

From: [Jonathan Douglass](#)
To: [Jonathan Douglass](#)
Subject: RE: Important issue in Agenda Item No. 2
Date: Monday, July 11, 2011 11:37:15 AM

----- Forwarded message -----

From: **Lichtwardt, Robert W** <licht@ku.edu>
Date: Sun, Jul 10, 2011 at 10:06 PM
Subject: Important issue in Agenda Item No. 2
To: "aroncromwell@gmail.com" <aroncromwell@gmail.com>, "schummfoods@gmail.com" <schummfoods@gmail.com>, "mdever@sunflower.com" <mdever@sunflower.com>, "hughcarter@sunflower.com" <hughcarter@sunflower.com>

To Mayor Aron Cromwell, Vice Mayor Bob Schumm, and Commissioners Michael Dever, Hugh Carter and Mike Amyx:

We are sending you this email because we believe that this extremely important issue has been overlooked. Attached is our letter. We also have a letter to the Planning Commission in the Correspondence section of the Agenda Item No. 2 material.

Thank you for considering this issue.

Betty Lichtwardt for the Land Use Committee of the LWV-L/DC

**REGARDING ITEM NO. 2, TA3-4-11 ARTICLES 6 AND 7: STATEMENT TO THE CITY COMMISSION
ON CHANGES TO ZONING ORDINANCE, SECTION 20-602(h)(2) **Height Limit on Projects Adjoining
Certain Residential Zoning Districts**, (i) **Applicability** and (ii) **Height Limit Related to Setback**
July 10, 2011**

We sent a letter and spoke to the Planning Commission (PC) in June on an extremely important issue that we believe has not been fully recorded in the PC minutes or understood. It is the fact that this text amendment TA3-4-11 covers two distinctly different situations regarding the changes to the height and setback regulations.

The labeled and intended change was understood to be to the Planned Development District. This Planned Development District, Article 7, is an Overlay District and is governed, with certain exceptions, by the provisions of the underlying base district.

However, what is additionally being changed is a provision to Article 6, listed in the title above, which applies to **all base districts** themselves, that are adjacent to (adjoining) any RS District, or separated only by a public street or alley (see **Applicability**). In other words, Article 6 applies to any non-RS District next to all single family (RS) zoning districts, and not just those with PD Overlays (Article 7). The proposed changes to Article 6, Section 602(h)(2)(i)&(ii) eliminate the protections currently in place to all single family neighborhoods that govern the required height and distance between any and every non-single family zoning district and an adjacent single family district.

The current Code now reads as follows:

(i) Applicability

The **Height** limitations set out in this Section shall apply to any **Building** constructed in a non-RS **Zoning District** on a **Parcel** adjoining, or separated only by an **Alley** or a **Public Street** from, a **Parcel** of land in any RS **Zoning District**, except that this limit shall not apply to any **Building** constructed in the CD **Zoning District**.

(ii) Height Limit Related to Setback

Any **Building** or **Structure** to which this Section is applicable shall be set back from the **Yard** line adjoining the RS **Zoning District** by the minimum **Setback** established in Section 20-601 when the **Building** or **Structure** is the same or lesser **Height** than the **Building** or **Structure** on the adjoining RS **Lot**. When the **Height** of the **Building** or **Structure** exceeds the **Height** of the **Building** or **Structure** on the adjoining RS **Lot**, the minimum **Setback** for the non-RS zoned property shall be equal to the **Building's Height**.

The proposed change would read as follows:

(i) Applicability

The **Height** limitations set out in this Section shall apply to any **Building** constructed in a non-RS **Zoning District** on a **Parcel** adjoining, or separated only by an **Alley** or a **Public Street** from, a **Parcel** of land in any RS **Zoning District**, except that this limit shall not apply to any **Building** constructed in the CD **Zoning District**.

(ii) Height Limit Related to Setback

Any **Building** or **Structure** to which this Section is applicable shall be set back from the ~~Yard-property~~ line adjoining the RS **Zoning District** by the minimum **Setback** established in Section 20-601 when the **Building** or **Structure** is the same or lesser **Height** than the ~~Building or Structure on the adjoining~~ **maximum permitted height of the adjoining RS Lot**. When the **Height** of the **Building** or **Structure** exceeds the ~~Height of the Building or Structure on~~ **maximum permitted height of the adjoining RS Lot**, the minimum **Setback** for the non-RS zoned property shall be equal to the **Building's Height**." [the bold emphasis was added by LWV]

This is a major change that will affect all neighborhoods because most modern RS homes are much less in height than 35 feet. The change would allow a 35 ft. tall apartment, for example, to be only 5 feet from a lot line or ten feet from the home when 35 feet in height or less, unless it is the same height as the house.

June 19, 2011

RECEIVED

JUN 20 2011

City County Planning Office
Lawrence, Kansas

Mr. Charles Blaser, Chairman
Members
Lawrence-Douglas County Metropolitan Planning Commission
City Hall
Lawrence, Kansas 66044

RE. ITEM NO. 2: TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHAPTER 20;
PLANNED DEVELOPMENT OVERLAY DISTRICT (MJL)

Dear Chairman Blaser and Planning Commissioners:

Regarding the change to Section 20-602(h)(2)(ii) that is being proposed for the general Land Development Code (LDC), we believe that the public is not aware that this section applies generally and not only to Planned Development Overlay Districts. The required setbacks and height that are being changed here will apply everywhere in the city to all applicable districts adjacent to RS districts. (*Please see Attachment A.*) We ask that you not recommend this amendment to the Land Development Code.

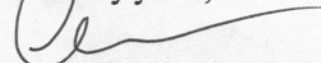
Concerning our letter to you last month on the issue of changes to the PD Overlay District, we supported the suggested reduction in size to correspond to the requirements of the zoning district on which it was placed. We were assuming, incorrectly, that the setbacks, height restrictions, buffering requirements and other restrictions that protected neighboring single family properties would remain in place. We assumed that these restrictions would ultimately determine the area size of a prospective planned development, and not be used, for example, to redevelop a small, single residential lot to a higher density, higher profile apartment building. We ask that you refer to our letter dated May 22, 2011.

We were wrong. The substitute language changing the Planned Development Overlay District Section 20-701(g) offered by staff would not offer protection to neighboring single family areas should an essentially incompatible use be allowed on adjacent property. (*Please see Attachment B.*) It is obvious that the changes in the PD District that are being offered could be compatible with the Oread Neighborhood, but not to more modern, basically single family neighborhoods with considerably lesser average heights, building bulks, and densities.

Consequently, we ask that you, in fact, not change the entire Land Development Code (LDC) to accommodate the special needs of the Oread Neighborhood. We ask that you consider incorporating the specific changes to the PD district to apply to the Oread Neighborhood Conservation Overlay District, and not to change the general Land Development Code Section 20-602(h)(2)(ii) or the PD Section 20-701(g). If this doesn't meet the needs of a single developer now, we suggest that those needs be accommodated by other means.

We hope that you will give our concerns serious consideration. Thank you.

Sincerely yours,



Caleb Morse
Member of the Board



Alan Black, Chairman
Land Use Committee

Attachments

ATTACHMENT A

The following is copied directly from the most current June Staff Report Page 76 on their proposal as to how the LDC text is to be modified regarding setbacks and heights. PLEASE NOTE THAT THIS APPLIES GENERALLY TO THE ENTIRE CODE AND IS NOT LIMITED TO PLANNED DEVELOPMENTS.

Section 20-602(h)(2)

“(ii) Height Limit Related to Setback

Any Building or Structure to which this Section is applicable shall be set back from the ~~Yard-property~~ line adjoining the RS Zoning District by the minimum Setback established in Section 20-601 when the Building or Structure is the same or lesser Height than the ~~Building or Structure on the adjoining~~ maximum permitted height of the adjoining RS Lot. When the Height of the Building or Structure exceeds the ~~Height of the Building or Structure on~~ maximum permitted height of the adjoining RS Lot, the minimum Setback for the non-RS zoned property shall be equal to the Building's Height.” *[We added the bold emphasis.]*

COMMENT: The major change here is from “**building or Structure**” to “**permitted.**” This means that a 35-foot apartment is required to be set back only the required yard setback at the sides between the single family neighboring houses which, for example, are generally 20 feet high or less even though the permitted height for all single family houses is 35 feet—the same as for multiple family. Since the houses are required to be set back 5 feet, and the RM buildings also are required to have the same 5-foot setback (Section 20-601), this means that a 35-foot high apartment **must be set back only a total of five feet from the lot line, or if both are set back only the required 5 feet, then the distance between the two buildings would be only ten feet.** When the apartment exceeds this 35 foot height, then it must be set back the apartment building's height.

The original language required that the RM **building** be the same height as the RS **building**, which makes more sense in terms of protection for the single family houses. Anything higher would have to be set back the height of the RM building. Please remember that height blocks sun.

To repeat, the RS districts permit building heights of 35 feet. Most modern single family homes are considerably less than 35 feet—more like 20 feet or less.

The basic problem here is that this section of the Code will apply to the whole city, whereas the actual buildings in the Oread Neighborhood tend to be unique to that specific neighborhood.

ATTACHMENT B

This excerpt is from Page 80 of the Staff Report. (Section 20-701(g) Height, Planned Development Overlay District):

20-701(g) Height

"The City Commission may increase maximum Height limits of the Base District if the Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development. Height increases shall be permitted only for Buildings set back from the boundary of the PD by the ~~Height of the proposed Building plus 25 feet~~ Base District Setback plus the increase in the height of the Building, so that the primary impact of the increased Height is on property within the PD."

COMMENT: This means that the Base District Setback (generally) of 5 feet plus the increase in the height of the building, assuming it's an increase of one story or 12 feet, would require a setback of a total of 17 feet for a building the height, as an example, of $35 + 12 = 47$ feet tall. Based on this new standard, a 25-foot high single family house (two stories), would have a total distance between the buildings of 22 feet, or on the RM side, 17 feet ($5 + 12$). For a neighborhood like Oread where most buildings are tall and zoned RM regardless of how they are used, this might be acceptable. For most other neighborhoods it would have a blighting effect.

This is why we are suggesting that the Oread Neighborhood needs its own standards, and that they should not apply to the city as a whole, and the required buffer should remain in the Code.

The problem with not having a minimum size is the issue of compatibility. It does take a minimum size to allow a buffer between two essentially incompatible uses, but when infill is involved, it is difficult to prescribe size. On the other hand, if the buffer requirements are kept, they determine minimum size.

23 May 2011

Mr. Charles Blaser, Chairman, and Members of the Lawrence-Douglas County Planning Commission:

I am writing with regard to **ITEM NO. 16:** Text Amendment to City of Lawrence Development Code; Multi-Dwelling Residential Zoning District RM 64 and **ITEM NO. 17:** Text Amendment to City of Lawrence Development Code; Chapter 20; Planned Development Overlay District.

I am a bit confused by the staff reviews that 1) indicate that RM 64 zoning would be inappropriate because it is considered too high a density and then 2) recommend a change to the Planned Development Overlay District allowing for development to an even higher density.

The staff notes in the review of the Multi-Dwelling Residential Zoning District RM 64 that in 1999 the city had a diagnostic review of the development regulations that state that the RM-3 (43 du/ac) and RD (54 du/ac) Districts of the code at that time “appear to represent a theoretical maximum rather than realistic or meaningful standards” and that it was a conscious decision to reduce the high-density districts when drafting the current code. The Staff Response to the request for RM64 says that *Horizon 2020* outlines an overall density range of 16-21 dwelling units per acre for high-density residential districts and that the proposal is almost 3 times higher than the highest density outlined in the plan.

If the proposal for 64 units per acre is not in conformance with the comprehensive plan, why is a proposal that allows for 80 units per acre, almost 4 times higher than the highest density outlined in the plan considered to be in conformance with the plan?

Both approaches can be site specific. The staff is arguing that better planning will result through use of the Planned Development Overlay District. I would be very interested in a discussion of:

- Opportunities for flexibility in development that exist for development on small infill lots
- How a PD Overlay can take into consideration the character of the neighborhood and the surrounding property
- Likely public benefits that might result in a determination from the City Commission that an increase in the maximum Net Density beyond that of the Base District is warranted

The change that has occurred is the consideration of underground parking for development. Although parking is central to this discussion, there is no mention of the fact that twice as much parking would be required for four-bedroom rather than two-bedroom units while the maximum occupancy for unrelated individuals would be the same. It also should be noted that as density increases, demand for on-street parking for visitors increases without any corresponding increase in the number of those spaces available for residents of the area. Additional requirements for visitor parking on site should be considered.

I would also like to see the density calculations give some consideration to counting studio and one-bedroom units differently than two-bedroom units; perhaps counting studio and one-bedroom units as .5 Dwelling Units, and two-bedroom units as .75 Dwelling units or as .4 and .6. If the intention is to seriously encourage a mix of sizes, this would give some incentive for that.

Thank you very much for your good work and your consideration of these proposals.

Marci Francisco, 1101 Ohio, Lawrence, KS 66044



Lawrence Association of Neighborhoods

Neighborhoods Working Together

Dear Chairperson Charles Blaser and Planning Commissioners:

The Lawrence Association of Neighborhoods asks that the Planning Commission not support TA-3-4-11: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, Article 6 & 7, regarding revisions to the district criteria and development standards in the Planned Development Overlay District. *Initiated by City Commission on 4/5/11.*

Between the Smartcode and the new RS3 and RS5 and the new MU districts the ability to build houses closer together on smaller lots has already been addressed. PD's had been used under the older Development Codes in order to build on smaller lots as in my neighborhood, but the addition of the RS3 and RS5 allows for those smaller lot developments.

When would a development need a 0 acres? With this change a small lot development or more units could be built on a presently large lot and may not be in character with the surrounding neighborhood. LAN would agree that a PD overlay would be a valuable tool, but the requested changes from 5 to 0 acres and new density calculations would not be supported by the underlying base zone. The previous codes list 2 acres and if staff feels a reduction is needed then the 2 acres should be considered since this was useful, but 0 acres opens the door to infill property that is not conducive to its neighbors. However, there is a reason the 5 acre requirement was put in place and that reason would have considered what Horizon 2020 states and years of work done by the community.

At the time the new codes were being written there had been a lot of PUD development that had negative impact on the neighboring RS districts and the setbacks were created to protect single family homes from encroaching PD especially multifamily PUD's for instance Joseph Street and Canyon Court Apartments. The new codes may not have gone far enough in protections of RS districts next to RM districts, but PUD's are covered for this reason.

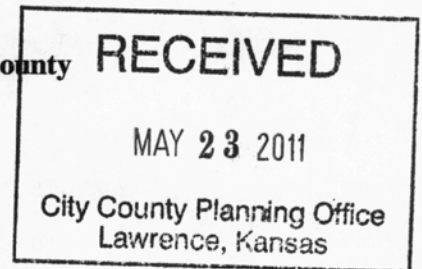
Amending the PD Overlay as suggested by Mr. McCullough at the March Planning Commission meeting did not imply the density calculations would be part of the text amendment or drastic changes to the required area, but to "establish a framework that may be more conducive." These two issues are not conducive to the surrounding neighbors or neighborhood. 20-701 (a) 5 states "promote attractive and functional residential, nonresidential, and mixed use developments that are compatible with the character of the surrounding area." Residential setbacks and density can be changed by the City Commission so the density calculations are not needed as stated in 20-701 (i).

Again, LAN requests not to support the new density calculations. LAN requests that a PD overlay has benefits, but the 0 acre request and the parking/density calculations not be added as a text amendment. LAN requests that the Planning Commission not support any of the various ways the applicant is asking for higher density in an already dense neighborhood with an across the city application.

Gwendolyn L. Klingenberg
Lawrence Association of Neighborhoods - President

League of Women Voters of Lawrence-Douglas County
P.O. Box 1072, Lawrence, Kansas 66044

May 22, 2011



Mr. Charles Blaser, Chairman
Members
Lawrence-Douglas County Metropolitan Planning Commission
City Hall
Lawrence, Kansas 66044

RE: ITEM NO. 17: TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHP 20;
PLANNED DEVELOPMENT OVERLAY DISTRICT (MJL)

Dear Chairman Blaser and Planning Commissioners:

We do not oppose eliminating the minimum acreage required for a Planned Development Overlay District. However, we do oppose the proposed Text Amendment as currently it would read. The following narrative, we hope, will explain our position.

An important characteristic of all of the Planned Development (PD) Ordinances has been to avoid negative impacts on adjacent properties, especially single family (RS) districts. Through many changes over the years, the Planned Development regulations evolved into those of our current Land Development Code: an overlay district governed by the requirements of the underlying zoning district. The PD district requires a minimum land area of five acres, and also requires an internal peripheral buffer equivalent in dimension standards to its adjacent RS district. This ensures that it will have minimal environmental impact on single family areas at the boundaries. The boundary height restrictions and required setbacks are essential features of our current PD overlay district.

A major problem with the proposed revision of the PD Overlay District is the lack of a reasonable standard for the required setback between an RS District adjoining an RM District. Our interpretation is that there seems to be no equivalent peripheral protections for adjacent modern single family housing with the proposed elimination of the buffer area that is present in our current code.

The buffer area section of the existing PD text is the major standard that protects RS districts. This is what ensures that the setback and height of a Planned Development will be equivalent to the height and setback of the adjoining RS district for a significant area of the boundary—a depth of sixty feet, within the buffer portion of a PD adjoining an RS district. This provision also requires that the existing building in the RS district and a proposed adjoining building in an RM-PD District are the same use category, height, and the lots are the same size. If this holds, then the setback, as we read the current Land Development Code, will be that required for the RM District, or 10 feet. This ensures that the PD buffer area will blend with the adjoining RS district. If the height of an RM-PD building is increased, the PD setback is increased, and in this case the setback must equal the height of the RM building. If the City Commission chooses to increase the height of the PD building beyond what is permitted in the RS district, "then height increases shall be permitted only for buildings set back from the boundary of the PD by the height of the proposed building plus 25 feet, so that the primary impact of the increased height is on property within the PD."


The proposed modifications eliminate this standard so that now there is no clear protective standard that we could find in the TA that substitutes for it. Instead of the RM-PD height standard (without setback increase) being the equivalent of the height of the existing RS District buildings, the Text Amendment eliminates the buffer and changes the PD height standard to the maximum permitted height of the RS districts which is 35 feet. (Most modern single family homes are not as tall as 35 feet.)

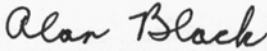
As we read the proposed Text Amendment, the adjoining building for an RM-PD building, therefore, can be 35 feet in height with a setback from the adjoining boundary of only 10 feet between the RS and RM-PD districts. If that height is increased beyond 35 feet by, for example, 10 feet, then the setback must be the same plus the increase in the height of the building, or a total setback of 20 feet. We do not believe that these standards would provide the protection to adjacent properties that has been written into the code currently.

Because there are compelling reasons for eliminating the minimum size requirement of the PD Overlay District, we do not oppose the concept. We do, however, oppose the proposed standards that are being substituted in the current proposal for the Text Amendment to the Planned Development Article.

We ask that you reconsider these standards and rewrite the buffer section to provide better protection standards.

Sincerely yours,


Milton Scott
President


Alan Black, Chairman
Land Use Committee

Kirk McClure
707 Tennessee Street
Lawrence, Kansas 66044-2369
785.842.8968
mcclure@ku.edu

May 23, 2011

Lawrence-Douglas County Planning Commission
City Hall

Re: **ITEM NO. 17 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE
CHAPTER 20; PLANNED DEVELOPMENT OVERLAY DISTRICT**

Planning Commission,

The planning staff recommends adoption of a text amendment that permits:

- a. Application of planned developments to parcels of any size, and
- b. Adopts a mechanism that counts each studio, one- and two-bedroom unit as only one-half unit for density purposes.

Definition of a Planned Development

A planned development overlay is a mechanism that permits the design of a parcel in a manner that may not meet the normal development requirements, such as density and open space, on all parts of the parcel, but taken as a whole it meets the requirements. For example, some parts of a parcel may be allowed to develop with normally prohibited high densities while the remaining parts provide the needed open space bringing the parcel as a whole to a normal density.

In order for this to work, the parcel must be of significant scale. The proposed text amendment can be applied to parcels of any size. This makes the planned development approach simply a mechanism for circumventing density and open space requirements rather than meeting them through unique designs applied to large parcels.

Exceptions for Most Rental Units

The text amendment calls for all studio, one-bedroom or two bedroom to be counted as one-half of a unit for density calculation purposes. An unusual counting process such as this may make sense in a few exceptional circumstances. It does not make sense if the applicable units are the majority of the affected units rather than the exception.

The Census Bureau provides evidence of the breakdown of rental units by bedroom size. Studio, one-bedroom and two-bedroom units comprise over two-thirds of all rental units.

Renter Occupied	Units	Percent of	Cumulative
		Total	Percent
No bedroom	579	3%	3%
1 bedroom	4,467	24%	28%
2 bedrooms	7,613	41%	69%
3 bedrooms	4,304	23%	92%
4 bedrooms	966	5%	98%
5 or more bedrooms	416	2%	100%
TOTAL	18,345		
Source: U.S. Census Bureau			
2005-2009 American Community Survey			
Table B25042 Tenure by Bedrooms			

Such a counting mechanism that views over two-thirds of the rental units developed as only one-half of the count of units renders density calculations meaningless.

Only the developers want greater density in the already densely developed multi-family neighborhoods. Neighborhood residents do not want greater density. The planning commission should be very suspicious of mechanisms that seek to circumvent reasonable limitations on density.

Citywide Changes to Solve Individual Problems

This proposal is being pursued in order to permit the redevelopment of the 1000 block of Indiana Street. It is entirely possible that a redevelopment plan for this site should be adopted that rezones the property and permits increased density. However, the Planning Commission should not adopt text amendments that will apply citywide in order to facilitate the redevelopment of an individual, and possibly unique, parcel of land.

Recommendation

The notion of increased density may be a good idea for the 1000 block of Indiana. That location is well-suited to multi-family housing, and perhaps, if the development is well designed, it may be an acceptable idea to permit greater density on this site than might be permitted under normal zoning constraints.

It is not a good idea to stretch the notion of planned development overlay districts to apply citywide, to apply to parcels of small size, and to artificially permit increased density where it is not desirable.

The Planning Commission should vote against this text amendment.

Yours truly,

A handwritten signature in black ink, appearing to read "Kirk McClure", with a horizontal line extending to the right.

Kirk McClure