

PLANNING COMMISSION REPORT

Regular Agenda -- Public Hearing Item

PC Staff Report
05/21/08

ITEM NO. 15: ADOPTION OF THE LAWRENCE SMARTCODE (DDW)

TA-11-24-07: Pursuant to the provisions of K.S.A. Chapter 12, Article 7, consider making a recommendation on the adoption of "Lawrence SmartCode" enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The "Lawrence SmartCode" is an optional development code that is parallel to the City's existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas.

RECOMMENDATION: Staff recommends the Planning Commission forward a recommendation for approval to the City Commission of the proposed Lawrence SmartCode enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas.

Reason for Request: The Lawrence SmartCode has been developed to provide Lawrence with an optional development code based on Traditional Neighborhood Design (TND) principles. If adopted, the Lawrence SmartCode will provide a development option to property owners and developers who choose to use it.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is the Lawrence SmartCode, is an implementation step in Chapter 13 of HORIZON 2020, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written correspondence on the current draft has been received.

BACKGROUND

The Planning Commission held a public hearing on the Nov. 11, 2007 draft of the Lawrence SmartCode on February 27, 2008. The Planning Commission took public comment on the draft and provided direction to Staff. The draft Lawrence SmartCode was revised based on written comments and comments received at the meeting. Subsequently, the April 9, 2008 draft of the Lawrence SmartCode was reviewed by the Planning Commission at their meeting on April 23, 2008. The draft being brought back was revised again to reflect direction given by the Planning Commission at that meeting. The May 7, 2008 draft of the Lawrence SmartCode is posted to the department website at <http://www.lawrenceplanning.org/TND.shtml> and is under consideration at this time.

The major changes to this draft involve the development processes of the code. The Consolidated Review Committee (CRC) has been reinstated as a review and approval body. Approval of Article 3 applications (New Community Plans) will now be processed administratively for approval or disapproval by the CRC. Article 4 applications (Infill

Community Plans) will be processed by the CRC with final approval by the City Commission. Article 5 applications (Building Scale Plans) will be processed administratively for approval or disapproval by the CRC. The Code also includes notice and expanded appeals procedures for administrative review. The notice will be made on the property, to adjacent property owners and to Registered Neighborhood Associations.

STAFF REPORT

There are three major components to this staff report. They are:

1. A history of the public process that has occurred in the drafting of the Lawrence SmartCode;
2. An outline of the development processes under the Lawrence SmartCode; and
3. An overview of changes to the most current draft Lawrence SmartCode from the previous draft.

HISTORICAL TIMELINE OF THE LAWRENCE SMARTCODE

- November 21, 2006 – City Commission authorizes the contract with PlaceMakers, LLC for services to create a parallel TND development code.
- January 4 and January 5, 2007 – Two public meetings were conducted to discuss the SmartCode. Various stakeholder interviews were also held.
- January 31, 2007 – SmartCode Charrette opening presentation public meeting.
- February 1, 2007 – A series of public meetings and studio public drop-in hours.
- February 2, 2007 – Public meetings, studio public drop-in hours, and a public pin-up presentation.
- February 3, 2007 – Studio public drop-in hours.
- February 4, 2007 – Studio public drop-in hours.
- February 6, 2007 – Final presentation public meeting.
- May 17, 2007 – First draft of Lawrence SmartCode posted on-line.
- June 21, 2007 – Lawrence SmartCode public meeting. Stakeholder meetings were also conducted.
- September 12, 2007 – Lawrence SmartCode presentations at the Planning Commission Mid-Month Meeting (City Commissioners invited) and Board of County Commissioners meeting. Stakeholder meetings were also conducted.
- November 14, 2007 – Revised draft Lawrence SmartCode posted online for review and comment.
- February 27, 2008 – Planning Commission holds a public hearing on the November 14, 2007 draft.
- April 23, 2008 – Planning Commission holds a public hearing on the April 9, 2008 draft.

LAWRENCE SMARTCODE DEVELOPMENT APPROVAL PROCESSES OUTLINE

Greenfield Development

1. Rezone property to a general SmartCode District
 - a. Submit application to Planning and Development Services
 - b. Staff review and recommendation.
 - c. Planning Commission recommendation.
 - d. City Commission approval or disapproval.
2. Article 3 applications (New Community Plans) follow rezoning approval.

New Community Plan includes Transect allocations, pedestrian sheds, thoroughfare network, civic functions and open space.

- a. Submit plan to CRC.
 - b. Notice of application given to adjacent property owners and to Registered Neighborhood Associations.
 - c. CRC review and approval/disapproval of the plan.
3. Article 5a and 5b applications (Building Scale Plans) follow Article 3 approval. Article 5a plans include building disposition, building configuration, building function, parking, and density calculations. Article 5b plans include architectural standards, landscape standards, signage standards and ambient standards.
 - a. Submit Article 5a applications to the CRC.
 - b. Notice of application to adjacent property owners and to Registered Neighborhood Associations.
 - c. CRC review and approval/disapproval of Article 5a plan.
 - d. Submit Article 5b application to the CRC.
 - e. Notice of application to adjacent property owners and to Registered Neighborhood Associations.
 - f. CRC review and approval/disapproval of Article 5b plan.

Infill/Redevelopment

1. Article 4 application (Infill Community Plans) and rezoning approvals processed concurrently.

Infill Community Plan includes Transect allocations, thoroughfare assemblies, public frontages, civic functions, etc.

 - a. Infill Community Plan prepared with neighborhood input.
 - b. Infill Community Plan and rezoning application submitted to CRC/Planning and Development Services.
 - c. CRC and Staff review and recommendations.
 - d. Planning Commission review of rezoning application with recommendation to City Commission.
 - e. City Commission approval or disapproval of Infill Community Plan and rezoning application.
2. Article 5a and 5b applications (Building Scale Plans) follow Article 4 approvals. Article 5a plans include building disposition, building configuration, building function, parking, and density calculations. Article 5b plans include architectural standards, landscape standards, signage standards and ambient standards.
 - a. Submit Article 5a application to CRC.
 - b. Notice of application to adjacent property owners and to Registered Neighborhood Associations.
 - c. CRC review and approval of Article 5a plan.
 - d. Submit Article 5b application to CRC.
 - e. Notice of application to adjacent property owners and to Registered Neighborhood Associations.
 - f. CRC review and approval of Article 5b plan.

Platting

1. Preliminary Plat
 - a. Submit to Planning and Development Services.

- b. Staff review and recommendation.
 - c. Planning Commission review and approval.
 - d. City Commission acceptance of dedications and easements.
- 2. Final Plat
 - a. Submit to Planning and Development Services.
 - b. Staff review.
 - c. Planning Director approval.

SUMMARY OF CHANGES FROM 04/09/08 DRAFT THAT ARE INCLUDED IN THIS DRAFT

Article 1

Inserted CRC in Sections where Planning Commission or Planning Director was previously.

Inserted Planning Commission into the preliminary plat language instead of CRC.

1.3.2 – Added: “and Article 12 Floodplain Management Regulations of the Lawrence Development Code”

1.3.3 – New Section: Except where this Smart Code provides for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this Smart Code desiring to appeal said decision shall file the appeal in the district court of Douglas County within thirty (30) days of the making of the decision.

1.4.2 – Added: The City hereby creates a Consolidated Review Committee (CRC) comprised of a representative from: Planning and Development Services, Fire, Parks, Public Works, and Utilities. The CRC shall be the administrative approval body for SmartCode applications accept for rezoning and platting.

1.4.6 – Removed: “or Infill” and “or Article 4 respectively”.

1.4.7 – Added: For an Infill project meeting the minimum contiguous acreage requirement, the developer shall submit an Article 4 application, including a Transect Map in compliance with these sections, concurrently with a rezoning application. The Article 4 application shall be submitted for review to the CRC with final approval by the City Commission.

1.4.8 – Re-wrote: Upon re-zoning approval by the City, the developer shall submit SmartCode applications to the CRC for approval. For a lot-scale project, the developer shall submit an Article 5a (Sec. 5.1.5.a) and Article 5b (Sec. 5.1.5.b) applications to the CRC. For a Greenfield project meeting the minimum contiguous acreage requirement, the developer shall submit an Article 3 application, including a Transect Map in compliance with these sections to the CRC for approval, followed by Article 5a, and 5b applications. Following an approved Article 4 plan, the developer shall submit Article 5a, and 5b applications to the CRC.

1.4.9 – Deleted: The Planning Director will review the Article 3 and Article 4 applications and provide a report to the Planning Commission. The Planning Commission will review the Article 3 and Article 4 applications and recommend approval, approval with modifications or conditions, or recommend disapproval of the applications to the City Commission. Article 5a

and 5b applications shall be processed for review and approval administratively by Planning and Development Services.

1.4.9 through 1.4.16 – Added: Notice and Appeals procedures

1.4.17 – Changed: A Preliminary Plat shall be submitted and demonstrate compliance with the platting procedures in Section 1.4.18 and 1.4.19.

1.4.18.e – Replaced: “Article 5a” with “Preliminary Plat”.

1.4.20 – Rewritten:

Vesting of Development Rights; Expiration

Upon recording of a Final Plat, development rights in land covered by that Plat shall vest in accordance with K.S.A 12-764.

a. In the event the Landowner fails to file an application for Building Permit within 18 months after final approval of the Article 5a or 5b submission has been granted, then such Article 5a or 5b submission shall expire in accordance with the following provisions:

(1) For good cause shown, the expiration date may be extended by the City Commission for a period not to exceed 6 months. The application for extension or modification may be made by letter to the Planning Director and will be considered only if received before the expiration date of the Article 5a or 5b submission. The Planning Director shall place such request, with any recommendation of the Planning Director on the agenda of the City Commission.

The Planning Director shall notify the applicant by mail of the date of the proposed consideration by the City Commission. On that date, the City Commission shall hear from the applicant and the Planning Director and may hear from other interested parties. Only one such extension may be granted;

(2) No action by the City shall be necessary to cause the Article 5a or 5b submission to expire. Its expiration shall be considered a condition of the original approval. After the expiration date, or extended expiration date, any further application for a Building Permit or for other Development Activity on the site shall be considered as though the Article 5a or 5b submission had not been granted.

b. Approval of an Article 5a or 5b submission does not, in itself, vest any rights under K.S.A. Sect. 12-764. Rights vest only after the related Building Permit is issued and substantial construction is begun in reliance on that permit.

c. Rights in an entire Article 5a or 5b submission shall vest under K.S.A. Sec. 12-764 upon timely issuance of an initial Building Permit and completion of construction in accordance with that Building Permit, or upon timely completion of substantial site improvements in reliance on the approved Article 5a or 5b submission.

1.5.2 – Rewritten: A Warrant is a minor, technical deviation that would permit a practice that is not consistent with a specific provision of this Code, but is justified by its Purpose (Section 1.2). The CRC shall have the authority to approve or disapprove a request for a Warrant.

1.5.5.e – Rewritten: The permission to build Outbuildings. The provision to build residential units in Outbuildings is contingent upon both the principle building and outbuilding shall be owned by persons who are the record owner of the lot. Either the principle building or outbuilding shall be occupied by persons who are the owner of record of

the lot.

1.6.1.a – Changed: points earned under Goal IV to 100 points for a LEED structure and to 15 points for each Energy Star residential structure.

1.7 – New Section (1.7.1 – 1.7.11): Violations, Penalties and Enforcement

1.6.1.c – Deleted this section because it is in the code (1.3.8).

Article 2

2.8.2 – Rewritten: Conditions of development for Districts shall be reviewed by the CRC who shall forward a recommendation to the City Commission for final approval be determined by the in public hearings of the Planning Commission and City Commission with a recommendation by the CRC and recorded on Table 16. Alternatively, the provisions of the Land Development Code shall remain applicable to Special Districts.

Article 3

3.1.3 – Replaced with: New Community Plans submitted in accordance with the provisions of this Code shall be approved administratively by the CRC.

Article 4

4.1.1 – Rewritten: Subject to Section 4.1.2 and 4.1.3, a Developer may prepare a proposed Infill Community Plan. In order to obtain approval of the proposed Infill Community Plan, the Developer shall submit the Infill Community Plan for the required rezoning approvals per 1.4.4 and 1.4.7 and for approval of the actual Infill Community Plan to the City Commission. The CRC will review the Article 4 applications and provide a report on the rezoning request to the Planning Commission and a provide report on the Infill Community Plan request to the City Commission.

Article 5

5.1.6 – Added: Building Scale Plans shall show and provide dimensions for topography, thoroughfares, sidewalks, utilities, and easements.

Tables

Table 11, T3a – Rewritten: Restricted Residential: The number of residential units on each lot is restricted to one within a principal building and one within an outbuilding, with 2.0 assigned parking places for each. Both the principle building and outbuilding shall be owned by persons who are the record owner of the lot. Either the principle building or outbuilding shall be occupied by persons who are the owner of record of the lot. The habitable area of the Outbuilding shall not exceed 500 square feet.

Article 7

Definition added – **Family:** (1) A person living alone; (2) two or more persons related by blood, marriage, or legal adoption; (3) in a T1, T2, and T3 Transect Zone a group of not more than three persons not related by blood or marriage, living together as a single Housekeeping Unit in a residential unit, as distinguished from a group occupying a lodging building; or (4) in a T4, T5 and T5.5 Transect Zone, a group of not more than four persons not related by blood or marriage, living together as a single Housekeeping Unit in a residential unit, as distinguished from a group occupying a lodging building.

Definition added - **Housekeeping Unit:** A suite of one or more rooms having separate cooking facilities, used as the domicile of home of one Family.

Definition added - **Planning Director:** The Director of Planning and Development Services or his or her designee.

Definition changed: By Right: added "New" before "Community Plan".

Definition rewritten: **Community Type:** a category defining the physical form of a settlement. The two basic Community Types addressed in this Code are CLD, and TND.

SUMMARY

As noted above, the Lawrence SmartCode is proposed to be an optional TND development code. If adopted, property owners and developers can use it if they choose to do so.

The development approval processes of the Lawrence SmartCode have been summarized above. It bears repeating that the processes have been changed so that Article 3 and Article 5 applications will be processed for approval administratively by the CRC. Article 4 applications will be approved by the City Commission. Preliminary plats will be reviewed and approved by the Planning Commission with City Commission acceptance of dedications and easements. Final plats will be processed for approval administratively by the Planning Director.

The TND standards of the code (predominantly Article 5 and the Tables) were calibrated by PlaceMakers during and after the charrette event. These standards are the key to developing TND neighborhoods that are appropriate for Lawrence, Kansas.

RECOMMENDATION ON LAWRENCE SMARTCODE: Staff recommends that the Planning Commission forward a recommendation for approval to the Lawrence City Commission of the proposed Lawrence SmartCode enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas.