

Minutes

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, April 6, 2009. Mayor Peggy Dunn presided.

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

Councilmembers absent: None.

Staff present: Scott Lambers, City Administrator Joe Johnson, Public Works Director
Patty Bennett, City Attorney Mark Andrasik, Info. Systems Dir.
Richard Coleman, Comm. Dev. Dir. Deb Mansfield, City Clerk
Mark Klein, Assistant Planning Dir. Pam Gregory, Deputy City Clerk

Others Present: Bob Walrafen, Leawood Estates Homes Association
Bruce North, Leawood Homes Association
Glenn Darrow, Leawood Homes Association
Loren Stanton, Kansas City Star

- 1.** Ordinance amending § 16-2-5.3 (R-1, Planned Single Family Low Density Residential District) of the Leawood Development Ordinance [LDO], pertaining to Building Height (PC Case #56-06) *[from January 5, 2009 Governing Body meeting]*

- 2.** Ordinance amending § 16-2-5.4 (RP-1, Planned Single Family Residential District) of the Leawood Development Ordinance [LDO], pertaining to Building Height (PC Case #57-06) *[from January 5, 2009 Governing Body meeting]*

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

Opening Remarks

City Administrator Scott Lambers indicated this meeting was in response from Councilmembers to provide a better ability to grasp the restrictions that would go into effect if the proposed height ordinance were adopted.

Community Development Director Richard Coleman gave a presentation on the proposed Residential Height Ordinance.

Mr. Coleman stated there were concerns from citizens regarding tear-outs that had occurred in some of the older part of the City. There was a height ordinance developed; however, it had some issues and was revised and brought before Council.

He gave Council some statistics of residential housing in the City and noted there were almost 3,400 residential lots north of I-435 in Leawood, with 252 lots less than 100' foot in width. These are the lots that are most impacted by this. Approximately 40% of remodeling permits are north of I-435 with 60% south. This is approximately the same with new home permits.

Councilmember Filla confirmed with Mr. Coleman that applicants would still need a building permit if they are doing work on the interior of their home, unless painting or wallpapering.

Mr. Coleman indicated the scale of homes built in the 1950's and 1960's were typically smaller than homes today, with 8' foot ceilings, one car garages and small bedrooms.

The initial ordinance was a 3/1 setback slope and the proposed ordinance is a 1/1 setback slope. The usual minimum would be a 30' setback between two houses. In old Leawood, some homes were built with only 4' - 5' feet between them.

Councilmember Bussing confirmed with Mr. Coleman that the slope angle was not being measured from the setback line; however, was measured from the opposing home.

Mr. Coleman displayed examples of how the current proposed ordinance would apply to a home located at 8300 High Drive in Leawood where the homeowner originally planned an expansion; however, due to the existing economy, decided against it.

The proposed option provides for a 1/1 slope setback from the property line for new homes between two single-story homes and for 50% expansion of the building footprint for a second floor addition. Another option could be to modify the 1/1 slope setback to start at two feet above the elevation as measured from the entry.

Councilmember Peppes asked for clarification of the 1/1 slope setback. Mr. Coleman stated the measurements would be taken from the elevation of the front entry of the home and at the property line and indicated these angles would be much steeper.

Mr. Coleman clarified for Councilmember Filla that the homes could go up to 35' foot in height and the height could also depend upon how large the lot is. The smaller the lot, the more restrictive the building area would be for a 1/1 slope setback.

Councilmember Filla asked why he switched from a 3/1 slope to a 1/1. Mr. Coleman stated it would be difficult to measure from the eave of the adjacent home and would vary with each home.

Councilmember Peppes felt if they measured from the eaves it would be in comparison to the character of the neighborhood.

Mr. Coleman stated a 3/1 is a lower slope and would be more restrictive in some respects because it would cut into the buildable area faster than the 1/1. He indicated there was interest in allowing greater height of homes on estate lots that are an acre or more with 200' foot of frontage. The height may be increased above the 35' foot limitation; 1' foot for every additional 3' feet of setback, up to 40' foot in height.

He had done comparisons with different communities and wanted to apply something that would allow homebuilders to comply, but not be difficult for staff to measure.

Councilmember Azeltine confirmed with Mr. Coleman he had located other communities with Special Development Districts that operated under a separate section within the ordinance.

Mr. Coleman clarified that the ordinance would include the entire footprint of the ground floor, including the garages.

Councilmember Filla referred to the example of the home on High Drive and was concerned there weren't enough restrictions in place that would prevent people from over building on their lot space.

Mayor Dunn indicated they were taking the homes on either side into consideration with the proposed ordinance. Ms. Filla thought the 3/1 slope took that into consideration; however, not the 1/1.

Mr. Coleman stated the 1/1 slope setback was taken from the elevation at the front door and indicated it would be pushing the envelope of the house back from the neighbors' house, but would still allow them to expand upward.

Ms. Filla felt the example Mr. Coleman used at 3225 W. 82nd Street was completely out of scale with every other house on that block.

Mayor Dunn confirmed that this ordinance primarily referred to building between two ranch homes.

Mr. Coleman noted he could make it more restrictive, if necessary.

Mayor Dunn felt they should be as flexible as possible with the ordinance because of the importance of reinvestment within the City. A flexible ordinance should cause fewer appeals to go before the Board of Zoning [BZA].

Councilmember Bussing confirmed with Mr. Coleman that all of the examples given met the 50% guideline and if the house was slightly adjusted on the lot, it would fit within the 1/1 envelope.

Councilmember Cain was in favor of keeping the streetscape by having the homes compliment one another and also wanted to protect the mature trees. Ms. Cain thought they weren't considering mass as a whole with this ordinance, only the height.

Mayor Dunn confirmed for Ms. Cain that this ordinance was only regarding height and indicated there would be a future ordinance regarding overall mass.

Mr. Lambers stated that any tree over an 8" inch caliper that was going to be removed needed to be identified to the homes association and the City.

Mr. Lambers wanted Council to take into account that if a home is not at the appropriate setback, that the measurement would have to come from the setback lines. The property owner wanting to build would not be penalized by someone violating the setback lines.

Councilmember Gill was concerned with the restriction to the size of the lot and thought it could lead to unintended consequences of height restriction and people wouldn't be able to add a second story to their house. He wanted an appeal process to allow common sense to apply.

Mr. Coleman indicated this ordinance would not apply to a house that is built between two two-story homes and would only apply between two ranch homes.

Mr. Gill felt it would be bad policy to state "people could only have single-story homes if the lot size is a certain width".

Councilmember Azeltine confirmed with Mr. Coleman that if they passed the height ordinance in its current form, there wouldn't be any homes in violation of it south of I-435.

Councilmember Bussing concurred with Mr. Gill and felt all of the City's ordinances needed to have a common sense clause.

Councilmember Filla liked having the BZA appeals process in place and felt citizens should be able to give their point of view regarding the topography of their lot. Ms. Filla felt they should try to protect the investment of people that built in old Leawood. People can expand their home without it looking out of scale with other homes.

Mayor Dunn asked if there was any consideration given to the topography of the land for a new home built between two ranch homes, or if that would need to be a BZA appeal. Mr. Coleman indicated it would depend upon the slope of the ground; the measurement would be taken from the front door elevation. He felt it could average out with one side of the lot being higher than the other. Mayor Dunn felt the 50% rule was too restrictive and thought they should consider it being at least 60%.

Councilmember Cain thought if this ordinance passed, it still couldn't be a two-story home because it can't be larger than 50% of the square footage of the ground floor. Ms. Cain concurred with Ms. Filla that if the home blends with the streetscape, it should be allowed to go before the BZA.

Councilmember Filla felt they should specify exceptions, such as corner lots, streetscape, and topography; however, thought everything needed to fit into the scale of the neighborhood and existing residents.

Mayor Dunn wanted to be assured they were fair to the existing landowner, as well.

Councilmember Bussing was concerned with the language in the proposed ordinance; "The proposed addition shall not cause further encroachment than that of the existing structure".

Mr. Coleman stated this language was also part of the existing ordinance.

Mr. Bussing also noted that the language under the definitions didn't have a provision for a story and a half home.

Mr. Coleman indicated this language was meant for anything above the ground floor entry.

Mr. Bussing referred to the language under the BZA Exceptions and felt the words "adverse impact" weren't well defined. He also wanted definition clarification of the word "character".

Mr. Lambers felt "character" could be determined as proportional and they would take into account the heights of homes within the immediate vicinity.

Mayor Dunn confirmed with Mr. Coleman that the ordinance was not pending before the Planning Commission and it would come before Council unless they had another work session.

Councilmember Filla felt they should include the height and massing together. She wanted to give feedback to the Planning Commission; however, didn't want to override all of their work.

Mr. Coleman stated the Planning Commission had passed this ordinance; however, there were concerns when it came before Council and the work session was scheduled for discussion.

Mayor Dunn indicated there were concerns with the 3/1 ordinance from the Planning Commission and confirmed with Mr. Coleman they had passed the 1/1 proposed ordinance before Council this evening. Mr. Coleman confirmed that the option of the 60% rule was not discussed at the Planning Commission meeting.

Councilmember Azeltine confirmed with Mr. Coleman they had not yet developed anything on the massing ordinance and asked if the height, as it relates to homes south of I-435, would also apply to massing.

Mr. Lambers indicated there were much larger homes to the south and massing would be applied north and south; however, height would be limited more to the north.

Mr. Azeltine asked if staff had discussed a Special Development District or an Overlay District for this area. There are older areas in other cities of Johnson County that have this and don't require a special architectural review board.

Mr. Coleman stated they hadn't discussed this and could review it; however, there were areas that don't blend well together north of I-435.

Mayor Dunn noted there was discussion at the Planning Commission meeting wanting to encompass something for the entire City.

Mr. Lambers thought the majority of Council felt the 1/1 ratio would not be considered an expression of character of the neighborhood and asked if they felt the 3/1 ratio would better capture it.

Mayor Dunn indicated that would change everything the Planning Commission had done.

Councilmember Gill liked the certainty of the property line versus the uncertainty of the eve and wanted to include an exception process.

Mayor Dunn felt they should consider the massing before this comes before Council.

Mr. Lambers stated the height limitation needed to be established to give them a ceiling for the massing aspect. The lot size should be considered with massing, then setbacks, height, and the majority of homes need to be proportional to already existing ones.

Mayor Dunn asked if they should have a work session to discuss massing before an ordinance is proposed to the Planning Commission.

Mr. Coleman noted the difference in the scale of homes that were built in the 1950's compared to homes built today. Almost all of the newer homes have ceiling heights of 9' feet or higher, including the basements. This will need to be taken into consideration when discussing the issue of massing.

Councilmember Peppes noted he could accept the 1/1 ratio; however, wanted a decision regarding the 50% or 60% rule.

Mayor Dunn was in favor of 60% because it is more flexible and thought there would be fewer appeals to the BZA.

Dr. Peppes felt homeowners to the south should be able to expand if they have the space.

Mr. Coleman stated the 50% rule only applied to a tear-out between two ranch homes, or a tear-out with a ranch home and vacant lot. Unless this is the condition to the south, it would not apply.

Mr. Lambers thought this might be the case in Leawood South; however, indicated it would be very rare for other neighborhoods.

Mayor Dunn noted Leawood South didn't have any acre lots.

Mr. Coleman clarified for Councilmember Filla that the proposal of the home at 8300 High Drive had reached its maximum on the 50% rule.

Mayor Dunn indicated she had heard from people in the community that are still willing to spend money in redevelopment investment in Leawood because of the tremendous value in a Leawood residence. She didn't want this to be too restrictive and not allow this to continue; however, wanted to be assured that all of the issues were addressed.

Mayor Dunn asked Mr. Coleman to review the questions that had been discussed before the ordinance was placed on an Agenda.

Councilmember Filla asked that they consider modifying the ordinance to add the policy Mr. Lambers referred to regarding identifying trees. She also wanted to leave the 50% rule alone, but include reasons that the BZA could make exceptions, such as, lay of the land, streetscapes, topography, or corner lots.

Mayor Dunn received consensus from Council to wait until they return to a future work session before deciding on the 50% rule.

Mayor Dunn clarified for Councilmember Rasmussen that the proposed ordinance would return to the Planning Commission with the suggested changes before they would vote on it.

Mr. Lambers indicated that Council could remand it to the Planning Commission, override it, or adopt their recommendation.

Mayor Dunn thought it would be remanded and indicated they would have another work session for further discussion.

There being no further business, the meeting was adjourned at 7:28 P.M.

Pam Gregory, Recording Deputy City Clerk