

**City of Leawood
Planning Commission Work Session
Development and Design Guidelines and Sign criteria
Building Materials for Siding
April 8, 2014**

In attendance:

Commissioners: James Pateidl, Ken Roberson, Kelly Jackson, Lisa Rohlf, Len Williams, and Marc Elkins

Staff Members: Mark Klein, Michelle Kriks, Ursula Brandt, Franki Shearer, Richard Coleman and David Ley

Sign criteria and Development and Design Guidelines

Mr. Klein: These are required to be approved as part of the Final Development Plan as each of these projects comes through. An issue that has become more prevalent lately is developments that sell pieces of the development. In that case, the sign criteria only apply to the main portion. The intent of the ordinance is to unify the development. In the Leawood Development Ordinance, Section 16-4-6.3 defines a shopping center, office park, business park and industrial park as a project with one or more buildings and two or more tenants that has been planned as an integrated development with cluster on property under unified control or ownership at the time the zoning was approved by the city. When a project comes in, it often needs to be rezoned. These property owners are expected to then follow through with the planning process, including sign criteria for the overall development. The standards are to run with the land with all leases or sales or portions of the development. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with these regulations.

Chair Rohlf: Is that regardless of whether it is one building or two?

Mr. Klein: Yes. After setting out the definitions, it goes on to say that the size, color, material, styles of lettering, type of illumination and location should be set out in such standards that the Final Development Plan shall include the Sign Development standards and be approved as part of the Final Development Plan. The standards may be revised by resubmitting to Governing Body for approval after recommendation by the Planning Commission. They come back to you so you can see if it makes sense.

Mr. Coleman: It is why we saw Park Place come back so many times with their sign criteria: they kept changing it because people wanted something different.

Comm. Elkins: The ordinance requires that the developer make provision when a property is leased or sold, and the context of a sale is what we're more concerned with for a covenant that runs with the land. The ordinance says they don't do that, but they don't.

Mr. Klein: That would then put them in violation of the plan at that point.

Comm. Elkins: What is our enforcement mechanism if the property is sold without recognizing this?

Mr. Klein: These developments have sign criteria. Now that they want to change them, if they're only changing a portion, it is in violation of the ordinance and the city probably shouldn't approve anything that is only in part. It is not taking their rights; they still have sign criteria and the ability to put up signs. The hope is with this information, they would try to work with property owners and work to put something in place they could agree to.

Chair Rohlf: It seems like, regardless of if a property within the development gets sold, they are bound to do what was originally in place for the development.

Mr. Klein: Yes, and that is staff's interpretation of it: just because they sold off the property doesn't exempt them. We're supportive of some of the changes they want to make, but we want to make sure the main center or portions of the main center don't get one set of sign criteria while other portions get a different set. It starts to defeat the purpose of unified design guidelines and sign criteria.

Comm. Pateid: We have these criteria, and somebody comes in and wants to change it, and we're saying that they're bound by the regulations that have been in existence, and any changes have to be in total.

Mr. Klein: Yes, because we have sign criteria that cover all of it, and we can't approve something that would only be a portion.

Chair Rohlf: But they could come back together, correct?

Mr. Klein: Absolutely; for instance, some of the older centers have issues and perhaps new sign types available. We wouldn't have an issue with them coming through to change it as long as it is to the overall center to ensure it fits with what was originally approved. Design guidelines have more to do with the color, materials and style of the buildings.

Chair Rohlf: Would you say a set of design guidelines for Town Center, with as old as it is, would it be more binding than what we have now in our ordinance or less specific?

Mr. Klein: It's probably more specific than what we have in our ordinance.

Chair Rohlf: Is there any one thing in particular that these outbuildings are asking for?

Mr. Klein: No, at this point, it has more to do with the main center indicating no control over the pad sites.

Comm. Elkins: Does this create a possibility for a tyranny by minority? For instance, if Town Center gets everyone on board to change the sign criteria, but AMC objects and therefore has veto power?

Mr. Klein: I imagine, to a certain extent that is true. The development inadvertently didn't put into place the transference of these guidelines, even upon the sale. Cornerstone is another example of the master developer being the largest landowner. No matter how that changed, whoever had the largest percentage of the property had the ability to change the sign criteria and design guidelines for the overall center. This is simpler and calls it out more specifically.

Mr. Coleman: In that particular case, the minority could not hold them hostage.

Comm. Williams: Town Center doesn't have that power currently?

Mr. Klein: At this point, it doesn't appear that they have it. We're still working with them, and the hope is that we will be able to work something out.

Comm. Williams: AMC came in with sign changes a few years ago. Did we view those in light of the design criteria for the center?

Mr. Klein: The sign criteria had more to do with violating the Leawood Development Ordinance, even though it did not violate Town Center's criteria.

Comm. Pateidl: I don't know about individual sign criteria versus LDO and which trumps which, but when we've had changes in location, such as if HyVee wanted to make some changes and we were to require different things with signage, does the position we take here going to shoot ourselves in the foot when it comes to enforcement of updated signage if it doesn't comply with the standards for a particular development?

Mr. Klein: That's a good point. The regulations of the city change from time to time. Say they have sign criteria that allow something allowed by the LDO at the time of approval. If the LDO changes to where that type of sign is no longer approved, they become legal, non-conforming signs.

Comm. Pateidl: Even though it is not in compliance with their standard signs?

Mr. Klein: Typically, that hasn't been an issue. So far, we haven't seen an instance to where the LDO would allow something that wasn't allowed under the sign criteria. If that was the case, whatever is the most restrictive would actually rule. That's how it is with any city ordinance. With regard to individual signs, the first reference is in Section 16-4-6.3, which states that no permits shall be issued for an individual sign unless and until Sign Development Standards have been submitted to and approved by the Governing Body after recommendation by the Planning Commission. Recently, we had it to where administrative approval could occur under two conditions: it met all the approved sign development standards for the individual development and the Leawood Development Ordinance as well.

Chair Rohlf: Mark, what is the title of the section those things appear in?

Mr. Klein: They are all in "Office, Commercial, Industrial Signage in Planned Districts," which means a plan is required with a rezoning or re-plat. Every district within Leawood became a Planned District, including residential properties. The intent of the Leawood Development Ordinance is that, based on the section we saw, it has always been the intent of the city to ensure some unified sign criteria exist. We also talked about multiple ownership within a single development. Some of the developments have taken the position that once individual parcels are sold, changes to sign criteria cannot be applied to the overall development, only the ownership making the application for the changes. Design guidelines are also required as part of a Final Development Plan but are not elaborated on nearly as much as sign criteria. It doesn't say if the property is sold. We don't have the same kind of language in there that we currently do for signs. We'd like to talk about if that is a gap that needs to be filled.

Comm. Elkins: Does Section 16-3-12 apply only to office, industrial, commercial or to residential as well?

Mr. Klein: It is listed under "Final Development Plan Requirements," but it is not broken out.

Comm. Elkins: We haven't heard about it a lot lately, but several years ago, we had an issue about whether the HOAs would have design guidelines, and they were pushing for the city to do it. I hadn't thought about this and the extent to which it would apply to developer of the residential subdivision.

Mr. Klein: We haven't seen many residential developments, and residential property in Leawood is a premium. We see amenities and common areas that get approved with the plan, and then paving materials and monument signs come back in.

Comm. Elkins: Would it give us a route for regulation if we ever started having the McMansion problem again? Hopefully, we've attacked that through the massing and height, but could we use this as a route to regulate if we needed to?

Mr. Klein: That certainly does work, but it is limited to RP-1 and R-1 for existing homes.

Mr. Coleman: Are you saying you want it to include residential?

Comm. Elkins: I was just trying to think through the possibilities. If it does apply to residential, it is striking my brain that you're providing a mechanism we could use. We could require design guidelines that would prevent it.

Mr. Coleman: That would fall on us to enforce it, so it's probably not a good idea.

Comm. Elkins: It's a matter of policy. I know it's a pain to enforce it, but if we want to try to maintain the character of the neighborhoods, it's one way the city could do that.

Comm. Jackson: Those old neighborhoods never had design criteria, though.

Mr. Coleman: In Old Leawood, they have their own Architectural Review Board that reviews the plans. They wanted us to do that when we didn't want to be doing it. Other homes associations have their own criteria for roofing and siding, which we'll talk a bit about later. If we have a general idea of what they're going to do in a subdivision, it is probably enough because often when a subdivision is being built, a lot of the homes are custom, so somebody might not want the Tuscan villa but rather a California Villa.

Comm. Elkins: Kelly makes a great point that it really wouldn't address the issue in North Leawood because these guidelines are required at the time of Final Development Plan, and that was done 50-some years ago.

Mr. Klein: Currently, with the residential properties we have left, a piece is located at the northeast corner of 151st and Mission Road that was platted in the '60s but never developed out. This is all on paper, and it has a number of problems to overcome, including heavy transmission power lines and topography issues. We are liable to see residential as components of mixed-use with regard to the 135th Street Corridor, Mission Farms, Park Place and Parkway Plaza. What you might be seeing coming up is a way to try to address design guidelines so we have more protection down the road.

Comm. Pateidl: Could you just modify the original ordinance that you cited to include design along with the sign criteria?

Mr. Klein: Part of it is specifically in the signage section, but we could incorporate much of that into where the design guidelines are required.

Comm. Elkins: Is there an issue with requiring it retroactively? Let's take Park Place as an example, so when they first got their plan approved, we didn't have it in the LDO. Now the bank takes it and sells it off in bits and pieces, and we change the LDO. Are we comfortable that it is enforceable going forward?

Mr. Klein: I think the hope is that maybe we have this in place. They still have to come back through for a Final Plan. As long as the remainder of the project is done in a timely fashion, we might have another bite of the apple on it. Town Center Plaza was originally approved in 1991 with one developer. Camelot Court was in 1986 zoned as SD-NCR. It has since changed to SD-CR because we wanted to make sure the grocery store fit the zoning for HyVee. Most of these have design guidelines, but some have sold different pieces. Cornerstone was approved in 2002. Plaza Pointe only has one more building, so as far as design guidelines, as long as the last building meets the current one, we shouldn't have an issue. There is a chance that Villaggio may have a new developer. There is very little constructed, so there are a lot more opportunities.

Chair Rohlf: Who owns that?

Mr. Klein: Bank of Oklahoma.

Comm. Pateidl: Anything that goes in there has to go through a whole new application process, doesn't it?

Mr. Klein: There are a lot of issues with that. Ironically, that property has garnered a lot of interest. People are seeing much potential.

Chair Rohlf: What is it zoned right now?

Mr. Klein: It has two areas: one is SD-O, and the other is SD-CR [Planned General Retail].

Chair Rohlf: What is on the east?

Mr. Klein: Originally, they filed two applications: Villaggio East and Villaggio West. They decided not to pursue Villaggio East. They did the rezoning for the piece of property from RP-3 and SD-NCR. It was going to be condominiums. The plan has expired, and zoning does not sunset, so it stays until rezoning.

Chair Rohlf: What would happen here? You have two buildings, so they would basically start over because they have nothing to comply with?

Mr. Klein: It depends. Right now, they have design guidelines in place for the overall area; however, there is a very good chance that people will start over with the opportunity to review new design guidelines and sign criteria.

Comm. Elkins: The plans have expired, so as a practical matter, there aren't design guidelines in place anymore, is that correct?

Mr. Klein: The way the ordinance reads is that the plan expires in five years, unless building permits are pulled and construction is being diligently pursued.

Chair Rohlf: I would think they could start over without any problem.

Mr. Coleman: We could have a lot of interest in retirement communities there.

Chair Rohlf: They've tried a number of things on that. Nothing ever happens.

Building Materials

Mr. Klein: At last night's City Council meeting, a gentleman wanted to do vinyl siding. He ran into two issues: the homes association he was applying to was not supportive, and currently, Leawood does not allow vinyl siding. He wanted the city to look at the product, and he was hoping the city would change its position. I'm not sure what good it would do if his homes association doesn't approve, but we did want to talk to you to let you know the request was made. Staff has been directed to write a report for City Council with regard to vinyl siding. I think the city still has some real concerns with regard to it. They asked the president of the homes association to speak as well, and he said they found an article in "Reader's Digest" and they also went to the construction industry and asked about it as well. It summarizes the city's concerns. One is that the vinyl eventually becomes brittle and fades after a period of time. It is not recommended to be painted. If one is cracked, it can't be filled as wood can.

Chair Rohlf: It looks good in the picture.

Mr. Klein: He had a sample.

Comm. Roberson: I assume we don't allow aluminum siding, either, right?

Mr. Klein: No. The sample that he brought has a foam backing. You could see where each one sagged in, so it sloped out a bit. We do allow cementitious such as hardiboard; we just don't allow aluminum or vinyl.

Chair Rohlf: It is still an inferior product?

Mr. Klein: Staff's opinion is that there are still issues with it.

Mr. Coleman: We thought this was on the top end of the vinyl siding because it has a foam backer that makes it more rigid. We thought it was an improvement over the typical vinyl siding, but part of the issue with a lot of these materials is that it's really difficult for us to vet every material that comes in because there are literally thousands of different manufacturers. That is one of the reasons for the blanket denial of aluminum and vinyl. We just wanted to let you know we are doing a report on this particular material back to City Council. We'll put a copy in your packet.

Chair Rohlf: I wish it could be. It could serve a real benefit if it could last. Think about what's happened in roofing over the last 25 years. I remember when I moved into my home, it was only wood. There were lawsuits going on. That's really an inferior product now for roofing.

Mr. Coleman: I think products like hardiboard, which didn't exist 25 years ago, are as good as or better than existing materials; right now, I'm just not convinced that this material is better.

Comm. Roberson: There are two types of wood roofs, though: shake shingles and a thicker shingle that nobody puts on because it's so expensive. As a result, it is an inferior product.

Mr. Klein: The roofing is a good point as the one area we've seen the greatest change as far as what's available. Some of it has really worked well, and some hasn't. It's difficult to tell which will work well and which won't. We used to have a green slate material in Plaza Pointe. If you saw the sample new, you would think it feels like slate, but I would say within two years, it lost close to 50% of its color. After another five years, it started failing completely and disintegrating. They had to patch but couldn't get the materials anymore because it went into a class action lawsuit and wasn't available. It had turned pretty well white, and then they put in a chunk of DaVinci or Lamarite that matched the original green. That didn't work out so well. Some of the other ones have maintained a lot better. It's always difficult because some of the manufacturers do an excellent job, but you could get something in the same line by a different manufacturer that is not good. We have noticed that in cultured stone. Some of it actually seems fairly well done, but others are not well done at all. It is difficult to distinguish between those quality differences in a regulation. Objective criteria are necessary, and that can be difficult.

Comm. Williams: The cultured stone is a good example. A reputable manufacturer could produce thousands of cubic yards and do a good job, but the same stuff could be made in a shop outside of town in small batches with lack of control.

Mr. Klein: That is what the city is struggling with a bit in allowing some of the newer materials. Some, we would probably be fine with, but how do we weed out the ones that are not good? You are likely to see some amendments with regard to allowed materials.

Comm. Pateidl: I think there is a bit of a concept we may or may not be missing as far as allowed building materials. In my mind, you buy a piece of property in Leawood because of the nature of the city and the integrity of the city. We feel it's an obligation to maintain that integrity, which gets to the aspect of unification as far as the developments' standards are concerned. I think it gets a little easier if we say we're doing it to protect the integrity of the investment that has already been made as we look to the future of this community. Then we get away from opinions and subjectivity.

Chair Rohlf: It makes building in Leawood expensive, and it makes housing unaffordable in Leawood. Say 135th Street has new subdivisions going in; the price point of those would be high because of some of the material requirements.

Comm. Pateidl: And that's not necessarily a bad thing.

Chair Rohlf: I think it is for allowing people to have affordable housing in Leawood. Right now, we're looking for a maintenance-free villa, and we can't find anything available that we can afford in Leawood.

Comm. Pateidl: I can believe that.

Mr. Coleman: Because of the land prices, they have to go more to townhouses or more multi-family construction to get the affordability closer.

Mr. Klein: We've heard from the Planning Commission for years to consider people who want another type of housing product, including maintenance-provided or a place for residents' kids to live.

New Work Session Topics

Mr. Klein: This takes us up to any ideas that you have thought about in the past and would really like to see. I don't want to imply this is your only window; feel free to email us with ideas, but I want to give the opportunity to discuss potential topics.

Comm. Jackson: We talked earlier about how to get retirement communities and nursing homes in here.

Comm. Roberson: More affordable housing for people.

Comm. Jackson: How do we attract these and not take away from the community?

Comm. Roberson: Park Place is going for \$1.80 a square foot?

Mr. Coleman: They range from 1,200 to 3,000.

Comm. Roberson: Mission Farms and Oddo are looking at the same thing, which is expensive. For 1,000 square feet, you'll pay \$1,800.

Mr. Roberson: We've talked to a number of people about retirement homes, and those are probably a little bit more affordable. The lowest was \$1,200-\$1,500 a month, but it included a lot more.

Chair Rohlf: You know there's a need. Look how quickly Mission Reserve sold out.

Mr. Coleman: We talked to a developer who had a plan, and it didn't quite fit into our zoning ordinance. It essentially was a height issue.

Comm. Elkins: I assume there is an existing zoning category for assisted living and those sorts of things, or do we need to create one?

Mr. Coleman: It goes under Special Use Permit and generally would fall under the residential units. The most liberal would be an RP-4 [Apartments]. That is why you see the one coming forward for RP-4. Right now, 40 feet is the highest it can go.

Comm. Jackson: What's the highest they talked about for along 135th?

Mr. Coleman: About 105 feet.

Comm. Elkins: My issue is always telephony.

Comm. Pateidl: I can't afford to move into Mission Hills. Is Mission Hills concerned about affordable housing? What is Leawood? What is the image?

Comm. Roberson: Mission Hills is built out; Leawood isn't.

Comm. Pateidl: It's pretty close.

Comm. Roberson: You could have affordable housing put along 135th, 133rd or 138th Street.

Mr. Coleman: I would expect, with some of the mixed-use developments, we would hopefully see a mix of housing products. You would have 800 sq. ft. apartments and 2,500 sq. ft. villas or townhomes.

Comm. Pateidl: Are we not mandating that we see that with our zoning?

Mr. Coleman: We're not mandating this type of unit.

Comm. Pateidl: We're mandating residential.

Mr. Coleman: Yes, it requires a mix of residential and commercial. One of the things, going forward, we're looking at an addition to what we just completed on 135th Street planning, and that is to do an implementation plan that would get more specific about issues like that.

Comm. Pateidl: When we get into the implementation, we need to look back at some of the historical stuff. It's heartbreaking to drive through Seville up on State Line. At one point in time, that was full, and now it has Slim 4 Life and a tanning salon. You go through Marketplace, and the closest thing to retail other than the grocery store is a liquor store and Janie's Canine. The rest is health-oriented or office space. The concept of small retail has not functioned well to-date. It's not to say it won't in the future, but I think we need to be very careful about being flexible as to what we require so we don't scare developers away from this property.

Mr. Coleman: I wasn't here when Seville started, but it's a pretty standard development. From what I can guess, for whatever reason, the developer wasn't really aggressive about building out the project when it first started.

Comm. Pateidl: But it is built out.

Mr. Coleman: No, there's a whole northern building that is 1/3 of the project that hasn't been built. There are a whole bunch of buildings along State Line that haven't been built. They're finding themselves in the position where, across the street, they already built out a lot of retail. It makes it more difficult because there

is already all this other development on the other side of the street. As far as I know, a lot of that is subsidized, too. It is probably 400,000-500,000 square feet of retail on the other side. It makes it more difficult for someone to come in and build.

Comm. Pateidl: That's why I'm talking about flexibility so that we can get some builders.

Mr. Coleman: They have a plan approved; it is probably a matter of finding the right tenants and financing. He's not in a hurry to sell, and it's an opportunity for both the property owner and the city to see something that will be financially sustainable for everyone in a larger, more comprehensive development more along the lines of the plan we just looked at. There are 200 contiguous acres there.

Comm. Pateidl: Who owns the stuff east of Mission Road?

Mr. Coleman: Across the street from Market Square is for sale, too. That is directly south.

Mr. Klein: Market Square to the east is pretty much the Rainiers.

Comm. Pateidl: I'm thinking west.

Mr. Klein: West is the same one that did Mission Corner: Terraventure. That is where the Mercedes dealership tried to come in. Then Terra-Bentley and Terraventure got into a lawsuit with each other. One was an equity partner, and one was a money partner. Those are both key pieces of property.

Comm. Roberson: Sharp owns across the street.

Mr. Coleman: After the downturn, people bought up stuff, so a portion of Cornerstone is owned by an investment firm. A couple other big tracts are owned by banks, and then Rainier owns a big chunk. That is a lot of it. The rest is owned by smaller owners. Let's wrap it up. You can email me or Mark with any ideas.

MEETING ADJOURNED