

**City of Leawood  
Planning Commission Meeting  
May 23, 2017  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive  
Leawood, KS 66211  
913.339.6700 x 160**

**CALL TO ORDER/ROLL CALL:** Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block. Arrived after the meeting started: Elkins

Chairman Pateidl: First order of business is to review and approve the agenda. Mark, are there any changes other than what have been noted and are on the dais for this evening?

Mr. Klein: No.

**APPROVAL OF THE AGENDA**

**A motion to approve the agenda was made by Strauss; seconded by Hoyt. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman, and Block.**

**APPROVAL OF MINUTES:** Approval of the minutes from the March 28, 2017, April 11, 2017 Planning Commission meeting, April 11 Planning Commission Work Session and the April 25, 2017 Planning Commission meeting.

Chairman Pateidl: Are there any suggestions or comments about any of the minutes?

**A motion to approve the minutes from the March 28, 2017 Planning Commission meeting, April, 2017 Planning Commission meeting, April 11 Planning Commission work session, and the April 25, 2017 Planning Commission meeting was made by Block; seconded by Strauss. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman, and Block.**

**CONTINUED TO THE JUNE 27, 2017 PLANNING COMMISSION MEETING:**  
CASE 08-17 – THE RESERVE AT MISSION WOODS – Request for approval of a Zoning to R-1 (Planned Single Family Low Density Residential), Preliminary Plan and Preliminary Plat, located south of 103<sup>rd</sup> Street and east of Mission Road. **PUBLIC HEARING**

**CONSENT AGENDA:**  
CASE 51-17 – PARK PLACE – AINSWORTH RESTAURANT – Request for approval of a Revised Final Plan for Changes to the Façade of a Tenant Space, located north of 117<sup>th</sup> Street and east of Nall Avenue.

CASE 52-17 – PARKWAY PLAZA – HUNTER VISION – Request for approval of a Revised Final Plan, located north of 135<sup>th</sup> Street and west of Roe Avenue.

Chairman Pateidl: Do any of the commissioners care to pull either of these cases out for further discussion?

**A motion to approve the Consent Agenda was made by Strauss; seconded by Levitan. Motion carried with a unanimous vote of 7-0. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman, and Block.**

**NEW BUSINESS:**

CASE 49-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-257, SIGNS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definitions of a halo-illuminated sign, roof sign, and signable area. **PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 49-17 – Leawood Development Ordinance Amendment to Section 16-9-257, Signs. This has to do with definitions of signage. One of the definitions is being modified; others are being added. The modification is to the definition of roof signs. The current definition is brief, so we investigated other cities' definitions and the Glossary of Definitions from the American Planning Association to develop a proposed definition for roof signs. We want to ensure that the definition states that the roof cannot support the structure. The current definition allows a full parapet wall around the top deck. If a section of it goes above, it would be considered a roof sign. If the parapet screens the entire top of the deck, a sign would be allowed on that. If it is on the parapet wall, it is not considered a roof sign; if it is a section extending above, it would be considered a roof sign. We are trying to make that distinction. We are also discussing the definition of sight triangles as well as permanent sign regulations for the mixed-use districts.

Additionally, we wanted to add a definition to halo-illuminated signage. We were talking with someone in the industry who works for a sign company, and we asked him to review the ordinances. He indicated that the industry standard does not use the term “indirect” but rather “halo-illuminated.” This is when the letters stand out from the back where they are mounted. The faces will be opaque, so lights will not shine through. As the light illuminates, it creates a halo of light around the signage itself. That is the term we have added to the LDO. We are using that term within the Sign Criteria for Section 16-4-6, so we need a definition as well.

In addition, staff consistently reviews whether signage fits in the signable area. A building façade could have columns or change in materials that creates a rectangular, clear area for the sign. Often times, the applicants want as much visibility as possible, so they want the sign to be as large as possible, but sometimes, that means crowding the architectural features. We have defined the signable area, which is defined by a

rectangular area either bounded by the edges of the building, changes in material, projections, or recesses in the façade. Within 16-5-6, we refer to that and have limitations to ensure the signage doesn't extend over those architectural features and keeps some space. The benefit is that it allows the sign companies to know exactly what area they are designing for. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Chairman Pateidl: Thank you for your comments. I think you covered all three of the cases to be heard yet this evening. Since we are talking about Case 49-17, I would like to limit our discussion to that particular case. I note, also that Chairman Elkins has joined us. I will turn the meeting over.

*Chairman Elkins joined the meeting at 6:10 p.m.*

Chairman Elkins: Thank you, Mr. Vice Chairman. This brings us to the Public Hearing. Are there any audience members who would like to be heard on Case 49-17? As a reminder, we allow 4 minutes.

### **PUBLIC HEARING**

Kevin Jeffries, Leawood Chamber of Commerce and Economic Development Council, 13451 Briar, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Jeffries: I just had a couple questions on Case 49-17. I want to clarify something and make sure the commission is all on board with it. Originally, when Park Place proposed signs, there were what I would call lantern-illuminated signs that had opaque letters, and the light came up underneath instead of behind the letters. It added a glow effect. I don't know if we want to adjust the ordinance to allow for those, or perhaps we didn't mean to allow those. I just noticed they were not specifically addressed. Then on the roof signage, I'm looking globally for tenants in the future. I know we don't want things on roofs, but I think there might be tasteful ways, such as at Park Place where signs were originally proposed on the existing architectural elements that extend slightly above. A parking garage really doesn't have a roof, so the sign is being attached to the wall that Mark talked about that goes around it. I think we might want to consider that, if it is part of an architectural element, you could make some exceptions on things like that. I also think we might want to carve out parking garages as a different animal than a traditional building because buildings will have a parapet around the outside of the building. Those are my main comments to ask commissioners to consider in this case.

Chairman Elkins: Thank you. Is there anyone else who wishes to be heard on Case 49-17?

**As no one else was present to speak, a motion to close the Public Hearing was made by Strauss; seconded by Coleman. Motion carried a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

Chairman Elkins: Mr. Klein, would you like to respond to the questions or comments?

Mr. Klein: With regard to the internal illumination, we do consider the lighting from the interior of the box to be internal as opposed to halo. In talking with the person with the sign industry, halo is a definite definition. I went on the web to see if that is how the industry is defining it as well. It was staff's intention that it would not be internally illuminated. If you look in Section 16-4-6, which is in the case coming up soon, there is pedestrian signage that is show with internal illumination. The reason for that is Park Place went through Governing Body and got that approved specifically. With regard to the roof sign, it was really the intent to ensure that we don't go down the road to allow signs on the top deck. The amendment we are proposing specifically states that it is above the deck as well. A sign mounted on a roof of a building or that is wholly dependent on a building for support and projects above the top walk, deck, or edge of a building with a flat roof is considered a roof sign. There is an exception for that: Unless, on the face of a continuous parapet wall used to screen the roof of a building, the eave line of the building with a gambrel roof, a hip roof, or deck line of the building with a mansard roof. Part of the concerns we have is once we open that door, it is almost a slippery slope. Park Place is a beautiful development, and the structures are already there. What we are proposing is meant for all MX-D developments. Many have yet to be built. I would imagine some of those could then be encouraged to try to build a portion that is higher above the roofline just for the purpose of having a sign. I know that Park Place is proposing it on existing architectural elements.

Chairman Elkins: Questions for Mr. Klein?

Comm. Pateidl: In the proposed definition for a roof sign in 49-17, I'm not sure if it is a typographical error where it talks about projects above the top walk. Is that supposed to be wall? I'm not familiar with the term, so it could be. Then, going back to the signable area, I'm not sure this is a good word for definitions. If I understood your comments, you will basically look at the edges of the building, and if there are columns or architectural changes in material inside of those edges, the "signable area" is inside the architectural treatments and not the outside edges. What happens if there are columns on the outside? Does that expand the signable area?

Mr. Klein: For instance, consider a situation with a flat façade of a building with no projections or change in materials; it is just a brick building that extends across with the edge of the building where it turns the corner. We have had sign proposals that want to go right up to the edge. That would be one of the things that would bound where the sign could be located. Section 16-4-6 would state that the sign itself couldn't be any longer than 90%, which is still quite a bit but pulls the sign a bit away from the edge. If the same building had a column on the corner that is 2' wide and projects out, the column would delineate the signable area. The sign could not extend over the column, and it would be required to be set back a little bit from the column.

Comm. Pateidl: Since we're talking about a definition in the LDO, I'm thinking about an unintended consequence. If I've got columns set on the outside of the building but they're

still a part of the architectural treatment, and now if I measure all the way to those columns, my signable area gets bigger. My 90% of that signable area may take it edge-to-edge to the building. Is that going to be acceptable? I don't think that's what you intend? Do we face that prospect with that definition?

Mr. Klein: If there is a column, the signable area would start on the inside of the column.

Comm. Pateidl: All right; thank you.

Chairman Elkins: Thank you. Additional questions?

Comm. Strauss: I just wanted to clarify that once we make all these changes to signs, they are still administratively approved by staff, correct?

Mr. Klein: This doesn't change anything with regard to the process. Currently, if Sign Criteria have been approved by the Governing Body, they are allowed to be approved administratively. Staff will review any proposal against the Leawood Development Ordinance as well as the approved Sign Criteria. This doesn't change the process at all.

Chairman Elkins: Thank you. Other questions? Mr. Klein, with respect to the issue on the lantern illumination, I understand staff intends it to not be included as part of the definition of a halo-illuminated sign. How does our LDO treat lantern illumination?

Mr. Klein: The LDO does not allow box signs, which has the entire face of the sign illuminated. Opaque portions on the sign are allowed. Staff is recommending having the light diffused up through a pane of glass. It creates the same type of effect, as opposed to a box in which there is translucent material and a light source illuminating the entire façade.

Chairman Elkins: The box with the LED lighting is halo or a version of lantern?

Mr. Klein: That is probably something that you could call lantern. We don't have lantern defined, but it would be internally illuminated.

Chairman Elkins: It would be prohibited, then.

Mr. Klein: If the entire face illuminated, it would be prohibited.

Mr. Coleman: It is more internally illuminated because the light source is not visible, and it is on the bottom of the transmitting element. We have a couple of these. We are trying to make sure we don't end up opening the door for box signs. For example, every sign on Wornall is a box sign. It is hard to say that one looks great and others don't. We don't get into the aesthetics. I think what Mr. Jeffries is talking about is these indirectly illuminated signs. We have a couple of these. Bukaty Company just put up a sign that uses that lighting technique. They have LEDs at the edge of the glass, and it transmits the light up through the glass. There is no box there, per se.

Chairman Elkins: Would that be permitted?

Mr. Coleman: Yes. That is what we have tried to explain. It's a little bit difficult.

Chairman Elkins: The box that Mr. Klein described with an LED element in the box that shines up on the element of the sign would be permitted?

Mr. Coleman: If it's on the outside of the box, I suppose it would.

Comm. Strauss: Is the purpose that we don't want to see the light?

Mr. Coleman: We are trying to avoid box signs, which are internally illuminated plastic where the entire sign is illuminated and not just an element.

Comm. Strauss: We're also trying to avoid the light source.

Mr. Coleman: We have that in other parts of the ordinance.

Chairman Elkins: It is a sign with the light inside the sign that causes the whole thing to be illuminated that we are trying to avoid.

Mr. Coleman: Correct.

Chairman Elkins: In the hypothetical situation that Mr. Klein described with the light source at the base of the sign instead of up on the sign would be included.

Mr. Coleman: It is actually illuminated from below. The light is being transmitted directly through the material.

Chairman Elkins: That is permitted.

Mr. Coleman: Yes.

Chairman Elkins: Mr. Klein, to Mr. Pateidl's point, I'm struggling a little bit as well with the mention of the top walk, deck, or edge of a building. Again, it just may be pure semantics, so I apologize in advance. Let's assume a building has a walk, a deck, and an edge or two walks, two decks, and an edge. Are we talking about the highest of any of those, or are we talking about the highest of each of those?

Mr. Klein: It is my understanding that it would be the highest of each of those. I guess the way I envisioned it is there would only be one walk, and it would be the top edge, as opposed to a double freeway with one under the other. The intent is to make sure the sign doesn't project above the building.

Chairman Elkins: I'm thinking multiple decks more than anything else.

Mr. Klein: For instance, the Park Place parking garages have multiple decks. There is space between to allow air flow. This would allow up to the top deck as opposed to the lower decks.

Chairman Elkins: That formulation seems awkward, but I don't have a suggestion, so I'll leave it as is.

Comm. Belzer: It is hard to visualize. It would be helpful if there were examples we could see. It would be easier to look at the definition through a visual.

Comm. Pateidl: Under the current definition of roof signs, it is basically a sign that is attached to the roof.

Mr. Klein: It is supported by the roof, yes.

Comm. Pateidl: Would the proposal that Park Place has put before us for the sign for the name of the development be appropriate under the current LDO?

Mr. Klein: Even under the current LDO, it would be considered a roof sign if it's supported by the roof. This wouldn't really change as far as what it would currently be considered. In staff's opinion, it is a roof sign under the current definition and also under the proposed definition. The major difference between the two is that the original one was vague enough to where it really didn't address the situation with the top deck. The new definition would allow the sign to come up a bit higher.

Comm. Pateidl: The current definition doesn't establish the top wall. Maybe elsewhere in the LDO, there is a requirement for the parapet, but it's not in the definition itself. Would it be approved if not, and if not, could you tell me the provision of the LDO that would disqualify it?

Mr. Klein: Right now, it would not be allowed, and the provision would be that the current definition states that any sign erected/constructed wholly on the roof of a building supported by the roof structure. It is my understanding that when the building department looked at Park Place and at the architectural features, they determined it was supported by the roof structure.

Comm. Pateidl: We really don't have a good definition of roof structure, then. In my mind, if there is a roof, there is a roof structure.

Chairman Elkins: Thank you. At the end of the day, if we adopt this packet of modifications, will a roof sign that sticks up above the top edge of the building be permitted?

Mr. Klein: It would not be permitted. Later on, we will discuss limitations of the signable area and that the sign itself cannot be more than 85% of the signable area and has to pull away from the top edge.

Chairman Elkins: That is the answer I was hoping for because I would be opposed to signs that stick above the top of a building, but the definition that we are considering in this case for a roof sign is a sign that is mounted on the roof of a building or is wholly dependent upon the building for support and that projects above the top edge of the building. That would seem to be what we are talking about. I guess later on, we will find that all this work we do to define roof signs will end up being a prohibition on such signs?

Mr. Klein: Roof signs are prohibited, so that part of the ordinance is saying that if any part of the sign sticks up above the top edge, it is considered a roof sign. Then, it would not be permitted.

Chairman Elkins: That will remain in place.

Mr. Klein: That will remain in place, and then we have that further restriction as far as a signable area.

Chairman Elkins: Thank you. Other questions?

Comm. Strauss: Mark, is there any implications on schedule with this, or are we just trying to update the LDO? Would this affect any other cases?

Mr. Klein: With regard to roof signs, we would still consider what Park Place is proposing to be a roof sign. Say Parkway Plaza wanted to project a sign above the top edge of the building. We would still consider it a roof sign. The intent was to be a little more clear as far as what we consider a roof sign and then also to allow that parapet.

Mr. Coleman: Mission Farms would fall under this. We are looking at all of the mixed-use developments and the signs.

Chairman Elkins: To Commissioner Strauss' question, are there any developments, projects, or cases that are pending or in the pipeline?

Mr. Coleman: No, but this is being driven by Park Place. It has been six months that we have been looking at this. Signs are complicated and have many nuances. We are trying to bring it forward so we can get this approved and they can move on with the rest of their sign package.

Comm. Strauss: I'm in agreement with Commissioner Belzer. I'm a visual person. I'm not fully comfortable voting one way or the other on this without seeing examples.

Mr. Klein: I have pictures, but we're having problems with the screens.

Comm. Strauss: Was this discussed at a previous work session?

Mr. Klein: Yes, it was discussed on April 11<sup>th</sup>. (*Places pictures on the overhead*). The sign would be allowed on the parapet wall; it just couldn't extend above the top edge.

Comm. Strauss: Mr. Jeffries brought in the part about the architectural element and how it is below the top of the architectural element.

Mr. Klein: Basically, the architectural element he is talking about is an open trellis on the garage. They are proposing a backer panel on which they would mount the letters. This proposes a 6' tall panel with 5.5' letters.

Comm. Strauss: With this LDO change, this would not be compliant, but if the sign came down below the top deck, it would.

Mr. Klein: Yes.

Comm. Strauss: Do you have pictures of the halo-illuminated signs?

Mr. Coleman: They are the signs you see all around that make the letters look like they're floating.

Comm. Levitan: I think Town Center Crossing's signs are halo-illuminated.

Mr. Coleman: Yes, they are. Basically, it is a letter with a light source behind it. It shines light out on the surface on which it's mounted so that the letter is silhouetted against the surface.

Comm. Coleman: Is that what we approved for Tory Burch at Park Place?

Mr. Coleman: I don't know. They are individual letters that are illuminated.

Mr. Klein: I don't remember that one off the top of my head. (*Places examples on the overhead*) The face of the sign is opaque. Often times, it is illuminated, so the light won't show through. Typically, an internally illuminated channel letter would have a red or blue face, and it shines through.

Comm. Strauss: How would lantern illumination change that?

Mr. Coleman: It would all be illuminated, including the background. It is hard to explain.

Chairman Elkins: Are there any additional questions? Is there any additional discussion? Is there still a desire for additional examples, or is what has been provided sufficient?

Comm. Belzer: It is sufficient for me.

Comm. Strauss: Do you have pictures to define the signable area?

Mr. Klein: (*Shows examples*) The column could project out 6” or 1’. The signable area would be taken from the inside of the column until it reaches something else that created another boundary for the sign. That could be a projection, a recess, the edge of the building, or change in material. Typically, what is more common with tenant facades is a sign with a decorative band below to add some interest and then maybe a cornice. That creates the top of the signable area. If the columns had continued up and projected out, the signable area would have been bounded by the columns on the sides, the cornice above, and the decorative band below.

Mr. Coleman: This is adopted from a lot of commercial centers we have. They do their own sign criteria, and many have a signable area that the tenant has to fit the sign into. That is where this comes from.

Chairman Elkins: Additional discussion or comments? If not, it may be time for a motion.

**A motion to recommend approval of CASE 49-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-257, SIGNS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definitions of a halo-illuminated sign, roof sign, and signable area – was made by Block; seconded by Coleman. Motion carried with a vote of 7-1. For: Belzer, Hoyt, Levitan, Strauss, Ramsey, Coleman, and Block. Opposed: Pateidl.**

CASE 61-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-256, SIGHT TRIANGLE – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definitions of sight triangle.  
**PUBLIC HEARING**

Chairman Elkins: Mr. Klein, I know you talked some about all the cases in your previous presentation. Do you care to comment on this one?

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: I talked about definitions in general, but I didn’t mention the sight triangle. For Case 61-17, we are looking to amend the definition of a sight triangle to ensure safety for people who come to an intersection. Currently, the definition section of the ordinance refers to the sign section with regard to dimensions of this triangle. It is 30 feet along each branch of the intersection, draws a hypotenuse and then creates a triangle. Public Works has a different standard based on a formula that takes into consideration lane width and speed of traffic. It is more flexible as far as where it is being applied and probably a bit more responsive as far as the actual sight triangle. Staff would like to replace the current definition to be consistent with Public Works’ standard.

Comm. Pateidl: Part of the application says that the amendment is to ensure that the definition of sight triangle is consistent with the amendment proposed in Case 49-17. In case 49-17, which we just discussed, we talked about lighting and signage.

Mr. Klein: I apologize; it refers to Case 48-17. That is where the definition of sight triangle refers to Section 16-4-6.

Comm. Pateidl: We currently have a graphic in the LDO definitions, and it is reflected here. I have no idea what this change means, other than we are now going to go by policies and definitions of a totally separate body. Do we have any graphic that can show us what that means and what changes in this whole thing?

Mr. Ley: The AASHTO Policy on Geometric Design is over 60 pages. We tried to bring some of that information into the LDO. This refers back to it. Typically, we're looking at 16 feet from the edge of the pavement. If you're approaching an intersection, from the roadway you're approaching, it is 16 feet back. Depending on the speed of street, width of street, number of lanes, and presence of islands, the sight triangle moves to the left or right. It ranges from 300 feet to 550 feet. By adopting this, the applicant will have to show it on the approval plan, and then we would restrict landscaping, monuments, and fences in that area. Where it will make most of the difference is an intersection that is on a curve. When the streets curve off, there is typically a short sight distance.

Comm. Pateidl: I have to admit that I have no idea what you said as it relates to those distances, so I'll ask it in another way. Is the sight triangle bigger or smaller?

Mr. Ley: It will be longer along a street, but from the street to the sidewalk, it will be shorter.

Comm. Pateidl: It will go to 16 feet instead of 30 feet.

Mr. Ley: Then, instead of 30 feet, it will go 300 feet down the street or 500 feet, depending on what street it is.

Mr. Coleman: It is so drivers can see farther down the street. Right now, 30 feet is not enough room to react appropriately.

Comm. Pateidl: It has always been my interpretation that the sight triangle was related to ability to see and not so much ability to react, but I can see where the two are tied together. I agree with that. This talks about intersections. Under our current LDO, does the application of sight triangle regulations apply to points of egress and ingress for driveways, parking areas, and shopping centers? I'm not reading it that way. I'm reading it as being part of our street system but not necessarily part of our traffic system. Am I just missing something?

Mr. Klein: We do apply it to driveways that are coming onto a street. Often times, that is where there is the most traffic. This would apply to that situation as well.

Comm. Pateidl: Will any of this be treated retroactively as it relates to pulling in and out of parking lots? I think about the signs along State Line at 123<sup>rd</sup> where the old HyVee used to be. There were 4x4 wooden signs that we couldn't get rid of because somehow, they met the definition of an approved sign. Under what you're telling me now, they will definitely be in violation of what we are proposing.

Mr. Coleman: In dealing with our sign ordinances, temporary sign issues may be the next thing we tackle.

Comm. Pateidl: We'll defer the conversation until then.

Chairman Elkins: Thank you. Other comments or questions?

Comm. Levitan: If a property violates this with a monument sign in that setback, when they come in to do redevelopment in their center, it will be listed as nonconforming, and they would be asked to modify it as part of their application?

Mr. Klein: Correct. If they modify the sign, they would have to come into conformance with the current ordinance. Right now, it would be legal, nonconforming.

Comm. Levitan: If they don't touch the sign and are doing something else within the development, they can leave it.

Mr. Klein: Yes, but as soon as they start modifying it, we have the ability to say that it needs to be moved back.

Chairman Elkins: It would have to be a modification to the sign. If they don't touch the sign, it remains legal, nonconforming.

Mr. Klein: There are two ways to address it. We could have an amortization to ensure it is eventually phased out, or it could be a legal, nonconforming structure that has to come into conformance if it is modified. If it is destroyed and replaced, it would have to move back.

Comm. Coleman: To clarify, if it is an existing planting, would it be in violation?

Mr. Klein: The plantings are a little bit easier to deal with. Right now, the LDO allows it within the sight triangle as long as it is between 3-6 feet. A low monument sign would be allowed within the sight triangle. Landscaping is easier to deal with because it can be trimmed.

Comm. Coleman: Who would enforce it?

Mr. Coleman: We don't have that many signs that are in violation because most of the signs are not in the right-of-way, which usually starts 15 feet back from the curb. Most of

the signs are back far enough to be outside the sight triangle. Shrubs and hedges over 30 inches would block the view. We would ask them to trim or remove them. Both Public Works and Planning handle the enforcement.

Comm. Block: It looks like the figure on the memo in the bottom corner survived in the next document in our next case. Is that figure still accurate with this new definition?

Mr. Klein: It would be removed.

Comm. Levitan: With the curved road, does the same geometry apply?

Mr. Ley: It is measured in straight lines. There will be an area outside the right-of-way that will be restricted from fences, landscaping, and signs.

Chairman Elkins: Going back to a question Mr. Pateidl asked, I still have some concerns. The definition of sight triangle talks about a triangular-shaped portion of land at a street intersection. To the extent that we have ingress and egress driveways that aren't actually an intersection of two city streets. The statutory interpretation would challenge whether or not the definition of sight triangle would apply to those circumstances. Isn't there a broader definition we could use rather than a street intersection? If we have a business out here and there is an entryway, I don't think it is a street by definition. I'm always happy to rely on staff's interpretation and your own processes, but if we could strengthen the underlying ordinance to better protect you on that, I would love to do that.

Mr. Coleman: It looks like we could go back and bring something else forward if we need to. Almost all of them will involve a street, whether it's a driveway from a shopping center or two streets or an exit from a house, they all involve a street. Our associate is pointing out that a street is defined, so under the definition of street, it pretty much covers everything.

Mr. Hall: In Section 16-9-266, a street is defined as a right-of-way dedicated to the public use or private right-of-way which provides principle vehicular and pedestrian access to adjacent properties.

Chairman Elkins: That solves my concern. The other question I have has to do with additional language where we refer to The Policy on Geometric Design of Highways and Streets' latest edition. My reading of that would suggest that if we get a new addition to this two years from now, we are now bound to that new addition, and we have essentially given away our rights of review and are now completely deferring to the professionals. Most of the time, I would expect we would be in agreement with the change, but I hate to just defer to that.

Mr. Coleman: I would say that you are correct; there is that small possibility. It is just like on our building codes. They come out very much the same as the AASHTO standards. We don't adopt them in whole, but we look at them and make recommendations. We modify them in accordance with what the Governing Body

desires, so to speak. I would imagine if Public Works thought it looked inappropriate for our city, it would be brought to Governing Body and would be addressed.

Chairman Elkins: We would have to modify it. The way it is drafted, if there was something inappropriate, that would be the law in Leawood until we move to modify it.

Mr. Coleman: If the city adopted it.

Chairman Elkins: We're adopting it right here. We're saying the sight triangle shall be defined by and shall conform with the latest edition of this handbook.

Mr. Coleman: I'm told it is the methodology that Public Works uses.

Chairman Elkins: I'm not sure that makes it right.

Comm. Levitan: Can you put in the year?

Chairman Elkins: That is where I'm headed, but Mr. Strauss is an expert in this.

Comm. Strauss: The goal of the manual is to protect the highest level of safety. If they make a change, it is because research was done that said change needed to be made to uphold the safety of the sight triangle. I feel comfortable saying that if a change was made, it was made in the name of safety. We will have the opportunity to review it again, but you're right that it would automatically become the rule of the land. It's a manual that's been around for 60 years or more.

Chairman Elkins: How often does it get revised?

Mr. Ley: It's at least ten years.

Chairman Elkins: I'm just always suspicious of creating a self-effecting, automatic change to our ordinance and giving away the right of review unless somebody challenges it.

Comm. Ramsey: The other thing you don't want to do, though, is not be in compliance with the latest edition because then the city takes on a liability.

Comm. Strauss: If an attorney asks why we're not compliant with the 2018 version, it could be an issue.

Chairman Elkins: And it could be a battle of experts at that point.

Comm. Strauss: But once a newer edition comes out, the industry is saying that it is the latest.

Chairman Elkins: But it doesn't give us the ability to consider it in the context of our particular community. The point is made, and we can vote through it and make a decision. Any other questions for Mr. Klein? If not, I believe this case calls for a Public Hearing.

### **Public Hearing**

**As no one was present to speak, a motion to close the Public Hearing was made by Strauss; seconded by Pateidl. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

Chairman Elkins: That takes us to additional discussion or a motion?

**A motion to recommend approval of CASE 61-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-9-256, SIGHT TRIANGLE – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to the definitions of sight triangle – was made by Strauss; seconded by Coleman. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

CASE 48-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6, SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to permanent sign regulations.  
**PUBLIC HEARING**

### **Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: We discussed this at the April 11<sup>th</sup> Planning Commission meeting. The intent of the ordinance is to address mixed-use development, current and future. We carved out a specific section for MX-D. It was previously mixed in with SD-CR (Planned General Retail) and SD-NCR (Planned Neighborhood Retail). It now has its own section. They tend to be different. It is denser with taller buildings. Sometimes they will have a parking garage. The intent was to try to address concerns that Park Place raised with regard to identity signs on the walls and multi-tenant signage. Staff is recommending approval, and I would be happy to answer questions.

Chairman Elkins: Questions for Mr. Klein?

Comm. Strauss: I think it's because I missed the work session, but we've crossed out "motion" on all of these. Does that mean that we're allowing motion in our signs?

Mr. Klein: Motion was already listed in the prohibited sign section, so to remove redundancies, we took it out of this section. We also added signable area that we talked about before into a general section so that it covers all signage as opposed to listing it under each individual one.

Comm. Block: I actually talked about this with Mark earlier. I just found things that I don't think should hold up this approval, but maybe I could share them after the meeting and they could be incorporated into a future amendment to this section. I saw things in the table at the very end in 16-4-6.14, Permitted Sign Types. There was a definition earlier that is not listed in the table and vice versa. Some of the things were not consistent among the different types of developments, and I think they could be added for clarity.

Chairman Elkins: I would be interested in staff's perspective.

Mr. Coleman: There are coordination issues, and we agree with Commissioner Block that it would be advantageous to have them in there. It doesn't change any of the substance of the ordinance. It would help to cross-reference and clarify the signage. We would work on that and bring it back as an additional amendment later on.

Chairman Elkins: The intent is not to do conforming changes after we approve it but before the Governing Body; it would be an entirely new iteration.

Mr. Coleman: Correct. We would make the changes later and bring it back as a new amendment. It is a good idea.

Chairman Elkins: We would not vote on those tonight.

Mr. Coleman: Correct.

Chairman Elkins: Other questions?

Comm. Pateidl: Throughout every section of definitions under 16-5-6.13, indirect lighting has been eliminated. I'm not sure I fully understood your comments about the LED lights being on the bottom and shining up. Is that indirect lighting?

Mr. Klein: What indirect lighting would be used for is what we consider halo illumination. The light source is behind. It bounces off, shines on surface behind it and creates a glow. When we talked to the professional in the sign industry, he said it was not the correct term to use. That is the reason we are replacing the indirect lighting with halo illumination. There is one exception for the indirect lighting, and that is the menu display area. We struggled with what to call that lighting in a display case with the menu and a light source you can't see that is shining down on the menu. It is not externally illuminated. It is external to the menu but internal to the building. We did keep the indirect lighting with regard to that one. Everywhere else, we are talking about halo illumination, which is what we were using the term "indirect lighting" for.

Comm. Pateidl: Would we just eliminate indirect lighting from our definitions?

Mr. Klein: Since we are keeping it with regard to the menu display area, we didn't want to get rid of the term in case we run into a situation such as the menu display area. We

want to allow the halo-illuminated sign as opposed to indirect lighting, which could be interpreted a lot of different ways.

Comm. Pateidl: Indirectly illuminated sign is any sign that is partially or completely illuminated at any time by a light source that is shielded so as not to be visible at eye level. What is the light that shines on a monument sign?

Mr. Klein: If it is halo-illuminated and located at eye level for a monument sign, you won't see anything. If it is a halo-illuminated wall sign and you are standing below, you may be able to read it if you crane your neck. Halo illumination would describe what is on the monument sign and what is on the wall; whereas, the menu display is definitely at eye level. It is not seen; it is a source that is shielded from view at eye level.

Comm. Pateidl: The menu board at the restaurant on the side with the light coming down on it?

Mr. Klein: Yes, we just had a case with Ainsworth, who is proposing a menu display with a case that is carved out with a menu inside. The light would shine down on the menu.

Comm. Pateidl: This is a bit repetitive, but the fact that we have eliminated motion from every one of these implies to me a tacit approval of motion in signs because it is not precluded as it was before. Is there a change in how we are feeling?

Mr. Klein: Motion is included in the Prohibited Sign section. Rather than relisting motion on every single one, we just have it in the one location.

Comm. Pateidl: You can see where we get confused when this title is Permanent Sign Regulations. To me, that is the sign section. If you say they are excluded individually, then okay.

Chairman Elkins: In the totality of the section on signs, there is a section with prohibited signs. They are listed in that section. The problem is this table is taken out of context. The part where the table would make sense is if we were prohibiting motion in some and not others. Since we are prohibiting it everywhere, the general prohibition is what should apply. We ought to confirm that it is the case, but my understanding is that there is a separate section on prohibited signs. Are there other questions? Then I would open the Public Hearing.

### **Public Hearing**

Bret Merz, KBS, owner of Park Place, 800 Newport Center Drive, Ste. 700, Newport Beach, California, appeared before the Planning Commission and made the following comments:

Mr. Merz: Thank you very much to staff for the thoughtful, thorough, and detailed proposal. On behalf of KBS, we very much appreciate it, as I know do all the local

businesses at Park Place. I have two quick items. Under the supplemental provision, I believe there is a category for window signs, and it states they are not to be more than 20% of the window area. My only suggestion might be that we would like to increase that. It is a very small amount, and the window coverings have two functions. The first is to help attract tenants and allow them to visualize and promote the vacant space in the shopping center and a practical application. Secondly, once construction has begun, it makes a lot of sense to cover the entire window so that no one sees the ugliness of construction. I believe I can address the rooftop sign. I had a quick comment on that. There is a roof on top of the garage at Park Place. We proposed the sign that says “Park Place” that is attached to the architectural element. There is a rooftop sign that the sign would not be attached to. If it were attached to the rooftop, it would be much higher than it is now. It sounded like the intent was it could not be attached to the highest point. We are attached to the architectural element below the highest point. If we bring it down to what was in one of the renderings, it is not nearly as visible, and it causes us to have to deal with the landscaping. We don’t want to have to remove trees. If the sign is moved down, it won’t be visible from the street. The only other point to that sign was internal illumination. Our suggestion would be to allow that sign to be internally lit. If it is externally lit from the front, we believe there will be a lot of leakage, which would in turn light up a lot of the façade and the sky around it. There are also maintenance and installation issues that come into play. From our perspective, it is really about the aesthetic. Thank you for all the great attention to detail.

Kevin Jeffries, Leawood Chamber of Commerce and EDC, 13451 Briar Drive, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Jeffries: I also want to echo Mr. Merz’s sentiments thanking staff for their efforts. It is a huge task to take on. I do want to talk about a couple things. One concern I have has to do with the definition and variation in the façade. The Park Place parking garage has a lot of variations for visual effect. I’m concerned that might bound the sign. Also, on Page 10, Article 4, it talks about directional signage. I’m talking about this in a broader sense as we do development in the future. It was saying there could be no lighting on these directional signs. I’ve been in places in the past where the directional sign is out somewhere and not very well lit. Internal lighting might not be terrible to consider. It is something to think about with a low candle power. Also, I had a question on Page 13, Article 4. It talks about the 100’ setback, and I wasn’t clear on what that meant. Any clarification would be helpful. That can be really far back. I’m not sure what is intended by that. My last question would be more about if this passes Planning Commission tonight, if staff could give some guidance to Park Place. As Mr. Coleman mentioned, this has been a 6-month process. They are anxious to move forward. If you could give us an idea of next steps, it would be helpful. Does Governing Body act on the old application, or do they have to submit a new application? My role is to help businesses move things forward in our city, so I’m looking for guidance on that. Thank you.

Chairman Elkins: Mr. Jeffries, before you step down, you referenced the 100’ setback. Which section?

Mr. Jeffries: It is in the Vehicular and Pedestrian Directory Signage.

Chairman Elkins: Is there anyone else who wishes to be heard?

**As no one else was present to speak, a motion to close the Public Hearing was made by Coleman; seconded by Strauss. Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

Chairman Elkins: Mr. Klein, would you care to comment on the observations made by the public during the hearing?

Mr. Klein: With regard to the window signage, as you may recall, the Planning Commission and Governing Body considered window signage maybe two years ago. There was quite a bit of discussion. The previous ordinance limited window signage to 5% of the window area. There were numerous examples shown as far as what that would look like. In addition to that, at that time, a window sign was defined as any sign that was visible from the exterior of the building. That ordinance was changed to be anything within 3 feet of the window area. Any sign beyond 3 feet is not considered window signage. That helped quite a bit. In addition, the 5% was increased to 20%. Again, that was after looking at numerous different examples of different percentages. That is why staff was not looking to change window signage with the exception of removing it from the office section because we felt that was a mistake when it was put in. Office buildings, especially on the upper floors, would not need 20% of the window area covered by different types of signage. With regard to the roof signage, as we talked about with the definition, we feel the definition refers to the upper deck. The way I understand it is if there is a tower element and a roof section, the sign would be allowed to go above the deck but lower than the roof element. That was not the way staff was looking at the definition. It actually would be below the deck with the exception of a continuous parapet wall. With regard to the internal illumination, we did not change the ordinance. We didn't see that as a change that needed to be made. Directory signs have not been illuminated in the past. Usually, those areas are fairly well lit with street lighting. Typically, they are located along vehicular traffic areas because they are directing someone to an exit or something like that. Street lighting will then provide the lighting for that. It has been that way in the LDO, and we were not proposing a change. With regard to the 100' setback for the vehicular multi-tenant signs, the reason for that is just more of a function of what the sign was. It is to ensure the sign is back from the perimeter of the property because the intent is to direct people once they are in the development. I believe the one that Park Place proposed was in the median of the traffic circle. It was 100 feet away, so it would meet this requirement.

Chairman Elkins: Questions for Mr. Klein?

Comm. Hoyt: It is more of an observation. The one concern that they need a sign to cover up while things are under construction would fall under temporary signage.

Mr. Coleman: It is allowed.

Chairman Elkins: Additional questions? I have a few. Mr. Klein, harkening back to a question Mr. Pateidl asked a few minutes ago, I want to make sure I understand your answer correctly. In the case of a monument sign that has lighting on the ground or near the ground, is that an example of direct lighting, or is that an example of indirect lighting?

Mr. Klein: If there is a monument sign with ground-mounted landscaping lights that point up, we consider that external illumination. It is external to the sign, and it is casting light up or down. Another example of external illumination would be gooseneck lighting with a non-illuminated sign and a series of goosenecks that come down and light it from above. For the majority of the cases, what we used the term “indirect lighting” for was what we were thinking was halo illumination because there is an opaque finish, and the light source is behind. It is an indirect view of that light because the light is leaking out from the tops and bottoms to create the halo. It is just the person in the sign industry indicated it should be called halo illumination to be clear. We tried to change it in every instance. We didn’t know exactly how the menu display would fit. We thought it would be appropriate to keep it indirect lighting.

Chairman Elkins: To make sure I’m tracking what we’re doing, in the hypothetical example of the monument sign, if I look at Permanent Sign Regulations for 16-4-613 and the section on monument signs, the way I read that is the only permitted lighting is non-illuminated or halo-illuminated. Your gooseneck example or the ground-mounted example would be prohibited in this area.

Mr. Klein: Regarding the monument signs, I sent out an email earlier to indicate that the packets you have eliminated some of the external illumination, so you actually have a document that will highlight. External illumination would be allowed, along with halo illumination.

Chairman Elkins: It is permitted, then, in that circumstance.

Mr. Klein: Correct.

Chairman Elkins: With respect to the roof sign that the public expressed concern about, we are a little bit past that because we already defined it, but the operational rules around that are contained in this case. Can you address the question the public asked about how the limitations on where a sign that is near the top of the building apply?

Mr. Coleman: In the example we used, the sign would simply move down about 5’-6’ so the top edge of the sign is at the top edge of the structure. We didn’t want signs mounted on other stuff that sticks up above the structure.

Chairman Elkins: Like the mechanical screens.

Mr. Coleman: That could be one example. Others would be elevator overruns, microwave structures, and other structures on top of the roofs.

Chairman Elkins: Could we see that?

Mr. Klein: (*Referring to photo*) I believe he was talking about the structure on the sides and that since the sign is lower than the roof elements on the side, it would be allowed and not considered a roof sign. Per our definition, it would be below the top deck. If it was on a tower element, it could be on the tower element below the top edge. It would need to be below the roof element at that point. It would depend on the placement of the sign.

Comm. Ramsey: In this case, though, I think the contention is that since the sign is between a couple of pillars and architectural issues, it is part of the architectural content of the building. I can't tell from this. I think our intent is to try to make sure that we don't have a roof-mounted sign that is sticking up above the elevation of the roof by itself. Is that correct?

Mr. Klein: The intent is to make sure that there is not a sign sticking up above the top deck.

Mr. Coleman: Not just by itself, though. An architectural element could be designed to be much higher. We wouldn't want a sign to be mounted on that element. We've had people talk to us about building steel framework that is architectural.

Comm. Ramsey: I think that is what this rendering is showing.

Mr. Coleman: It is a prior architectural element that was designed to give relief to the façade of the building, but the architectural element extends above the roof. In this particular case, the sign would just need to move down to the top edge of the actual structure.

Comm. Ramsey: Once again, what is not acceptable is having an architectural element that is extended up above the structure but that is open, which allows the sign to, in effect, be above the top elevation of the building.

Mr. Coleman: Correct. Some of this was written in response to some of the other signs. There is an architectural steel element that is basically not allowed now (*referring to example*) because AMC 20 should be down on the parapet. If we allow any architectural element, the sign could go clear up on the superstructure that is steel up above. That is what the city is trying to prohibit.

Chairman Elkins: As a matter of procedure, could we get some sort of a print of that picture to add to the record?

Mr. Coleman: We can do that.

Chairman Elkins: Taking off on those thoughts, I didn't appreciate this until the last Public Hearing, but the limitation is also tied to the part of the building that the sign is attached to. In this instance, I see the structure on the righthand side of the picture being taller than the Park Place sign and the structure on the left-hand side being taller. I would have thought, based on what we were talking about, would be the limits of the heights of those structures, not the particular part of the building that the sign sits on. What I've heard is that if the sign was put on the far-right structure, it could be higher, but because it is put where the structure is shorter, the elevation of the sign is also shorter. Is that correct?

Mr. Coleman: I think the sign would have to move down so the top of the sign is no taller than the top of the superstructure. I would have to look at the rest of the building because I frankly can't remember what those elements are. I think one might be an elevator overrun or staircase.

Chairman Elkins: The definition talked about the tallest edge of the building. It seems to me that the tallest edge of the building is that structure on the right.

Comm. Strauss: I think you're defining it correctly in that it depends on where the sign is placed.

Chairman Elkins: It is not the entire building.

Comm. Ramsey: Didn't you indicate that if this superstructure where the Park Place sign is right now were elevated higher and was a solid, non-open area, it still would not qualify?

Mr. Coleman: Correct.

Comm. Ramsey: When is it okay, and when is it not?

Mr. Klein: The way the definition reads is: "A sign that is mounted on the roof of a building that is wholly dependent upon a building for support and that projects above the top walk, deck, or edge of a building with a flat roof, unless wholly on the roof face of a continuous parapet wall used to screen the roof of the building, the eave of a building with a gambrel, gable, hip roof, or the deck line of a building with a mansard roof.

Mr. Coleman: The simple way to say it is if there is a solid parapet wall that is continuous around the building, the sign could go on that. Just a piece of the building that independently extended above the last structural elevation height, it would be not allowed.

Comm. Ramsey: I'm not trying to be argumentative. It sounds to me that it is almost going to be irrespective of what the definition says. Isn't it almost going to have to be on a case-by-case basis in terms of what they're proposing? I understand the guidelines.

Mr. Coleman: It's hard to understand exactly what the situation is going to be.

Comm. Ramsey: I can't figure every possible thing, but someone somewhere might walk in with a proposed design.

Mr. Coleman: That's true.

Comm. Ramsey: Once again, the whole idea here is not to have a sign sticking up above a roofline, correct?

Mr. Coleman: Above the structure, yes.

Comm. Ramsey: The first hoop to go through is to determine if it sticks above the roofline. If it doesn't, or if it's mounted on an architectural piece, does it conform to the rest of the building? Is it sticking up higher than the other elements of the building? That is why I say it almost is going to have to be determined on a case-by-case basis because every building is going to be different.

Mr. Coleman: Certainly, we would have to make that interpretation on a building-by-building basis with the definition.

Comm. Ramsey: The more complex test after determining if it sticks above a building is to determine if it is mounted on an architectural element and how that element fits compared to the rest of the building. Is it higher or lower than the other pieces?

Mr. Coleman: If the architectural element extends over the top of the roof structure, the sign would not be allowed unless it was on a continuous parapet wall.

Comm. Belzer: Is it fair to say that it is an architectural piece and non-structural?

Mr. Coleman: Part of it is non-structural; part of it is structural. It is a combination because it is a precast parking garage. Some elements are structural; some are not.

Comm. Pateidl: The upper element that slants down in the picture is a parking deck. Is that defined as a roof? The only roofs I see on the building are on the two elements to the left and to the right in this picture. The architectural element in the center does not exceed the roofline.

Mr. Coleman: The definition includes decks, which would be the top deck of a garage.

Comm. Pateidl: That is where cars are going to park. They don't park on a mansard roof, hip roof, gable roof. The point is technically, if you really want to look for roofs, they are only on the two columns. This is below the roofline.

Mr. Coleman: Our definition includes decks.

Comm. Pateidl: Let me say that we're going to have to take each of these things on an individual basis. We're going to have to make some judgments. This architectural element is out of the same materials as the building itself. It is not some structural steel piece of wire just to add height to the building. It does fall within the confines of flat roofs. If we are going to apply reasonable approach, is this not a case where reasonable approach could be applied? I'll add one other thing to it. That architectural element already exists, and if you took the Park Place sign and moved it down to the next layer, you're going to see all sorts of columns and stuff on top of it, which would look kind of silly, in all honesty. The more we hear about this and the more you think about the columns and the impact on signable areas and all the other stuff we've been talking about tonight, whether it's a deviation or an interpretation, at least as it pertains to this particular application, I believe it fits within your definitions. Just an observation.

Chairman Elkins: Thank you. Where I'm struggling is in the definition we just approved, we talked about the top walk, deck, or edge of the building. I would suggest that the top edge of this building is either on the left side with the stairway or the right side with whatever that is. That's why I'm surprised that our view under this definition would be that where the sign is now is above the top edge of the building because the top edge of the building is on the far left and far right. I'm struggling to figure out how we address this because it really is a matter of interpretation of what constitutes what projects above the top edge of the building. I agree and hear what staff is saying about this particular example, and we shouldn't make an ordinance based on one example. In this particular example, that sign shown in the picture is above the top deck, but it's not above the top edge of the building. Again, we've ceded administrative review of this, and this actual issue has been granted to staff. I'm a little bit at a loss for how to deal with this in the context of either case 48-17 or even, heaven forbid, we go back to Case 49-17. I'm curious as to other opinions on the commission. What do you think is the right approach from a governance standpoint?

Comm. Block: I think we could approve, and what we've approved earlier can stand, but we're not considering this sign application today. It will come in the future.

Chairman Elkins: We won't consider it, though, because it's been ceded administratively to staff. We will never see this.

Comm. Block: I would think that we could get this back and consider it as a one-off.

Comm. Coleman: Staff would consider it a law and would have to enforce it.

Comm. Block: I agree. I don't like the idea of the sign being lower than where it is shown on this. I think it doesn't look right.

Comm. Ramsey: I think from our perspective, unfortunately, we are taking this as the example, and it may not be the best example.

Chairman Elkins: The exception swallows the rule.

Mr. Coleman: The same question would apply to this (*Refers to overhead*).

Chairman Elkins: Again, to my way of thinking, the top edge of this building would be those two pillars on either side.

Mr. Coleman: What about the steel structure?

Chairman Elkins: To me, that's not the edge of the building.

Comm. Ramsey: That's why it's going to be on a case-by-case basis with the architectural elements.

Mr. Coleman: So, you would be okay with the AMC 20 sign as it is sticking up above that roofline if those two column elements were at the same height?

Chairman Elkins: Correct.

Mr. Coleman: That is what we are trying to prevent.

Comm. Belzer: I think the AMC 20 example is completely different from the Park Place example. When I see the AMC 20, I think it should be on the façade. That is the roofline. These two columns are higher, but if the roofline is that in question, that is the façade. This steel structure is an extraneous piece. The way I see it, it has nothing to do with the roofline. It is an architectural element. It's aesthetic, but it's not the roof.

Chairman Elkins: You would say the same thing about the columns on either side, right?

Comm. Belzer: Right; that's not the roofline. The roof, in my personal interpretation and view, is the circular area above the windows.

Comm. Ramsey: She has a point because the columns are there to support the beams for the architectural piece.

Chairman Elkins: It's a fair point. If we look back to Park Place, Commissioner Belzer, how would you interpret that?

Comm. Belzer: If the two columns in the middle are structural and not simply architectural or aesthetic, in my view, I see that it is a bit lower than what is at the left and right, which is part of the building. If you were to draw a line across that, the column to the far left and the column to the far right would be where I would designate the roofline. However, it is not a straight roofline because it doesn't continue all the way across. This is a difficult example. There is not a direct roofline. The AMC sign is above the roof. In this case, I feel the Park Place sign is situated where it most makes sense in terms of how it relates to the far left and the far right. It is a bit below these columns. If the columns are

structural, they are part of the ultimate roofline. In my opinion, it sits just below what you would designate as the roofline.

Chairman Elkins: It seems that one of the issues here is the point that Mr. Jeffries made early on when he testified was that perhaps parking garages are unique and different than other buildings. I think that's the point that it took me a long time to get to.

Comm. Belzer: Does that then lead to the definition that we approved a few moments ago, where the parking structure is the designation of the uppermost level at the top of the deck, and therefore, the roofline is not these two columns. Therefore, the top of the parking garage is the uppermost deck, and the signage would then have to be below. That is what I'm contemplating. Is that what that means? The deck is then the top?

Mr. Hall: I'm sorry to cut you off, but I want us all to be clear on which case we are discussing. Right now, what you have up for discussion is not the definition of the roofline. The chairman correctly pointed out that you have approved that definition that calls it the walk, deck, and edge portions. You are looking at different things now.

Chairman Elkins: What we are doing is interpreting what the implications of that definition are in 48-17 because it operationalizes that definition. I think it is still a fair discussion. Your point is well taken.

Comm. Belzer: I am trying to apply what we approved.

Mr. Hall: I just wanted to be sure we were all on the same page. Thank you.

Comm. Belzer: I'm just trying to figure out the application of what we approved when looking at this specific example.

Chairman Elkins: In the context of the operational requirements of Case 48-17.

Comm. Belzer: Yes.

Comm. Levitan: I think some of this is so hard. We get locked into these definitions. For me, I take a step back and look at the aesthetics of it and its objective. I think the Park Place sign looks great. I think it is well framed. I think lowering it would lessen the impact. I think the AMC sign is well framed within the context of that element. Getting locked into that definition is difficult. I'm not sure if it's in conflict with the definition we already approved.

Comm. Hoyt: There has to be a definition of some sort, and the one we moved aside in favor of this definition would not permit this Park Place sign, correct?

Mr. Coleman: It would need to be lowered.

Comm. Hoyt: Yes, but the current drawing would be unacceptable under the old definition. What is the recourse for somebody who comes with a unique design, which reasonably speaking, is difficult to pigeonhole into the current definition? This kind of refers to the applicant's question during the Public Hearing. What is the next step? Let's just say that hypothetically, we approve this document that is in front of us right now. What would the applicant do to push their case forward once the Governing Body were to accept this, and would there be any step along the way if there is a tug-of-war between those who think it would be acceptable and those who do not? Is there any procedure?

Mr. Coleman: There may be a couple options. One is the Board of Zoning Appeals, and the other might be that the Governing Body has the ability to make deviations on some cases. We are trying to check to see how broad that is.

Chairman Elkins: Right now, on sign issues such as this, we now have allowed administrative decision by the planning department, correct?

Mr. Coleman: That is correct, but there may be an avenue for an appeal to the Governing Body or BZA.

Chairman Elkins: The first step would be that staff would look at the plan and make its best interpretation.

Mr. Coleman: Yes, that is the procedure. The application is reviewed against the existing ordinance and development criteria. Staff determines if the sign meets the criteria.

Chairman Elkins: It does not come to the Planning Commission.

Mr. Coleman: That is correct. If they do not agree, there is an appeal process.

Comm. Strauss: While that is being researched, why haven't we talked about the sign above the garage entrance? That always seemed like a big issue to me.

Mr. Klein: It is in there, and it is written to allow that.

Comm. Strauss: It wasn't part of the definitions. What does it fall under?

Mr. Klein: No, it is actually located in Section 16-6-4.13 – Permanent Sign Table.

Comm. Strauss: We haven't had a lot of discussion on that one, but I remember scratching my head six months ago on that one. I see a lot of description on the size and everything. Is there anything that talks to the number of tenants that can be displayed?

Mr. Klein: There is a limitation as far as the overall size of the sign. There is also a limitation as far as the size of the lettering, but there is not a limitation as to the number.

Comm. Strauss: That was one I had concerns about six months ago. If people are going 45 miles per hour down Nall and are slowing down to see if it's the right garage to go into for the business, is it a safety hazard? That would be my concern. I don't know if there are other thoughts on that?

Chairman Elkins: Do we have an answer from counsel?

Mr. Hall: I would direct the commission's attention to Section 16-4-6.3 (B). It is quite lengthy, and I'm happy to read it if you would like. It says, "Deviation from requirements, deviation in size, color, location, number of signs, and illumination may be approved by the Governing Body after recommendation of the Planning Commission if it is deemed that an equal or higher quality of development will be produced." The next important sub-clause will be No. 1. "In commercial districts, if private sign standards have been approved, deviations as to the size, color, location, number of signs, and illumination may be approved," provided that they have the percentages. There is a process in place, but it requires action by the Governing Body to deviate from those and only in commercial districts, which I believe MX-D is.

Comm. Hoyt: How would it come to us if staff denied it as an administrative procedure?

Chairman Elkins: I don't think it would. The path of appeal is to the Governing Body.

Mr. Hall: That is correct; the path of appeal would be to the Governing Body.

Comm. Pateidl: From listening to the discussion and questions and the uncertainty that I'm beginning to feel amongst the commissioners, I'm wondering about the prospects or the prudence of a continuance to this where it would go back to a work session where we have time to thoroughly digest the definitions that have been presented to us. We've got the concept, but the issue of definitions is something else we need to contend with. I just offer that for thought.

Comm. Block: I think the definition is fine, and it can't cover everything, like we've said. Again, it's just this one-off application, and if they want to go to Governing Body, which is where it's going to end up anyway, we'll let that process happen. I think everything else here is fine. The definition we approved in the case before is okay. It's just this one-off situation. I don't know that we're ever going to get there and be able to write something and accomplish what staff and Governing Body want to do, which is to not allow signs above a certain level like the AMC sign. I think this is different than what we are looking at today. I don't see a need to continue.

Comm. Hoyt: I agree.

Comm. Ramsey: Jim, were you referring to the roof sign issue?

Comm. Pateidl: There are several. Directory signs are only allowed on arterial streets. Why would we not have those on the interior of someplace like Park Place? People pull

into Park Place and want to see where they're going, and we're not going to put directional signs on the garage. There are a ton of other issues in this application that go beyond the roof sign. I see us struggling with the roof signs. If we start getting into the rest of these, we ought to make the suggestion that we extend the meeting now.

Comm. Ramsey: We've already approved the one item on the roof signs in adjusting or amending the ordinance.

Comm. Pateidl: For the record, I didn't.

Comm. Ramsey: Are you suggesting we unring the bell?

Comm. Pateidl: This is going to go to the Governing Body, and then they can make the decision as to whether that bell rings or not.

Chairman Elkins: Procedurally, we've got a couple options. I don't know that we've ever done this in the years I've been on the commission, but in my understanding of the rules, someone who voted for approval of the definition could move for reconsideration of that. We could revisit that decision. We could continue this, but my concern is by merely continuing it, we still need this case in place. It is a more difficult option to revise it on the fly the next time we take it up. Or, we could deny it. If we vote to deny it, it still goes to Governing Body, which doesn't get us anywhere as well. To get to where Commissioner Pateidl would like for us to go, a continuance would at least give us a chance to review it, and we could amend the case that is before us when we take it up again. Mr. Coleman? My third option would be to vote against it, but they could overrule us by super majority.

Mr. Coleman: Or you could recommend approval, and then City Council can take up any appeal and deal with the individual stuff, which is what should happen rather than taking a particular case as an example.

Chairman Elkins: Let me restate for the record. One, we could go through and reconsider. Two, we could go for a continuance. Three, we could recommend it for approval and let the Council modify or take it as staff has presented. Four, we could recommend denial. In that case, it would take a super majority to overrule at Council. Those are our four options.

Comm. Ramsey: Since this isn't a planning case but rather a proposed amendment to the ordinance, does the super majority requirement come into play?

Mr. Hall: It is still a case, so it does. A change in the ordinance can only come from Governing Body, but it is a case number and not an application. Any of your considerations and recommendations will lead to a need for a super majority to overturn a decision.

Chairman Elkins: Those are the options. Do others have comments?

Comm. Hoyt: I appreciate the time staff has put into this and the flexibility that everyone is showing who is involved in trying to make some good decisions on realizing that MX-D requires some different approaches. This is really where this comes from. I think the new definition for roof signs actually invites, in a good way, an increasingly complex way of looking at what it means to be a roof sign. I think the other definitions and other additions in terms of the multi-tenant parking garage, etc., are an attempt to deal with the different needs of MX-D. We have a couple of these currently, so we can hypothetically think about these in use there. Clearly, these may not be the best approaches in the long run. There may be a new MX-D development that comes in and makes us reconsider. For the current situation, particularly since an applicant does have the opportunity to petition their individual grievance with Council if they dispute the interpretation of staff, it is very complicated. I think this may be a good way of making an attempt to reconcile the complication.

Comm. Strauss: I want to state that I would support Commissioner Pateidl's suggestion for a continuance for discussion. Chairman Elkins, it looks like you and I were the two unable to attend the April 11<sup>th</sup> meeting, but I feel very behind on some of these issues. I can't support this amendment the way it is now because I have too many questions. I'd like to get back together in a work session with my commissioners and talk this through some more.

Comm. Levitan: I'm with Commissioner Block. I think we do a straight up-or-down vote and let Council take it on. They'll have the record and be able to go through it, form their own opinions and deal with it at that time.

Comm. Belzer: I agree with Commissioner Levitan.

Chairman Elkins: Does anyone else have comments?

Comm. Coleman: I've been listening intently and have taken it all in, reading through this before. I agree; I think we should move it on. I don't think anything is going to be perfect. There is a lot in here. I think if we push it forward and there are some things that we need to go back on a small basis, we can do that. There's a lot we're pushing forward and a lot we're correcting. I think the minority in this regulation, we can come back and re-discuss if necessary.

Comm. Pateidl: The only comment I would make is if we move this forward and approve it and it gets approved by Governing Body, it becomes the letter of the law. We better be very comfortable with the definitions that we are putting in as it relates the MX-D and that we avoid unintended consequences because of these definitions. When push comes to shove, the Planning Department, as they should, will look to this document. My concern relates not just to the roof but to the overall description of these definitions. While we've discussed these in general, these definitions are all new to us tonight. This is the first time we've seen "the letter of the law." I'm not prepared to say I'm comfortable

with it. If you are, then vote for approval. If not, I would make a motion for a continuance.

Comm. Levitan: I think MX-D is still kind of a working laboratory. I don't think we're going to be flushed with MX-D developments, just based on how difficult they are. I think if there's an unintended consequence, we can let the process work itself out as we have worked through LDO amendments in the past. I just don't see this as a huge detriment.

Chairman Elkins: Commissioner Pateidl, do I take your last comment as an actual motion, or you would make a motion?

**A motion to continue Case 48-17 to a future Planning Commission meeting was made by Pateidl; seconded by Strauss. Motion did not carry with a vote of 2-6. For: Pateidl and Strauss. Opposed: Belzer, Hoyt, Levitan, Ramsey, Coleman, and Block.**

Chairman Elkins: Do I hear another motion?

**A motion to recommend approval of CASE 48-17 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6, SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to permanent sign regulations – was made by Hoyt; seconded by Levitan.**

Chairman Elkins: Commissioner Strauss?

Comm. Strauss: I'm a little disturbed about a couple comments that my fellow commissioners have made that we can approve this and make tweaks down the road. That is not exactly true because we would open ourselves up to implications that could happen. Like we said, Governing Body could approve this, and then things occur. If we come back in a year and decide to make a change, a year's worth of actions could have occurred that we really weren't comfortable with. I'd say if there is a concern with any part of this amendment, you should vote no unless you completely agree with it. I don't think we can make tweaks later because I think there will be impacts.

Comm. Ramsey: I understand your concerns about being all in on this, but when we had the work session, we thoroughly discussed this in detail. While I don't agree with everything in here, I bowed to the majority of those commissioners who felt this was the best way to go forward. I take exception that it has to be all or nothing because this is our best product to-date. It's not perfect, but it's our genuine feelings that this is a reasonable effort, reasonable document to go forward.

Chairman Elkins: Other comments on the pending motion? Seeing none, we'll move to a vote.

**Motion carried with a vote of 6-2. For: Belzer, Hoyt, Levitan, Ramsey, Coleman and Block. Opposed: Pateidl and Strauss.**

Chairman Elkins: This was a great discussion. I commend the commissioners on a full airing and on the fact that we can disagree without being disagreeable, which is a key element of what we do here. That brings us to the last agenda item for the evening. By way of record, you may all be curious about this for those of you who were here a year ago. A year ago, the officers of the commission were elected to 3-year terms, but after additional review of the rules and bylaws of the commission, those provide only for a 1-year election. We are back now for election of officers for Planning Commission of the City of Leawood for the 2017-2018 year. At this point, I would open the floor for nominations for Chairman.

**A motion to nominate Marc Elkins for Chairman was made by Coleman; seconded by Hoyt.**

Chairman Elkins: Are there any other nominations for Chair? Seeing none, we will move to comments or discussion. Then we will move to a vote.

**Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

Chairman Elkins: Thank you for your vote of confidence. I'm honored and pleased to continue to sit in this position. I enjoy it very much. With that, I will open the floor for nominations for Vice-Chair.

**A motion to nominate James Pateidl for Vice-Chairman was made by Strauss; seconded by Levitan.**

Chairman Elkins: Any additional nominations? Seeing none, we'll move to a vote.

**Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

Chairman Elkins: That brings us to one last officer. I think we have an obligation to designate a Clerk of the Commission. Historically, Mr. Klein has served in that role. Am I heading down the right path?

Mr. Hall: Yes, indeed.

**A motion to nominate Mr. Klein for Clerk was made by Strauss; seconded by Hoyt.**

Chairman Elkins: Are there additional nominations? Then we will have a vote.

**Motion carried with a unanimous vote of 8-0. For: Belzer, Hoyt, Levitan, Pateidl, Strauss, Ramsey, Coleman, and Block.**

**ELECTION OF NEW OFFICERS**

*MEETING ADJOURNED*