

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
01/26/2009

ITEM NO. 6: TEXT AMENDMENT TO DEVELOPMENT CODE (LBZ)

TA-10-18-08: A text amendment to revise Article 3, *Section 308(g) – Appeals* to be consistent with the adopted Downtown Design Guidelines and to revise the Ordinance No. in *Section 308(h)* to reflect the latest adopted ordinance.

RECOMMENDATION: Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendment TA-10-18-08 to the Development Code to the Lawrence City Commission

Reason for Request: Article 3, Section 308(g) – *Appeals* in the Development Code outlines the process for an appeal from a staff determination on the compliance of a project with the adopted UC Development/Design Standards. This process creates a dual appeals process for projects that require review under the State Historic Preservation Law (K.S.A. 75-2715 – 75-2726, as amended). The Historic Resources Commission is responsible for reviewing UC zoning applications for compliance with the selection criteria of Sect 20-308(b) and for recommending development/design standards and guidelines for the district. This amendment will amend the appeals process allowing a staff determination to be appealed to the Historic Resources Commission with the City Commission the final decision-making authority.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Amending regulatory tools, one of which is this amendment to the Zoning Regulations, is an implementation step in Chapter 13 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment was received.

KEY POINTS

- The Historic Resources Commission is responsible for reviewing UC zoning applications for compliance with the selection criteria of Sect 20-308(b) and for recommending development/design standards and guidelines for the district.
- This revision will create one process for appeals as opposed to the existing dual appeals system.
- Final decision-making authority will continue to be the Lawrence City Commission.
- The current administrative policy for the Downtown Design Guidelines is in conflict with Article 3, Section 308(g) – *Appeals*.

OVERVIEW OF PROPOSED AMENDMENT

The amendment will revise the appeal procedure for a person aggrieved by a decision of City staff in determining whether the UC Development/Design Standards have been met. Article 3, Section 308(g) – *Appeals* identifies

- (1) Notwithstanding the procedure set forth in Section 20-1311, a person aggrieved by a decision of the City staff, determining whether the Development/Design Standards have been met, may file a written appeal with the City Commission. The appeal shall be filed within ten (10) **Working Days** after the decision has been rendered.

When a project is located in a property listed on the National Register of Historic Places or the Register of Historic Kansas Places or in the environs of a property listed on one of these registers, the project must be reviewed under the State Historic Preservation Law (K.S.A. 75-2715 – 75-2726, as amended). The City of Lawrence has an agreement with the State Historic Preservation Officer (SHPO) to conduct these reviews on the local level with the Lawrence Historic Resources Commission (HRC) acting on behalf of the SHPO. The Historic Resources Administrator reviews projects under the State Preservation Law and makes recommendations to the HRC. The appeal of a determination by the HRC is to the Lawrence City Commission.

Currently, there is a conflict with Article 3, Section 308(g) – *Appeals* of the Development Code and the Administrative Policy (AP-82) for the Downtown Design Guidelines. The Administrative Policy identifies the process for appeal of a staff determination as follows:

- c. If the Historic Resources Administrator determines that the proposed project does not meet the Downtown Design Guidelines, an ad hoc committee consisting of the Code Enforcement Manager (or his/her appointee), the Director of Planning (or his/her appointee) and the Historic Resources Administrator shall meet and review the proposed project.
- d. If a majority of the ad hoc committee determines that the proposed project meets the Downtown Design Guidelines the project shall be allowed to proceed.
- e. If the ad hoc committee determined that the proposed project does not meet the Downtown Design Guidelines the applicant shall be notified and informed of the appeal process pursuant to Chapter 20-14C, et. Seq..

The proposed amendment will identify the appeal process for a staff determination on UC Development/Design Standards to the Historic Resources Commission. Appeals of the HRC determination will be made to the Lawrence City Commission who is the final decision-making authority in determining where a proposed project meets the adopted Development/Design Standards.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Horizon 2020 encourages identification, protection, preservation and adaptive reuse of the wide diversity of historic buildings, structures, sites and archeological sites that can be found in Lawrence and Douglas County. The Plan seeks to balance historic preservation and land use issues when making planning decisions. The use of UC Districts promotes the reuse of historic properties and balances preservation goals with redevelopment needs as encouraged in Chapters 6 and 11 of *Horizon 2020*.

CRITERIA FOR REVIEW AND DECISION-MAKING

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and

The proposed text amendment corrects the existing dual appeals process for projects that must be reviewed under both the adopted the UC Development/Design Standards and the State Historic Preservation Law. The proposed amendment also sets an appeals process that will be used for the revised Downtown Design Guidelines instead of the existing Administrative Policy.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).

The amendment proposed is consistent with *Horizon 2020* and the stated purpose of the Development Code. The use of UC Districts is consistent with the goals and policies of Chapter 11 and Chapter 6 specifically as they relate to adaptive reuse of historic properties.

Deleted text shown with ~~strike thru~~ and proposed text shown as **bold**.

20-308(g) Appeals

- (1) Notwithstanding the procedure set forth in Section 20-1311, a person aggrieved by a decision of the City staff, determining whether the Development/Design Standards have been met, may file a written appeal with the ~~City Commission~~ **Historic Resources Commission**. The appeal shall be filed within ten (10) **Working Days** after the decision has been rendered.
- (2) ***A person aggrieved by a decision of the Historic Resources Commission, determining whether the Development/Design Standards have been met, may file a written appeal with the City Commission. The appeal shall be filed within ten (10) Working Days after the decision has been rendered.***
- ~~(2)~~(3) the City Commission is the final decision-making authority in determining whether a proposed project meets the adopted Development/Design Standards.
- ~~(3)~~(4) the Board of Zoning Appeals has no authority to grant interpretations, exceptions or variances from the adopted Development/Design Standards.
- ~~(4)~~(5) within thirty days after the City Commission's final decision, in passing upon an appeal pursuant to this Section, any person aggrieved by the decision may file an action in District Court to determine the reasonableness of the decision.