

**PLANNING COMMISSION REPORT**  
**Regular Agenda - Public Hearing Item**

PC Staff Report  
10/24/16

**ITEM NO. 3      TEXT AMENDMENT TO DEVELOPMENT CODE; PUBLIC NOTICE PROCEDURES**

**TA-16-00180:** Text Amendment to the City of Lawrence Land Development Code, Article 13, regarding Public Notice Procedures. *Deferred by Planning Commission on 8/22/16.*

**PROFESSIONAL STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward a recommendation for approval to the Lawrence City Commission to approve TA-16-00180, text amendments to the Land Development Code, Chapter 20 of the Code of The City of Lawrence, Kansas to modify Article 13 to:

1. correct reference errors/housekeeping updates as noted;
2. modify the sign posting requirements for UC Overlay District rezoning processes;
3. modify the notice area for all development applications that require mailed notice to include courtesy letters to property owners within 400 feet of the subject property; and
4. implement a mailing fee to be paid by the applicant to recover notification costs incurred.

**Reason for Request:** The City Commission initiated this amendment on July 5, 2016 as a follow-up to a previous discussion with staff regarding standard public notice for and courtesy mailed notice that has been provided for some development applications. Staff was directed to evaluate the impacts of increasing the distance for all mailed notice and, if appropriate, draft appropriate amendments to the Development Code.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- No written comments received to date.

**BACKGROUND**

During the processing for the Oread Design Guidelines hearings, Staff realized that we had missed a public notice step in that posted notice had not been provided for the area covered by the proposed Overlay Districts. In reviewing the Development Code regarding required notice, several inconsistent references to notice procedures were found in Article 13 – Development Review Procedures. For the Overlay Districts & Design Guidelines, the hearing process before the Historic Resources and Planning Commissions was started over and the Planning Commission was asked to initiate text amendments to correct the errors discovered.

In early June, the City Commission discussed the notice procedures as they related to the submitted site plan for neighborhood commercial development at the northeast corner of W 24<sup>th</sup> Place and Inverness Drive. The Commission suggested that impacts resulting from proposed development may often reach beyond the typical 200 foot radius. The discussion indicated a desire to consider implementing a larger notice area on all development projects.

Staff was directed to develop text amendments to address both issues and evaluate the impacts related to increasing the notice provisions for mailed notice to property owners surrounding proposed development projects. The Planning Commission considered various alternatives at their August 22, 2016 meeting and directed Staff to prepare the suggested amendments.

### **EXISTING CODE REQUIREMENTS & PRACTICES**

The Development Code requires public notice for the following types of development applications:

#### Applications to Planning Commission

##### Newspaper, Mailed and Posted

- Rezoning,
- Special Use Permits,
- Preliminary Development Plans

#### Applications to the Board of Zoning Appeals

##### Newspaper and Mailed

- Variances
- Appeals of Administrative Decisions

#### Administrative Processes

##### Mailed

- Final Development Plans

##### \*Mailed and Posted

- Standard and Major Site Plans
  - \* Mailed notice by applicant at time of submission

The code requires property owners within 200 feet of the development proposal and registered neighborhood associations to be sent a letter describing the proposed activity when mailed notice is a requirement. Typically the application requires a current property ownership list provided by the County Clerk's office and Planning Staff prepares and mails the notice. The code requires the applicant to prepare and send letters for site plan applications.

In several recent instances, Staff has provided 'courtesy' letters to property owners in a larger notice area at the direction of either the Planning Commission or City Commission or when Staff determines it is appropriate to do so. Development proposals in the Inverness Park District Plan area garnered significant public interest during the plan development. As a result the plan included a requirement that the City Commission approve site plans for the undeveloped parcels in the area through a public process. As those site plans came in, Staff determined that extraordinary notice to property owners within 1,000 feet should be provided for the proposed developments.

Similarly, when the Alvarado Planned Unit Development redevelopment applications were submitted, Staff determined that the proposed changes, which were internal to the golf course area, could potentially be of interest to property owners beyond the required notice area and therefore provided notice to owners within 200 feet of the original PUD boundaries rather than only those owners within 200 feet of the requested zoning change.

It is important to highlight other ways that members of the community can be provided notice. The City has a robust subscription and email notification system which allows an individual to select the type of development applications they are notified about. These include meeting notices, board agendas and packets, news in particular neighborhoods, and new submittals to the Planning Office.

The new submittals are also viewable on the City's interactive map. As noted above, the majority of projects also include sign posting which provides notice to residents traveling past a proposed development site. Staff prepares a newsletter which is shared at a Lawrence Association of Neighborhoods (LAN) meeting each month. Lawrence also has active newspaper coverage of proposed development activity (both in the electronic Town Talk blog and the print LJW stories).

## **ANALYSIS**

Article 13 provides direction on the types of public notice that are required for various development applications. Depending on the application, the notice may include newspaper, mailed and/or posted notice as defined in Section 20-1301(q). The mailed notice requirements (property owners within 200 feet in the city or, if near the city limits, 1,000 feet into the county) are based on the requirements in state law.

KSA 12-757 prescribes those distances at a minimum and also provides a protest petition option for rezoning and special use applications which is related to the required notice area. The statute provides the ability for property owners within the notice area to file a petition and, if sufficient, to require a supermajority vote by the governing body. A petition is sufficient if *"signed by the owners of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total real property within the area required to be notified, excluding streets and public ways."*

### Impacts & Outcomes of Distance Changes

For the August Planning Commission meeting, Staff provided an analysis regarding the impact changing the required notice area would have for a variety of properties throughout the city. The evaluation looked at the number of parcels included within the various notice rings; the mailing costs to the city for these notice areas; and the change in number of parcels required for sufficient protest petitions. The analysis provided the change in 100 foot increments and the results are shown on the attached [tables](#) and [maps](#).

Currently the City absorbs the cost for postage, materials and staff time for all mailings. The analysis quantified the cost for postage and materials only (and did not factor in the cost of signs provided for posting). The City Commission recently increased application fees for PDS. Staff estimated that current mailings were approximately \$15 in mailing costs + \$25 in staff time for a total of \$40 for a typical 200 foot notice area. Staff indicated that while the City currently absorbs this cost, additional fees may need to be considered in the future if the notice area was expanded.

The City Attorney determined that increasing the notice area will not affect the number of parcels required for submission of a sufficient protest petition. The State Law requirement of 200 foot notice will remain for the determination of property owners eligible to submit a protest petition. The property owners between the required 200 foot radius and the proposed 400 foot ring will receive courtesy notice but will not be included in the determination of a valid protest petition.

### Standard Distance across Applications

In Staff's opinion, if a revised notice area is desired, it would be best to be a standard distance for all types of applications. When there are variable processes involved, the opportunity for mistakes are increased. If the Commission desires to increase the notice area, Staff would also recommend an increase in application fees to recapture at least the hard costs associated with increased postage, materials and signs.

## OVERVIEW OF PROPOSED AMENDMENT

### Housekeeping Revisions

As noted above, several of the proposed revisions are clean-up or clarifying changes within Article 13 that were discovered during the Oread Neighborhood Overlay District rezoning process and preparation of these amendments. These changes correct the reference citations throughout the Article that indicate the type of notice required for various applications. In addition to these revisions, there are several amendments to update terms based on changes within the city organization or related to changes in how applications are processed.

### Sign Posting for UC Overlay Districts

An additional revision is proposed regarding sign posting requirements for Urban Conservation Overlay Districts. Rezoning to Overlay Districts includes multiple properties with specific procedures and public hearing processes outlined in Section 20-308. The process includes preparation of design standards with multiple public input meetings prior to formal hearings before the Historic Resources Commission, the Planning Commission and the City Commission. The process is designed to engage the property owners and residents in the area throughout the development of the design standards. Section 20-308(d)(1) indicates that the zoning map amendment procedures of Section 20-1303 apply, *unless otherwise expressly stated*. (emphasis added)

In staff's opinion, the posting requirements in Section 20-1303(c) should be clarified for UC Overlay District zoning amendments because of the intensive, public engagement process that occurs during the design guidelines development process. Posting signs at strategic locations throughout a proposed district, based on staff direction, is a fiscally more prudent procedure.

### Required Notice Area

If the Commission desires to increase the required notice area for development applications, Section 20-1303(q)(3)(i) will need to be modified to reflect the distance change. The notice distance is referenced in several places throughout Article 13 as highlighted in the attached text.

Article 13, listing the proposed changes, are attached to this staff report. Text to be deleted is shown with ~~strikeout~~ and proposed text is shown in underlined font.

## CRITERIA FOR REVIEW & 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.**

### **Staff Response:**

Several errors have been identified throughout Article 13 where subsections have been incorrectly cited. These are proposed to be corrected. Additional revisions are proposed due to changes in the terminology used in the city organization or related to the method that applications are now processed.

The City Commission and Planning Commission have expressed an interest in considering increasing the standard notification area for development applications to provide an opportunity for increased public participation. This request follows several development applications where impacts were perceived to extend beyond the typical notice area. The desire for increased standard notice could be considered a changing condition.

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

**Staff Response:** The comprehensive plan does not specifically address these amendments, however the plan is based on a general premise that development proposals will be responsible, compatible and will consider impacts to nearby properties. The Development Code is intended to provide standards so that projects are implemented in a manner that protects, enhances and promotes the health, safety and welfare of the general public.

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