

**ITEM NO. 5      AMENDMENTS TO DEVELOPMENT CODE; BOARDING HOUSE (SDM)**

**TA-6-17-09:** Consider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House."

**STAFF PRESENTATION**

Mr. Scott McCullough presented the item.

Commissioner Finkeldei inquired about one of the communications received that talked about occupants and number of parking spaces.

Mr. McCullough said staff did not spend much time looking at it because the communication letter came in to the office today. He said he would take the information to be fairly accurate. He stated that staff are aware of several variances granted to Boarding Houses by the Board of Zoning Appeals. He said a variance is an avenue of requesting relief of code provisions.

Commissioner Finkeldei asked how long the current requirement of 1.5 parking spaces has been in place.

Ms. Stogsdill said she believed it was changed a few years prior to 2006.

**PUBLIC HEARING**

Mr. Kyle Thompson, president of the Oread Neighborhood Association, was opposed to boarding houses and read from the communication letter that was part of the Planning Commission packet. He said he will have a hard time selling his home in the future with the boarding houses in his neighborhood. He felt that owner occupants will be pushed out of the neighborhood.

Commissioner Finkeldei said it sounded like the Oread Neighborhood would prefer to have apartments versus boarding houses.

Mr. Thompson said the Oread Neighborhood believes the really large houses that were originally built as boarding house should be allowed to maintain the structure. He said his preference would be apartments versus a boarding house.

Commissioner Finkeldei said the Commission took a tour of the neighborhood and there are very large structures that he could not imagine putting owner occupants next to. There were some houses that were being fixed up and look better after being renovated.

Mr. Thompson said there has been nice work done on some of the boarding houses.

Commissioner Rasmussen asked how many homes are in the Oread Neighborhood.

Ms. Elle LeCompte said there are 1,270 structures in the Oread Neighborhood and 1,075 on street parking spaces.

Commissioner Rasmussen asked what the tipping point would be and how many is too many.

Mr. Thompson said there are currently 17 legal boarding houses and he did not know what the tipping point would be.

Ms. Elle LeCompte, Oread neighborhood, went over the communication that she gave to Planning Commission in their packet and showed her numbers on the overhead. She said she talked to some of the kids living in boarding houses and they hate the parking situation because there is not enough

room. She said if there have to be boarding houses then they should be in large historic structures that could not be sustained otherwise and spread them out, not just clumped together.

Commissioner Finkeldei asked how many of the boarding houses were over 4,000 square feet.

Ms. LeCompte said she did not know. She said two of the new boarding houses on Tennessee and Kentucky Streets are basically three or four bedroom apartments converted into boarding houses. She said it was a more lucrative way of using the space. She said that people who live in apartment houses tend to have some social control because if one person is having a party another resident might call the police, whereas a boarding house the entire house is having the party.

Mr. Rob Farha, stated 1416 Tennessee Street was a large single family home that was converted from apartments to boarding house which reduced the occupancy.

Commissioner Finkeldei asked which boarding house was the smallest that Mr. Farha has done.

Mr. Farha said 1042 Tennessee Street.

Commissioner Moore asked Mr. Farha for his feel on 4,000 square feet.

Mr. Farha said there is a right place and possibly a wrong place for boarding house.

Commissioner Rasmussen asked if the separate bedrooms have individual door locks.

Mr. Farha said he puts locks on every bedroom but that is up to each landlord.

Commissioner Rasmussen asked if Mr. Farha read the staff report and which option he would like.

Mr. Farha said he would not be prepared to answer without discussing with his partners.

Ms. Marcia Epstein, 1041 Tennessee Street, (Mr. Kyle Thompson's wife) felt there should be guiding principles for neighborhoods. She felt Historic Preservation was important. She said the boarding house may preserve the exterior of the home but is no longer historic on the inside. She said that when discussing 4,000 square feet that it is important to be talking about the actual living space, not the basement or attic. She felt the terminology for boarding houses needed to be changed. She said Historic Preservation effects everyone.

Commissioner Finkeldei asked how many of the 17-19 boarding houses were single family homes that were converted into boarding houses.

Mr. McCullough said staff would have to research that.

Commissioner Rasmussen discussed quality of life issues such as inappropriate behavior from neighbors, trash, and parking impact to property values.

Ms. Epstein felt there was a higher risk of fire and that there is a lot that goes into quality of life.

Commissioner Rasmussen asked if she read the staff report and if she liked any of the options.

Ms. Epstein felt there should be no more boarding houses the way they are done now. She said her property value has gone down with the boarding houses in the neighborhood.

Ms. Candice Davis, 947 Louisiana Street, said it is a dynamic neighborhood but the biggest threat is this boarding house transformation. The traditional boarding house was a place that provided a meal

and had adults living there. When you take an average size structure and double the size to make it a boarding house it starts to ruin the neighborhood. It is unrealistic to use the term boarding house because it does not fit. We have rights in the neighborhood. She did not think it was expecting too much to have boarding houses completely eliminated.

Commissioner Finkeldei said he would like to know how many of the structures were expanded.

Mr. McCullough said the most recent ones have been expanded and that parking standards are still a limiting factor.

Commissioner Rasmussen asked what the difference between a boarding house and an apartment was.

Ms. Davis said a number of the boarding houses know each other and are part of the University Greek system so it allows them a place to drink off campus.

Mr. James Dunn, 936 Kentucky Street, said he was not sure boarding houses should be completely removed. He said Bert Nash is using the boarding house definition as a place that provides meals and supervision and he was not comfortable eliminating that as a housing option for the lower income population.

Mr. Aaron Paden, University of Kansas Student housing Association, said there are three student co-ops in the neighborhood. He said 1033 Kentucky is considered a boarding house but it is a co-op where the occupants are the owners. He said the issue is that the boarding house is used as a loophole for an illegal bar operation. He suggested co-op housing instead of boarding house and that sustainable living is something co-ops strive for. He said it is a historical neighborhood so a co-op designation might be more appropriate.

Commissioner Harris asked staff if co-op housing is considered a boarding house.

Mr. McCullough said yes.

Commissioner Harris asked if the terms are further defined in the code to differentiate between the two.

Mr. McCullough said no, there is no definition for co-op but there is a definition of boarding house.

Mr. Farha said they were there to discuss zoning and people keep bringing up social aspects. He said he can say things regarding the social aspects of the co-op houses too.

Ms. Marci Francisco, 1101 Ohio Street, reiterated the comments that the boarding house definition is a place where meals and lodging are found. She said the often the cooperative houses often have meal plans. She said the other uses listed with boarding houses in parking requirements are defined as having a supervisor. She was concerned that even if the number of occupants is limited the definition would still allow fewer parking spaces than one per occupant. She said that multi family designations were intended for arterial or collector streets.

Commissioner Carter asked Ms. Francisco if she liked any of the four options in the staff report.

Ms. Francisco said she liked the idea of taking away the name of boarding house if the house does not include meals. She said there may be some places where it makes sense to have more than four individuals living in a structure. She said recently the two houses on Ohio Street had a great deal of expansion. She thought it made sense to look at this as an opportunity for some various limited structures. She said the suggestion of 4,000 square feet made sense but the parking should not be

changed for this use, especially if it is allowing a number of unrelated people in a structure. She said if meals aren't provided then they will have to find a way to get to the grocery store so they are likely to have vehicle.

Ms. Fadila Boumaza, owner of 928 & 930 Ohio Street, said students want an apartment that is safe and close to campus. She said some students do act in an acceptable manor, depending on the dwelling they are provided. If the apartment or house is completely dilapidated they will have parties and not care about damaging the property. She said that police reports show where problem areas are. She felt that all stakeholders should be considered.

Commissioner Harris asked her to discuss the concern of neighbors who have reported repeated parties in boarding houses.

Ms. Boumaza said there are some areas that are problematic and she felt it had to do with the state of the structure and how it is maintained. She said she has not seen the statistics of the police reports but she cannot deny the existence of party areas.

Commissioner Hird asked what responsibility the landlord has to control the social behavior of the tenants in their structure.

Ms. Boumaza said that setting the ground rules in the selection of tenants and being responsive with complaints should be the landlords responsibility. She said that if a neighbor expresses concern then the landlord should be responsible.

Commissioner Finkeldei asked what the square footage of Ms. Boumaza's homes were.

Ms. Boumaza said close to or over 4,000 square feet and all bedrooms have bathrooms. The buildings were expanded.

## **COMMISSION DISCUSSION**

Commissioner Finkeldei inquired about 1.1 parking spaces per occupant. He asked what the rule was for apartment buildings.

Mr. McCullough said 1 parking space per bedroom in an apartment. The Code for boarding houses changed in 2002 from 1 parking space per 2 occupants to 1.5 parking spaces per 2 occupants. He said occupants are used as opposed to bedrooms in a boarding house.

Commissioner Carter inquired about the definition of a boarding house.

Mr. McCullough read the definition of a boarding house from the Code.

Commissioner Moore suggested separating the definition of co-op from boarding house. He said it would be interesting to see the square footage of the boarding houses and how they are counted and defined. He felt the site plan should pertain more to the bedrooms rather than the number of occupants.

Mr. McCullough said the site plan is used as an enforcement tool but that they are complaint driven. He said the challenge is reducing the scope of use of the boarding homes.

Commissioner Hird said the boarding house has evolved into this loophole idea. He said that if boarding houses can help solve some of the affordable housing issues in Lawrence then they would serve a purpose and if it provides at least for the exterior renovation of houses that would be torn down otherwise there is a public purpose there. He said the issue of parking is a serious problem in the Oread Neighborhood and needs to be addressed strongly in considering whether to allow

boarding houses. He stated the other issue heard tonight is social behavior. He said it is a question of whether people are taking meals and should co-ops should be separated from boarding houses because of the way they function internally. He said he feared they would be stepping into a very difficult enforcement process. He said he couldn't help but think the solution would be more rules. He said it is the outward behavior that is the issue and those are things that can be controlled. He felt the primary responsibility should be on landlords and control tenants through their leases.

Commissioner Finkeldei felt there was public purpose to having these structures but he did not like it as an exception to the 4 unrelated person rule. He felt they needed more information on how to handle these things. He said they need to address the overall parking issue in the Oread neighborhood and should include that in the Oread Plan. He said boarding houses could not be blamed for parties or the parking problems but they do contribute. He said he leaned more toward option 4 in the staff report.

Commissioner Hird agreed setting a threshold size if that solves the problem.

Commissioner Rasmussen felt that there needs to be means for more aggressive enforcement of the noise ordinance and better access to law enforcement. He said they should consider if there is a place for boarding houses in the Oread Plan. He felt they should consider the dynamics to an apartment versus a boarding house because a small apartment building might not be that much different than a boarding house. He said that doing away with the boarding house may not solve the problem.

Commissioner Carter suggested looking at designating a block or two for spots for boarding houses. He said that zoning cannot solve the social aspect of being good neighbors. He felt that owners should be proactive in being good neighbors and that landlords need to be held responsible or the problems will not go away. He said it would be hard for him to support additional boarding houses if they would perpetuate the current issues.

Commissioner Blaser said the number of large student housing built away from campus have the bus systems and boarding houses may not be as needed. He said he was leaning toward option 4 of the staff report. He agreed that the issue needs to be addressed in the Oread Plan. He said if co-ops are truly as described tonight then maybe they should be excluded.

Commissioner Harris agreed with the comments of Commissioner Carter about quality of life. She said that other types of buildings can have behavior issues. She said the size and scale of boarding houses may encourage it more than others and that they should be mindful of that. She said the larger structures were designed to house more than 4 people. She liked Commissioner Hird's comments about looking at how landlords regulate their tenants. She said it would be a significant cost to the city for enforcement. She said as far as separating co-ops from boarding houses she agreed with that because they are a separate type of use. She said if they keep boarding houses they should be called something different. She said that parking is a problem in the Oread neighborhood and she would be in favor of having 1 parking spot per bedroom.

Commissioner Finkeldei said they should be careful not to create loopholes with the definitions of boarding house and co-op because if the division is someone cooking a meal then that can be a pretty easy loophole.

Commissioner Harris said co-op means it is owner occupied.

Mr. McCullough asked for more direction on the scope. He said he has heard tonight to maintain the boarding house use to some degree in the Code but he has not heard a lot about backing off of 24 occupants and if so, to what degree.

Commissioner Moore said he was leaning toward option 4 in the staff report.

Mr. McCullough suggested a scale that takes you up through the size of the home and the parking available. He said it becomes a discussion of the dynamics of group living versus individual units.

Commissioner Hird asked if a parking requirement would solve the issue of an arbitrary number. If a house is well over 4,000 square feet and will accommodate 12 people with 12 parking spaces doesn't that solve the issue.

Mr. McCullough said yes, parking is one of the limiting factors.

Commissioner Rasmussen said he likes the boarding house model and that it is parties that are causing the problems. He said they are talking about approximately 20 boarding houses in the Oread Neighborhood which is about 2% of the neighborhood and they are just focusing on the bad apples.

Mr. McCullough said this is not unique to just the Oread Neighborhood, they can be in any RM district.

Commissioner Harris said there has been talk about this not being a loophole for people getting around more than 4 people living in a house. She asked staff to give it thought about when building additions may or may not be appropriate.

**NO ACTION TAKEN**