

Minutes

Audio Tape No. 670

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, November 20, 2006. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Lou Rasmussen, Gary Bussing, Scott Gulledge, Gregory Peppes, Mike Gill, Debra Filla, and James Azeltine.

Councilmembers absent: None.

Staff present: Scott Lambers, City Administrator
Patty Bennett, City Attorney
Deb Harper, City Clerk
Christy Wise, Deputy City Clerk

1. Opening Remarks

Mayor Dunn called the Work Session to order at 6:10 P.M. Introductions were made by those present.

City Administrator Scott Lambers reviewed that Staff presented Leawood Development Ordinance [LDO] amendments regarding heights of buildings to the Governing Body several months ago. Although one ordinance was approved, an agreement could not be reached on the other proposed amendments.

The current ordinance include does not specifically state where height measurements are to be taken. Staff proposes taking the measurement from the front elevation of the building with a 35-ft. limitation. The objective of the work session is to reach a consensus on how to calculate the measurement followed by establishment of desired height limitations.

By default, Staff has been taking residential height measurements from the lowest point of structures. It has been necessary to reduce the roof pitch of several homes that have exceeded the 35-ft. limitation using this technique. The option of taking the measurement from the lowest point will limit the front elevation of structures upon a lot with grade changes. Another option is to impose limitations only to front elevations while providing relief to back elevations. Mr. Lambers estimated that a 35-ft. height limitation to front elevations will possibly allow rear measurements to reach 46-ft. with the inclusion of a basement.

Mr. Lambers relayed that Mayor Dunn has suggested there may be a desire to set a height limitation but also have an appeal process set in place wherein an applicant could go before the Planning Commission and City Council to gain additional height. He recommended taking the measurement from the lowest point of either the front or back elevation.

Councilmember Filla arrived at 6:15 P.M.

2. Discuss Leawood Development Ordinance [LDO] building height requirements

Mr. Lambers informed Councilmember Rawlings that houses in the Hallbrook subdivision were built prior to the LDO with some front height measurements approximated at 50-ft. to 60-ft. The ordinance currently states the measurement shall be taken 'from grade' but does not specify if this should be the highest or lowest point of the elevation. There are no anticipated problems with a 35-ft. height limitation on front elevations as homes being built now are typically 27-ft.-32-ft.

Councilmember Bussing asked what the height restriction will serve to accomplish. Mr. Lambers stated the restriction will prevent the occurrence of existing homes being dwarfed by redeveloped structures. Height and massing both have an impact upon adjacent properties. Staff does not perceive back elevations to be of much concern. The goal is to maintain some consistency from the street viewpoint by regulating height in relationship to surrounding structures.

Councilmember Bussing stated if the intention is to ensure uniform rooftops from the streetscape, the described proposal would not address a lot that has a built-up grade with a home that sits significantly higher than others. Mr. Lambers agreed this scenario is a possibility and stated abutting properties could dictate building height, although this could be overly restrictive if the definitions are too tight or too broad. Councilmember Bussing expressed concern the ordinance would not achieve desired results due to the lack of grade uniformity throughout the City. Mr. Lambers stated the purpose of the ordinance is to prevent significant variation rather than impose uniformity as it is beneficial and desirable to have a changing skyline of rooftops. The question is how much variance is acceptable.

Councilmember Azeltine arrived at 6:20 P.M.

Mayor Dunn added the amendment is needed due to lack of clarity in the existing ordinance.

Mr. Lambers informed Councilmember Peppes that the Board of Zoning Appeals [BZA] will not be involved in the process of granting height variances. The BZA would not be an appropriate venue as the requests would not be hardship or unique situations. To Mayor Dunn's suggestion that an appeal process be created, City Attorney Patty Bennett advised to outline specific guidelines and certain criteria.

Mayor Dunn clarified that the Planning Commission approved the ordinance amendment of taking height measurements from the front grade with a 35-ft. limitation and no restriction on the rear elevation.

Councilmember Rasmussen suggested using the top of the curb at the highest grade of the lot as the measuring point. As street grades are established prior to residential construction, this point will have been surveyed and is easily identifiable. Mayor Dunn noted this will permit homes upon lots with a grade below curb-level to go above 35-ft., whereas the property owner would be penalized if the measurement is taken at the foundation in terms of the view from his home. Councilmember Rasmussen stated flat roofs are another concerning issue.

Mr. Lambers and Councilmember Rawlings discussed current foundation standards.

Mayor Dunn confirmed with Mr. Lambers that a 35-ft. height limitation would not prohibit walk-out basements. Applications for additional footage will most likely relate to the desire for sharper pitched roofs.

Councilmember Gill stated Leawood has a great housing stock and he would not want to institute a rule to preclude existing home designs, if applied retroactively, unless the Governing Body considers such identified homes in the context of preexisting precedent. He expressed favor with taking the measurement from the curb and with having flexibility to grant additional footage.

Councilmember Filla stated a 35-ft. height limitation would not address issues in north Leawood of new homes towering over existing homes. She suggested approving building permits based upon architectural drawings demonstrating the streetscape perspective.

Discussion ensued regarding massing and measurement options.

Councilmember Rasmussen reported a situation on 92nd Terrace and Mission Road in which a property owner entirely changed the streetscape and interfered with water flow by demolishing an existing home and reconstructing on a filled-in lot.

Councilmember Azeltine agreed with the suggestion of taking the measurement from the high point of the curb.

If there is a consensus to take the measurement from the highest point of the curb on the lot with a 35-ft. height limitation on the front elevation, Mr. Lambers stated a decision should be made regarding the ability to request additional footage subject to Planning Commission and Governing Body approval. He suggested capping additional footage with a limitation of 40-ft. or 45-ft.

To Councilmember Azeltine's question of whether there is a danger of spending a disproportionate amount of time on variance requests, Mr. Lambers stated this would only happen if additional height was wanted for an entire subdivision. At this point, there are only four tracts of land in Leawood where this would occur.

Councilmember Gill left the meeting at 6:45 P.M.

Mayor Dunn requested that Ms. Bennett provide language distinguishing an exception from a variance.

Councilmember Gulledge stated the amendment may create interpretation problems in terms of a subjective review process.

To prevent a 35-ft. home with a flat roof, Mr. Lambers suggested the incorporation of minimum roof pitch guidelines into the LDO following consultation with the Home Builders Association. Councilmember Rasmussen stressed this is a crucial issue.

Councilmember Filla expressed appreciation for the inclusion of roof-pitch requirements as a restriction will minimize over-massing.

Councilmember Rawlings stated the flexibility of a 40-ft. height limitation may be out of character for north Leawood. He suggested imposing a restriction on remodels to maintain the average height of surrounding roofs. Mr. Lambers stated this type of restriction would cause problems unless it was self-imposed by residents as part of the deed restrictions. Further discussion took place regarding massing, height, and setbacks.

Mayor Dunn confirmed Governing Body consensus to take the height measurement of residential structures from the highest point of the curb within the front lot line and impose a 35-ft. height limitation with the ability to request up to 40-ft. subject to Planning Commission and Governing Body approval. Mr. Lambers stated height variance requests will be a 60-day process.

Ms. Bennett noted there may be need to be an exception process for existing homes built on grade above curb level, specifically along Lee Boulevard. Mr. Lambers stated if one of these homes were destroyed, the BZA would be involved in restoring the home to its original height.

Phil Perry of the Home Builders Association advised a minimum roof pitch of 5% would be desirable in terms of aesthetics. Most homes in Leawood have a 10-14% pitch.

Councilmember Filla asked if language would be added regarding massing for remodeled homes. Mr. Lambers reported this issue is currently being addressed by the Planning Commission with recommendations scheduled for release in February. The Building Permit Task Force will also submit a report in January. Mayor Dunn informed a Staff Report on the topic will be given during the Governing Body meeting this evening. Councilmember Rawlings noted there are 3,000 homes association members relying on the City to implement guidelines regarding remodels.

Mayor Dunn stated the agreement obtained from this work session will be an override to Planning Commission recommendations. Mr. Lambers stated the ordinance amendments could be remanded. It was determined that the previously continued amendments will be placed upon a future agenda. Meanwhile, administrative approval is given to measure homes from the highest point of the curb on the lot line with a 35-ft. height limitation.

Councilmember Rasmussen stated a standard curb height should be established within the ordinance for areas in the City where curbs are absent, such as Lee Boulevard and 96th Street. Mr. Lambers stated the upright curb at 9-inches will be used as the standard versus the roll-back variation.

There being no further business, Mayor Dunn adjourned the meeting at 7:10 P.M.

Christy Wise, Recording Deputy City Clerk