

**ITEM NO. 1      TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT; BOARDING HOUSE (SDM)**

**TA-6-17-09:** Reconsider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House." *This item was originally heard by Planning Commission on 12/16/09. City Commission returned this item on 2/2/10 for additional consideration.* (PC Item 12; approved 6-3 on 5/26/10) *Continued by Planning Commission on 8/25/10.*

**STAFF PRESENTATION**

Mr. Scott McCullough, Planning Director, presented the item.

Commissioner Dominguez inquired about an appeal process for parking request.

Mr. McCullough said at the end of this process there would be a set of standards and assuming it would be a permitted use in the zoning district they would submit a site plan and staff would process the site plan to make sure all the standards were met and then the applicant would seek building permits.

Commissioner Dominguez asked if someone could make a boarding house out of something that is not a boarding house.

Mr. McCullough said the permitted uses of the zoning district RM32 would allow multi-dwelling structures and non-conforming single detached dwelling structures. In the Oread neighborhood boarding houses and several other types of land uses would be allowed.

Commissioner Dominguez asked if the applicant could seek a variance through the Board of Zoning Appeals if the parking was limited to one to one.

Mr. McCullough said yes.

Commissioner Finkeldei inquired about the language *'The planning director could alter the parking requirement, for boarding houses or multi-dwelling structures, to assist in the preservation of the architectural nature of the structure and neighborhood.'*

He asked if he intended that to apply over a certain square footage or in any case.

Mr. McCullough said it meant over a certain square footage so code language would have to be built. The intent would be to build in administrative variance procedure for those that are over a certain threshold of size. He said an alternative way to do it was some sort of ratio that just very objectively shows the reduction of ratio past a certain square footage. He said there seemed to be support for coming up with some mechanism to grant some relief to certain size structures. He said it could also be certain size structures within historic districts or environs of listed properties if they want to go that far.

Commissioner Finkeldei asked if this was passed but the non-conforming change was not passed, could staff retroactively go back and approve those structures and make them conforming.

Mr. McCullough said typically it would take some sort of action by the applicant to get re-approval of the property.

Commissioner Harris asked staff to respond to the Lawrence Preservation Alliance diagram that showed how a small house could become a really big house under the code.

Mr. McCullough said the current code allows that.

Commissioner Harris inquired about previous discussion about the current code being sufficient to keep a building from becoming 20% bigger than its footprint. She asked if that was not always the case.

Mr. McCullough said hopefully he didn't portray that there are codes in place that keep it from becoming 20%. He said staff has tried to help people recognize that the current code allows certain development rights in the RM32 zoning district on a certain size lot. He said if the governing bodies think that is too much for the district or neighborhood than the standards need to be addressed. He said staff was trying to pull away from demonizing someone who was working within the current code.

Commissioner Singleton inquired about the procedure for deciding to move forward with the August language.

Mr. McCullough said they could make a motion like that using the previous language and it would be forwarded on. He said if the language starts getting into different code sections, like multi-dwelling parking, it would have to be re-advertised and brought back at a future date.

Commissioner Finkeldei did not think they would get uniformity on the discussion. He felt there was a place for boarding houses and a place to try and save large structures. He supported sending it back to create incentives to save large structures. He liked the language '*...to assist in the preservation of the architectural nature of the structure and neighborhood.*' He felt the people who have followed the rules and have a non-conforming use should be protected. He said the question becomes in this current version if 4,000 square feet is the definition of a large structure. He felt they needed to limit it to no more than 10% or 20% for the reasons the Lawrence Preservation Alliance pointed out. He said he might prefer 3,500 square feet and any structure larger than that could be granted a parking waiver to allow more parking spaces to save that structure without going to the Board of Zoning Appeals.

Commissioner Harris said she supported Commissioner Finkeldei's comments in general. She asked him about the scenario of an addition being added to a building that makes it large enough to be considered by the Planning Director for parking reductions.

Commissioner Finkeldei said he would support a provision that says if the gross square footage did not expand more than 10% or 20% in the last 5 years.

Commissioner Dominguez asked why Commissioner Finkeldei would not want the issue to go to the Board of Zoning Appeals.

Commissioner Finkeldei said the Board of Zoning Appeals can only consider certain items and saving an historic structure is not one of their decision making criteria.

Commissioner Rasmussen said there has to be unique circumstances and if the hardship is self inflicted that is not one of the criteria and neither is the dollar cost.

Commissioner Liese asked staff to review the current parking requirements for multi-dwelling and boarding houses.

Mr. McCullough said for multi-dwelling structures it is 1 parking space per bedroom, for boarding houses it is 1.5 parking spaces per two lawful occupants.

Commissioner Rasmussen asked about the current parking requirements for dormitories.

Mr. McCullough said it was the same as boarding houses, 1.5 parking spaces per occupant.

Commissioner Blaser felt that the parking should be the same across uses with boarding houses being 1 parking space per bedroom.

Commissioner Rasmussen asked if that meant he also favored a change in sorority and fraternity parking.

Mr. McCullough said currently sororities, fraternities, and boarding houses have a reduced parking standard than apartments.

Commissioner Blaser said he would have to think about that.

Commissioner Carter said he did not want to address fraternities and sororities separate from this. He felt the one to one parking was the way to go and also grandfather in the legal non-conforming issues. He said the Overlay Districts could address large structures.

Commissioner Finkeldei said there are quite a few structures that are 10 bedroom apartments. He said if an owner tries to renovate those and does not comply with the parking standards then they would probably just leave them the way they are.

Mr. McCullough said of the 22 boarding houses originally provided to them 7 of those were over 3,500 square feet.

Commissioner Dominguez asked Commissioner Finkeldei what he wanted changed from the August language.

Commissioner Finkeldei said he favored the 1 to 1.5 parking for structures over 4,000 square feet. He said adding multi-dwelling structures would require more time.

Commissioner Singleton said if the majority of people in attendance tonight were in agreement that parking should be 1 to 1 and in agreement that the only other modification was to grandfather approved boarding house structures then it could be forwarded to City Commission.

Mr. McCullough said yes, if it did not include a standard for waiving parking requirements.

Commissioner Singleton said they were close to getting it done last month. She said her understanding was that they were going to vote on this tonight. She said there was new information about potential language for parking, how to handle non-conforming structures, and how to address the issue of an onsite property manager. She said if they look at the language from the August meeting that says the parking should be 1 space per bedroom. She felt that the majority of the Commission believed it should be 1 parking space to 1 bedroom. She said the only other issue was the issue of grandfathering in structures that were already in place.

Commissioner Finkeldei asked if Commissioner Singleton was suggesting the motion should be to adopt the August language plus the non-conforming language from this month's memo.

Commissioner Singleton said yes.

Commissioner Harris said if the vote was to forward to City Commission she would only be comfortable doing that if she could see the language that they would be voting for and preferably review the minutes from the August meeting to refresh her memory.

Commissioner Rasmussen said he would like to see the language too. He said when looking at the August language he would support the 1 parking space per bedroom but would like to see some relief for large structures and felt they were creating a problem by ignoring it.

Commissioner Carter said he was concerned about the unintended consequences. He was comfortable with the 1 parking space per bedroom and including language to allow the Planning Director if it's based on saving a larger structure.

Commissioner Harris asked if Commissioner Carter meant large or large historic.

Commissioner Carter said he meant large historic.

Commissioner Rasmussen said the reason he liked boarding houses was it preserved the character of the neighborhood.

Commissioner Liese said in the staff memo it states that there appears to be consensus that large structures in the Oread neighborhood or another established neighborhood should be provided relief from parking requirements in a way that treats multi-dwelling structures and boarding houses the same. He wondered if there was really consensus.

Commissioner Finkeldei said he thought there was consensus.

Commissioner Blaser thought so too.

Commissioner Carter thought so as well.

Commissioner Singleton said there was a difference between an historic home being maintained but she does not want to encourage them to be torn down and an apartment complex be built instead.

Commissioner Dominguez said the incentive to turn a house into a boarding house was to make money. He said he liked the Board of Zoning Appeals route in order to get the neighborhood involved.

#### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Harris, to defer the item and direct staff to work on language consistent with the staff memo set forth in item 1 and include language that saves larger structures, includes language that does not allow it to expand over a certain percentage, and look at the non-conforming language again.

Commissioner Singleton said staff did an excellent job of raising good points to take into consideration. She said she would like information about how many houses are over 4,000 square feet. She suggested during the Mid-Month meeting having a theoretical discussion about the issue of grandfathering non-conforming structures. She agreed that maybe the Board of Zoning Appeals was not the best route to be making these decisions because the factors they consider aren't relevant to the issue they would be asked to address. In reference to an onsite property manager, she strongly felt there needed to be someone who had some level of responsibility. She suggested a phone number onsite to get a hold of owner. She said she supported Commissioner Finkeldei's motion.

Commissioner Liese supported Commissioner Finkeldei's motion. He would like staff to elaborate on the statement that parking regulations should be revised to create uniform relief from the parking standards for multi-dwelling structures and boarding houses.

Mr. McCullough said hundreds of Text Amendments have been done since the Code was adopted in 2006 because there have been discrepancies and inequities. He said this Commission has worked a long time on that. The process has brought up the notion that there are inequities between multi-dwelling structures and boarding houses if they are both to thrive in established neighborhoods in the RM Districts. He said the code today gives advantage to boarding houses.

Commissioner Dominguez did not know if he would support or vote against the motion. He said regarding not having the Board of Zoning Appeals hear items because of the five criteria, the first two criteria are unique circumstances to a variance being requested by a boarding house. He did not like decisions being made by the city instead of being heard through the public process and did not think it was good for public policy. He said he did not think he would support motion

Commissioner Harris said Commissioner Dominguez made some good points. She said she was not ready to move it forward just yet.

Commissioner Carter said he would vote in favor of the motion. He said the motion was for including language that saves larger structures and he would like to see it for large historic structures. He said he would rather use Overlay Districts to address all large structures.

Commissioner Burger asked if the motion was approved if the public comment period would be open again.

Mr. McCullough said he would recommend they have a public hearing on that language.

Motion carried 7-2, with Commissioners Burger and Dominguez voting in opposition. Student Commissioner Davis abstained.