a house to its original specs if it has burned down. I think that ought to be clarified.

*Commissioner Elkins asked to be excused from the meeting.*

Comm. Jackson: Could we just substitute "dimensions" for "height" on E(2)?

Chair Rohlf: Is it the term "demolition" that is causing confusion?

Mr. Coleman: I think that would work.

Mr. Klein: The way it is currently written would include tearing down or natural destruction.

Ms. Shearer: That was our intention in using the phrase, "in all cases."

Comm. Roberson: We agreed that we wanted that capability.

Ms. Shearer: Do I understand correctly that you wish it to read, "In all cases, however, a rebuilt or remodeled dwelling may be built to the dimensions of the previous dwelling existing prior to the demolition"?

Comm. Jackson: That is my suggestion.

Ms. Shearer: Or it should probably add, "or destruction."

Chair Rohlf: That is good.

Comm. Williams: That would begin to distinguish between a disaster and a simple tear-down. I don't see a lot of difference between the two. If we use the term "same dimensions," will that preclude them making changes in terms of the footprint? For example, if they want to take the opportunity to add something to the ground floor while still complying with the height requirements, would that become an issue?

Mr. Coleman: They can always rebuild what was there before. If they are rebuilding what was there before and adding an addition, the addition would need to conform to the ordinance. If it encroached into a setback, they would have to go to the BZA.

Chair Rohlf: Anything else? This case does require a Public Hearing.

## **PUBLIC HEARING**

Mack Colt, 21225 W. 96<sup>th</sup> Terrace, Lenexa, KS, 66220, appeared before the Planning Commission and made the following comments:

Mr. Colt: I am a homebuilder and remodeler with the company Mack Colt homes for 16 years. I have done numerous projects in Leawood. I currently own three houses in Leawood. One, I am remodeling, and the other two are tear-down / rebuilds. I am also the general contractor on three other projects in Leawood. Just to give you background, I have a degree in civil engineering. I focus on custom home building and remodeling. I love doing what I do and am very quality minded. For the past 5-6 years, I have focused primarily on Old Leawood with my business. My understanding, based on the memo and what I've heard, is

that these amendments are being proposed to encourage development to fit within the size and character of the surrounding neighborhood. I believe there are a lot of factors that determine whether or not things fit in. My primary concern with the proposed amendment is with the height component, as Len spoke to. The side wall height is my biggest concern. I would like to point out that throughout the city there are a lot of differences in architecture. My understanding is the intent of this change has come about with a lot of people in Old Leawood feeling that rebuilds do not fit in their neighborhoods. I agree; I think there are a lot of houses that don't fit in. I like to think the houses that I do fit in well. We spend a lot of time designing them so they do. (*Places photographs on the overhead*) As I stated, my biggest concern is with the side wall height. I don't think the massing proposal is overly restrictive. I looked at the houses that would and would not fit in to the massing guidelines. Out of all the projects I have done, two of them were really close, and they were pretty large houses on pretty small lots. I will concentrate my concerns with the height restrictions. I started looking at existing houses all through Leawood, and if the intent of the ordinance is to get houses to fit into the existing size and character, then most of the existing houses should meet the same criteria. I took some pictures of a couple houses in Old Leawood that I'd like to address (*Refers to photographs*). This envelope that you are proposing is way too restrictive. It works for a hip roof, but not for a gable. I noticed that staff is okay with 20 feet, but personally, I feel that 20 feet is too restrictive. This is a house with a 25-foot side wall, and that is actually to grade on the side. This Cape Cod house has a 24-foot side wall as well. This ranch is about 24 feet. Even a simple Cape Cod gabled-in house with a 12/12 pitch roof and a one-car garage has a 23-foot side wall. Even at 20 feet, I don't know how you would do a gable roof unless it has a low pitch. From one street to the next, you go from ranches with 6/12 pitch roofs to houses with 9/12 pitch roofs to Cape Cod houses with a 12/12 pitch. I think putting a blanket dimension on things fitting in is flawed. These are all pictures of existing houses that don't meet the criteria. Most of the houses I'm trying to build fit into the neighborhood well, I feel, but they are going to be a little deeper front-to-back because were typically putting in houses that are larger than what we're tearing down.

Comm. Roberson: In terms of the side yard setback on the houses you just showed, are they at 15 feet?

Mr. Colt: I think you'll find most of the houses north of 435 are going to be really close to or over the 15-foot side yard setback. There are some lots that are wide enough to where they're not filling up the whole envelope, but most of them do. Most of the ranches are wide and not very deep, so that is why they fill it up. Most of the houses I'm tearing down and rebuilding are not quite the same width, but we're trying to do side-entry garages on most of them, which look a lot nicer when adding that third-car garage. On a side-entry garage, I am forced to hold the house over to the opposite side of the lot on the garage to have enough room for the driveway. Unfortunately, the opposite side is usually the deeper side on a 1 1/2-story, for instance. On a side wall height, 25 feet doesn't really look that big. It looks big when you put it next to a house with a hip roof, perhaps, but I don't feel having one formula is beneficial. When I start applying this envelope to south of 435, I found it to be really drastic, making a gable roof nearly impossible. As far as the overall height of the envelope, the thing that doesn't make sense to me is if you're not between two two-stories, the overall height is limited to 30 feet. If you are between two two-stories, the height is the taller of the two houses on either side. (*Refers to photograph*). These houses are, by your definition, two-story houses about 21 feet high. I didn't measure these, but if I put a house between these two, I would be limited to 21 feet high. It doesn't make sense to me that, if I'm between two ranches that don't have upper levels, I can go up to 30 feet, but if I'm between two of these, I can only go to 21 feet. I understand why it was written that way. I think the city is trying to make it work for houses south of 435, which are primarily more than 30 feet.

I would like to point out that there are parts of this where there are too many definitions or missing definitions that are not clear, including side wall height. Is that the height of the wall, or is that including rafters or shingles? Where does that measurement end? It also talks about the grade at front door, but it doesn't distinguish between existing grade and newly proposed grade. There is an ordinance that says we cannot change the grade by more than 1 foot unless the city engineer sees a reason to do so. As far as the massing portion of it, I don't see it as overly restrictive, but I would like to point out that there is not an

industry standard on how square footage is measured. If you're going to have something that is restricting things based on square footage, you should define exactly how the square footage should be measured. There is an accepted standard in Kansas City, but one architect might see it differently than another.

You talked about replacing a house the way it was before. One problem with that is that very few people have their house plans, so how will you know what the height was? Another issue on that is if I'm required to know the height of the houses on either side to comply, how will I measure that height? I will either have to send a surveyor to the roof or gain access to their houses and do a lot of measuring. I think that needs to be clarified. I do understand the intent of this, and I agree with the intent. I've been doing a lot of work in Old Leawood, and I'm very sensitive to neighbors. I typically show my plans to neighbors before I make final decisions. I've even let neighbors have input. I've even bought neighbors landscaping for their yards because of concerns about screening and so forth. But I wonder why the city isn't letting the homes associations police themselves. I think the Leawood Homes Association took a long time to develop something, but in the last year or so, they've got a clear-cut, established set of guidelines that everyone is following, I believe. On the side wall height, they have a very similar envelope requirement, but theirs is 23 feet, which is tough on some plans, but doable. The Leawood Homes Association, which represents approximately 1,500 houses in the area I believe your complaints are coming from, came up with 23 feet for a reason. I would also like to point out that they had a number of meetings with hundreds of people present. They all voted on these guidelines. They have a Standards Committee and Architectural Review Committee. I would urge you to consider that.

Chair Rohlf: Are you just about ready to wrap up because I know we have another speaker, and I would like to finish by 9:00? Is there anything you have missed?

Mr. Colt: One other point I would like to make is that I would urge you, before a vote, to make Leawood residents aware that this ordinance is in the pipeline. I called a lot of my homeowners over the weekend, and none of them knew anything about this. I heard about this about a month ago when one of the HVA guys called and said he had a massing ordinance and that half of the examples on the list were my houses. I called Mark Klein and asked what was going on. He told me he was trying to get this on for tonight. I pointed out that I didn't understand his calculations, and he clarified that for me. I asked if he could keep me informed, and he said he would let me know when the wording was finalized. It was a week ago today that we sat down to meet. Up until then, all I knew about was the massing. Then I found out about the height. I would urge you to notify all Leawood residents and give them a chance to evaluate this. I think it will make a severe economic impact on them.

Chair Rohlf: Just to clarify a couple of things before I allow the next speaker, there were opportunities given to the homebuilders to attend meetings to discuss this starting at least five years ago. I'm disappointed that you didn't know about them.

Mr. Colt: I was present at those meetings.

Chair Rohlf: Did you express your comments?

Mr. Colt: I expressed these same concerns, and I was present at the City Council meeting when they sent it back to the Planning Commission for review.

Comm. Roberson: Have you provided any of this information in writing to staff?

Mr. Colt: Yeah, I've got e-mails.

Chair Rohlf: You've obviously got experience in this, and some of your comments are good ones, I think. I'm just disappointed that they didn't get included.

Mr. Colt: I don't think this was their intent. I don't know why it happened the way it did, but I feel like this is trying to be slipped in without anybody knowing about it, to be honest with you.

Chair Rohlf: You do understand that the presidents of the very large homes associations have been involved in this process all along. It was the homes associations who came to the city asking for this because they needed support to back up their restrictions. I don't think this is being done without the knowledge of the people in North Leawood, where this really started.

Mr. Colt: I understand that and agree with everything you're saying. I guess what I'm confused about is these height restrictions are far more restrictive than the Leawood Homes Associations' guidelines.

Chair Rohlf: For those homes that fall under those homes association restrictions, that is the guideline, but we have to have something for the other homes that don't fall under a homes association code. Also, there is, I believe, the opportunity to go before the BZA on some of these numbers.

Mr. Coleman: That is correct, and there are also several areas in North Leawood that don't have homes associations.

Chair Rohlf: And they fall outside the purview of those. You probably build in the areas that have the homes associations, for the most part.

Mr. Colt: I've built in ones that do and ones that don't. Again, I'm not opposed to the ordinance conceptually, but the specifics on the height envelope are where I object.

Chair Rohlf: I think we could go over the numbers and look at every single house in Leawood, and we would never hit upon an acceptable number to people. They would always want more, and we have to start somewhere. I think that we'll discuss additionally tonight and see if we want to take further action on the ordinance as it is written. I would like to hear from the other gentleman in the audience if he wishes to speak.

Ms. Shearer: I would like to note something for the record. Every work session and public meeting we have had about this has been noticed in the paper and is on the city's website. I know that several people have called planning staff, and they have provided any and all documents about this to them. I just want it to be clear that this is a very public process.

Mr. Colt: I have followed the website and talked to Mark Klein, and in all of those sources of information, last Tuesday was the first I heard of the height restriction. I've got the minutes from the September 7<sup>th</sup> City Council Work Session that talks about massing and says nothing about height. I talked to Mark Klein 3-4 weeks ago about my concerns and heard nothing about height until last Tuesday.

Comm. Roberson: We've been talking about height for years.

Mr. Klein: To be fair, the height went through the full public process through the Planning Commission and City Council. The focus was to come back and work on the massing.

Chair Rohlf: I do appreciate your comments. Sir, would you still like to speak?

David Conderman, 3201 West 82<sup>nd</sup> St., Leawood, KS, 66206, appeared before the Planning Commission and made the following comments:

Mr. Conderman: I'll try to keep my comments brief. Mr. Colt hit a lot of the topics that I wanted to hit. To give you background on me, I have lived in Leawood on and off for the last 15 years and spoke in front of this body the last time you had a height ordinance proposal. I sat in some of the strategy meetings, so I do know where a lot of this is coming from and what the process has been to this point. As a homeowner, my concern is about what is being built in our neighborhoods and potentially losing the character of Old Leawood. The reason my family and I moved from a planned community in Olathe back to Leawood about six years ago was solely for the charm of the area and what it provides. The reason we left originally was that there were not many opportunities for growing families because of the size of the homes. As our family got larger, we tried the planned communities and missed the charm, so we decided to come back. At that point, everything started to change in Old Leawood. About 5-6 years ago, the tear-downs and rebuilds that Mr. Colt and several other builders do started to take place. People started to add a second story instead of moving out, just as I have done in the last few years. Then I finally found a house that we were trying to remodel. The neighbors asked us not to remodel. That homeowner has had 3 feet of water in his basement for years. He said, "Why don't you just tear down and rebuild?" We did just that. We live in an area with a lot of stone and brick cottages. We built a Cape Cod designed off two other houses in the neighborhood. My house has a 23-foot side wall on one side with a gable, and the other side is a 20-foot gabled wall. Because it was narrow and deep, we pushed out clear to the 15-foot side setback lines, so our house could not have been built the way we built it under these new guidelines. My concern relates to property values and maintaining the charm. I applaud what the city is trying to do. When I first heard about the massing ordinance, I was relieved that somebody was coming up with something that will help us because most of the complaints I hear as a Kansas City realtor are, "I can't believe how big of a home they're building on that small lot next to these smaller houses." To me, the crazy thing about the ordinance is this height restriction doesn't cover what we're trying to solve. I think the massing does. If we have a standard computation for square footages and are building appropriate-sized houses on these lots, I think that would be a tremendous start for us as a city and would definitely help property values. Nobody wants to be in a small ranch and live next door to a massive house. I am concerned about getting too restrictive and therefore limiting some of the charm of Old Leawood. There have been over \$25 million in improvements in just Old Leawood on the north side of 435 in the last five years. We're talking about over \$350,000 increase in property taxes off those projects. If we start limiting what people can do to their properties, we'll start limiting the future increase in property values. As an example, some of the lots in the original projects done 6-7 years ago sold for \$110,000 - \$130,000. Similar lots today sell anywhere from \$225,000 - \$300,000. In the lower part of our market, we've had an increase of nearly 100% in the last six years in property values. Limiting construction will hurt property values in the long run, and I don't think anyone wants that.

Additionally, if we go in with a 15-foot or 20-foot ordinance that is more restrictive than what the Leawood Homes Association has come with, as an example, we will change the type of architecture used. In areas where I live, there are many Cape Cods with gabled ends. In most cases, they are up to 25 feet tall. I don't think we're really trying to play architect with the future of Leawood. These ordinances are going to apply to Hallbrook, The Pavilions and other parts of South Leawood. While I understand that home associations would come to the city and ask for help, I think the massing is a better place to start. I don't think we want to dictate architecture throughout an entire city and take the chance of losing the charm.

Although there is information on the city's website, which I commend the city for, when the Leawood Homes Association made the changes they made over a year ago, they sent two letters to every single resident it affected. They had two public open hearings, and they invited everyone to come in to them. They asked what people thought. They amended it after hearing comments. We gave comments again; they amended it again, and then they came up with the current proposal, which includes the 23-foot side walls. I went back through my neighborhood and looked at the houses people complained about, and one of them is on my street. It is roughly 30 feet tall, and on either side of it are two ranches. One is a contemporary ranch with a roof height of no more than 13 feet, and the other is about 15 feet tall. Because of the architecture and the way they gabled the ends, that house would have qualified under this new ordinance, despite the fact that it looks massive and out of scale for the area. The reason is they own a one-acre lot.

Let's put together a focus group with homeowners and not just the homes association heads that may have agendas of their own. Let's get realtors, architects, home builders, people thinking about doing improvement projects together and talk to them. In the meantime, let's get good massing requirements so we're building appropriate-sized homes for the lots we have in Old Leawood. Let's leave the architecture to the homes associations who can create their own Design Review Committees to handle the architecture piece.

One other quick thing is there are five architects in three blocks of me, and I got in touch with four of them this morning. I talked with them about some of the restrictions. One of them said, "One of the neat things about Old Leawood is that it is not a planned community. There is a lot of diversity in Old Leawood. We have split levels, ranches and more with all different types of architecture. Varying roof heights is actually an attractive part of a community. One of the things that some people don't like about planned communities is that all the houses are the same height and look the same." That is one of the charming things about Old Leawood. Thank you very much for the time.

Chair Rohlf: Is there anyone else who would like to speak about this? We do need to extend the time of our meeting.

**A motion to extend the meeting by 30 minutes to 9:30 was made by Roberson; seconded by Jackson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Williams, Heiman and Ramsey.**

Sue Becker, 8824 Norwood Drive, Leawood, KS, 66206, appeared before the Planning Commission and made the following comments:

Ms. Becker: I am just here as a homeowner. I have purchased three homes in Old Leawood in the last four years. One of them was a tear-down; one was a rebuild; and one, I remodeled the inside. I do it for family investment. I currently own two homes in Old Leawood. I know this has been a long night, and obviously you've been working on this for many years. I just wanted to let you know that I think there are many homeowners who have expectations like Mr. Elkins mentioned, but the expectations are not that everything stays the same, but that everything can change. Much like Mr. Conderman was saying, one of the very big draws to our neighborhood is the fact that you don't have to move to 164<sup>th</sup> Street to get new plumbing and wiring. I'm just very concerned. I have a lot of neighbors who are purposely holding on to their original ranch-style homes that were built in the 1950's, and they are not doing anything to them because they want to retire soon. They think their home is their nest egg, and they are counting on property values to continue to increase. My personal belief is that one of the main reasons Old Leawood is doing the opposite of what the rest of the country is doing – that we're still growing and getting new businesses – is because people see it as an opportunity to come in and be creative and do something cool with an old ranch. A little house I just bought on 89<sup>th</sup> Street for my mom to live in has neighbors who are adult children of the original owners. They have been over there with plans to blow out the back of the house and make it look pretty. They're excited to keep the home in the family. I just wanted to say that, unlike some homeowners who maybe have complained about the expectations that everything would stay exactly the same, I know a lot of people who are very excited about the neighborhood and about changes that are coming in. I think it's odd that the Commission, which has a marvelous track record of being financially minded, is suggesting restrictions that seem to be an over-reaction to a small percentage of homeowners who don't really like what they see. Yet, in 5-10 years, it will be those same homeowners complaining that their property values are not as high as it should. Well, if you can't remodel, nobody will move in the neighborhood. I just want to present the public opinion that we like change and we like seeing what people do with homes. Mr. Colt built both my homes, and I'm fascinated that it is difficult enough to build a home with all the mechanical and structural issues. Like Mr. Williams was saying, you're talking about people coming into a beautiful neighborhood with renovations and new businesses, and you're basically going to create a stagnant neighborhood. It is unheard of that, in a struggling economy, you would actually purposely move to stop growth. I don't

understand that. Percentagewise, I think most are excited about the changes in the neighborhood. That is all I had to say, and thank you for extending the time.

**As no one else was present to speak, a motion to close the Public Hearing was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Williams, Heiman and Ramsey.**

Chair Rohlf: That leads us up to discussion. I would ask Mr. Coleman for some direction here on how you would like to proceed?

Mr. Coleman: I think you can discuss particulars. As staff noted in our discussion with Mr. Colt, we are not opposed to increasing that height from 15 feet to 20 feet on the side yard setback. Commissioner Jackson noted the change in wording to clarify the issue of a torn-down home, which takes care of that issue. If you have any questions about any parts of the ordinance or clarifications, staff would be happy to answer them.

Comm. Roberson: I do have a comment. For as long as I've been on this project, I haven't seen any outside input for this. I don't remember it, but I could be mistaken.

Chair Rohlf: Are you talking about comments like this evening?

Comm. Roberson: Yes.

Chair Rohlf: That was done at the focus level initially.

Comm. Roberson: At that point, there was a concern on height, I'm assuming, which was expressed by more than one individual, I assume.

Chair Rohlf: That is interesting. What I find fascinating about these comments tonight is that we've heard the exact opposite position over the last six years: that we need restrictions and that people are building outside the scope of Leawood. It's tough to get a read on where the public really stands on this. Some people say these "McMansions," if you will, ruin the flavor of Old Leawood.; others will say we need the change to keep property values increasing. I don't know what we can do to incorporate all of those comments and concerns that we've had over the years. Do we need to further review this?

Comm. Williams: In one or two of the public hearings, there were a number of builders, architects and a representative of one of the homes associations that took issue with the wall height. At that time, one of the issues in play was the wall height applied to all the walls and not just the side yard. A builder pointed out that he couldn't put in an egress window out of a second-story bedroom because of it. That applies here if the egress window goes on the side wall of a second-story house. I recall a representative from the homes association commented that their guidelines did allow for taller wall height.

Comm. Roberson: I don't think our goal here is to restrict building, creativity or architecture; nor is it to impose conformity in terms of planned housing. What it is designed to do is to maintain some sort of limitation against what you call a McMansion or those types of homes being built on a small lot next to small houses. I do believe a massing and height restriction is in order. The question I have is if 20 feet is acceptable or if 23 feet is acceptable through deviations. We do give deviations if you move in from your side yard setback. You can move in 1 foot up to the maximum height allowed, which is 30 feet. As far as I know, I don't think anybody has complained about the 30 feet level. Even then, you can get an exception. The real question is the side wall. Once again, I guess what I am asking for is a recommendation. Instead of talking about side wall height for an hour and a half, move on with it and see if it works. I'm not opposed

to going to 23 feet, but let's decide something instead of arguing about it after all that has happened to this point.

Mr. Coleman: We said we would accept 20 feet. With the Leawood Homes Association, the step-back for their height from the 23 feet is 1 foot for every 3 feet back. As they go back, they are more restrictive. At 20 feet, they would be very similar. Ours would be somewhat more liberal in the sense that you're going up faster as you go back. At some point, they meet back in there.

Comm. Roberson: Is there a real difference between 20 and 23 feet?

Mr. Coleman: Yes, there is a difference for every foot.

Comm. Heiman: I think the professional builder and the residents that presented tonight were pretty convincing in going up to 24-25 feet. I've remodeled several homes in Old Leawood, and I know that one that I did was a gabled roof that was at least 25 feet. I think it fit fine within the neighborhood. There is doubt in my mind to the 20 feet. I feel it is restrictive from what I can gather from the presentations that were made tonight. I think it's also very odd that the Leawood Homes Association says 23 feet while we say 20 feet. Does that mean that if they approve it there, they will not get approved by the city? Either we need to match them or they need to match us.

Mr. Coleman: This applies citywide, so we're not trying to follow the Leawood Homes Association. That was brought up here, so that is why I mentioned it.

Comm. Heiman: If 23 feet works in Old Leawood, then 20 feet in New Leawood won't work.

Mr. Coleman: It depends on where your house sits. If you build right up to the setbacks, depending on the house design, it might not. If you have a large enough lot, you can build a larger house.

Comm. Heiman: I can't vote for it as it is, and I'm not sure I'm willing to vote for it at 20 feet, either. I feel like we've been talking about this for a long time, and I feel like we're all worn out over it; but at the same time, I don't think we just give in and make a decision that seems to have too much doubt.

Comm. Roberson: That's fine. I'm just asking to make a decision to do something. If we need to figure out the height situation, let's do it.

Comm. Jackson: My propensity is to have the fewest restrictions that we can to allow dynamism in the community. We have to allow these neighborhoods to change over time and economic conditions. People's wants and needs as far as family and home size change a lot over the years, and we want to allow for that. I would support a motion to change the 15 feet to 25 feet and then also change the E(2) paragraph as we stated before.

Comm. Williams: You're saying 25 feet for even a two-story house?

Comm. Jackson: Mr. Coleman, doesn't that take us back to where we were years ago when Council gave us this directive?

Mr. Coleman: I would say so.

Comm. Jackson: Maybe that is where we should be. The community is on all sides of this. The Commission is on all sides of this.

Mr. Coleman: There was a letter in your packet from the Leawood Homes Association, giving support and encouragement for the original ordinance at 15 feet. I think that speaks for itself.

Chair Rohlf: They were our most outspoken association from the get-go.

Mr. Coleman: They represent 1,500 homes.

Comm. Roberson: They are the ones who have 23 feet in their requirements, and they support 15 feet?

Mr. Coleman: Yes, they did.

Comm. Williams: It would seem to me that they didn't fully understand what the 15-foot wall height meant. The gable is what drives the height up.

Mr. Coleman: We met with them and with Leawood Estates representatives. I think they had a pretty clear understanding of the ordinance. We talked to them several times during the debate about the heights.

Comm. Jackson: Even if it doesn't change the height, we are adding a massing component.

Comm. Williams: I think the massing component, with the F.A.R. and the setback considerations, has a lot of merit to help control the "McMansion" issue.

Comm. Roberson: I agree with that.

Comm. Williams: The speakers brought up examples of Cape Cods and other existing homes that are in character with Old Leawood and that have gable roofs. Perhaps we settle a height, and the height is for the wall of the living space. You take into consideration that you can put a gable roof on that, which will max out at a 12/12 pitch. That allows for living space to be built on that second level. Without something like that, I think a 25-foot restriction works fine on a single-story house but gets to be a problem on a two-story house.

Comm. Pateidl: Did you say "25-foot" or "15-foot"?

Comm. Williams: No, a 25-foot dimension on a single-story can be doable. On a two-story house, 25 feet would be too restrictive.

Comm. Pateidl: What does it take to put a gable roof on a two-story house?

Comm. Williams: The overall height of the gable is going to be a factor of the depth of the house that the gable covers. I did some math on a 4/12 to look at this 15-foot restriction on a ranch house. A basic house with 8-foot ceilings will be somewhere around 18.5-19 feet to the top of the ceiling joists, which is what your roof rafters will sit on. If you do a 1/12 pitch on a 24-foot deep house, it is 12 feet. That is 30 feet to the top of the gable on a two-story house. The way this is written, it is subject to the height of the adjacent houses. As the gentleman pointed out, if we're classifying a Cape Code as a two-story house, we're limited to the height of that house.

Comm. Roberson: It won't be taller than the greater of, as opposed to the lesser of.

Chair Rohlf: We need to wrap this up.

**A motion to recommend approval of CASE 56-06 – SECTION 16- 2-5.3 (R-1 District) – HEIGHT – Request for approval of an amendment to the Leawood Development Ordinance with the following**

changes: In Paragraph E (1) a, the 15-foot measurement in Line 3 be changed to 25 feet, in Paragraph E(1) b, the 15-foot measurement in Line 4 be changed to 25 feet, and Paragraph E(2) be changed to read, "Rebuilt or Remodeled Dwelling Height Limit Modified. In all cases, however, a rebuilt or remodeled dwelling may be built to the dimensions of the previous dwelling existing prior to the demolition or destruction. In addition, an increase in height may be granted at a rate of 1 foot for every 1 foot in side yard setback provided above the minimum side yard setback required, up to a maximum of 3 feet." was made by Jackson; seconded by Roberson. Motion passed with a vote of 4-2 For: Roberson, Jackson, Heiman and Ramsey. Opposed: Pateidl and Williams.

Comm. Roberson: I do have one comment. We've just changed something without knowing what the impact is going to be.

Chair Rohlf: I will reserve comment on that. Do we want to move along to the second case on this?

Comm. Jackson: I would make the same motion for CASE 57-06.

Chair Rohlf: Mr. Klein, do you have any additional comments you need to present as staff?

Mr. Klein: We would need to have a separate Public Hearing. The only difference between the two ordinances is regarding the massing. That just has to deal with the base lot area being 12,000 square feet instead of 15,000 square feet; and the base depth is 120 feet, as opposed to 150 feet.

Chair Rohlf: The people in the audience who spoke in the first Public Hearing, would you make the same comments in this particular hearing?

## **PUBLIC HEARING**

Mr. Colt: The only comment I'd like to make is I commend your changes to the first portion. The other thing that doesn't make sense to me is that, by definition, you are allowing up to 30 feet for the total height if you're not between two two-stories. Between two small two-story homes, I would be restricted to 21 feet. That doesn't make sense to me. It should be the other way around.

A motion to close the Public Hearing was made by Rohlf; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Williams, Heiman and Ramsey.

A motion to recommend approval of CASE 57-06 - SECTION 16- 2-5.4 (RP-1 District) – HEIGHT – Request for approval of an amendment to the Leawood Development Ordinance with the following changes: In Paragraph E (1) a, the 15-foot measurement in Line 3 be changed to 25 feet, in Paragraph E(1) b, the 15-foot measurement in Line 4 be changed to 25 feet, and Paragraph E(2) be changed to read, "Rebuilt or Remodeled Dwelling Height Limit Modified. In all cases, however, a rebuilt or remodeled dwelling may be built to the dimensions of the previous dwelling existing prior to the demolition or destruction. In addition, an increase in height may be granted at a rate of 1 foot for every 1 foot in side yard setback provided above the minimum side yard setback required, up to a maximum of 3 feet." was made by Jackson; seconded by Roberson. Motion passed with a vote of 4-2 For: Roberson, Jackson, Heiman and Ramsey. Opposed: Pateidl and Williams.

*Commissioner Jackson stepped out of the meeting.*

CASE 72-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – R-1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

### **Staff Presentation**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is CASE 72-09 – Leawood Development Ordinance Amendment to Section 16-2-5.3. The first one is within the R-1 District. Again, these deal with both the R-1 and the RP-1 Districts. The proposed amendment was heard at the last Planning Commission meeting and then continued. It was discussed at the last Work Session as well. This amendment addresses existing houses within those districts that meet the required front yard setback, including the 35-foot front setback required within the zoning district and the average front yard setback if they are set back more than that minimum requirement. It allows an exception to the Board of Zoning Appeals to allow an extension of a front entry into the required setback no more than 6 feet, that the front entry should not be enclosed and that the maximum size of the front entry shall be 75 square feet. Staff is recommending approval of this application, and I will be happy to answer any questions.

Chair Rohlf: Questions for staff? This case does require a Public Hearing.

### **PUBLIC HEARING**

As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Williams, Heiman and Ramsey.

Chair Rohlf: Does anyone have any comments?

A motion to recommend approval of CASE 72-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 (R-1 District) – FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Pateidl, Roberson, Williams, Heiman and Ramsey.

CASE 73-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – RP-1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

### **Staff Presentation**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 73-09 – Leawood Development Ordinance Amendment to Section 16-2-5.3 (RP-1 District). This application also proposes to provide an exception to the Board of Zoning Appeals that would allow construction of a front entry to encroach in the required setback of no more than 6 feet. The front entry shall be enclosed, and the maximum size of the structure shall be 75 square feet. Staff is recommending approval as proposed and would be happy to answer any questions.

*Commissioner Jackson re-joined the meeting.*

Chair Rohlf: Questions for staff? This case does require a Public Hearing

### **PUBLIC HEARING**

As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Heiman. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Williams, Heiman and Ramsey.

A motion to recommend approval of CASE 73-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.4 (RP-1 District) – FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance – was made by Roberson; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Pateidl, Roberson, Jackson, Williams, Heiman and Ramsey.

*MEETING ADJOURNED.*