

**ITEM NO. 2 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT, CHP 20;
DEVELOPMENT ADJACENT TO RESIDENTIAL DISTRICTS (MJL)**

TA-8-12-11: Consider amendments to various sections of the City of Lawrence Land Development Code, Chapter 20, regarding revisions to the district criteria and development standards for development adjacent to R (Residential) Districts, clarify other density and dimensional standards, Section 20-1701 to clarify or add terms used in the density and dimensional standards table, and Sections 20-211 and 20-212 to make consistent with potential changes in Article 6. *Initiated by City Commission on 7/12/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Hird inquired about the interior 25' setback. He asked if the height of the building would dictate the setback.

Ms. Leininger said that section would be taken out. The proposal was to get rid of the textual section buried back in the standards of Article 6 and put the standards in the table so it was upfront what the setbacks were.

Commissioner Liese asked if RM12D was new.

Ms. Leininger said no, RM12 and RM12D had the same standards but were proposed to be broken apart and have their own standards to accommodate the side interior adjacent to RS addition. She said RM12D allowed duplexes, but did not allow multi-family structures, which RM12 did.

PUBLIC HEARING

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, showed a picture on the overhead of a single story house a good distance away from a large apartment complex and how it loomed over the house. She said she visited several single-family neighborhoods next to RM developments where there had been problems. She said they all had concerns about balconies looking into the bedrooms of single-family homes. She said she went back to the same street, Joseph Street, to talk to them again and the single-family homes were now all rental properties. She said the single-family home owners were concerned about privacy and safety. She expressed concern about the height. She said the biggest concern was removing 20-602(h) without putting anything in its place that it was mandatory to protect single-family homes. She did not want to continue to lose affordable single-family homes. She felt they needed to find a way to incorporate new things that had been added and make sure something mandatory states single-family homes need to be taken care of. She said on Joseph Street the apartments were put directly on the setback, which forced single-family home owners to purchase fences and trees for privacy.

COMMISSION DISCUSSION

Commissioner Finkeldei asked why 20-601 was not mandatory.

Mr. McCullough said 20-1101 included protection standards for residential districts:

As a condition of approval of any Special Use Permit, Map Amendment, site plan or other discretionary approval of any multi-Family use or nonresidential use located within 500 feet of any less intensive residential district, the City Commission, Planning Director, Planning Commission or other review body may impose conditions that exceed the minimum requirements of this Chapter and that, in the opinion of the review body, are necessary to reduce or minimize any potentially adverse impacts on residential property, including, but not necessarily limited to, the following:

- *location on a site of activities that generate potential adverse impacts on adjacent uses, such as noises and glare;*
- *placement and buffering of trash receptacles;*
- *location of loading and delivery areas;*
- *lighting location, intensity, and hours of illumination;*

- *placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;*
- *additional Landscaping and buffering;*
- *Height restrictions to preserve light and privacy and views of significant features as viewed from public property and rights-of-way;*
- *preservation of natural lighting and solar Access;*
- *ventilation and control of odors and fumes; and*
- *paving or other surface treatment for dust control.*

Mr. McCullough said if an issue was brought forth by a neighbor or identified by staff the Code gives the authority to make the requirements. He felt there were several ways to address the section.

Commissioner von Achen asked what the maximum height of a building next to an RS district would be.

Ms. Leininger said with section 602(2) it would be whatever the height of the adjacent structure was of the RS district or the maximum height of that district. It would have to have a setback equal to the height, 45' in RM districts, up to 90' in downtown commercial districts, and 60' & 75' in industrial districts.

Commissioner von Achen asked if the change would make a 25' setback standard.

Mr. McCullough said in the RM districts the difference in height between RS and RM was 10'. He said they were proposing instead of a 5' setback to make that a 25' setback. He said they would have the opportunity to go up to 45' tall. He said some of the public concern was that some of the older neighborhoods were not building 35' tall single-family homes. He mentioned the original proposal did not look necessarily at setback issues. The original concern was that it talked about matching structures, not zoning district maximums. He said if there were multiple structures it posed challenges for staff. He said staff was trying to make it more objective in terms of matching a zoning district standard versus a specific structure.

Commissioner von Achen asked for clarification. She asked if RM exceeded the 35' zoning max then the setback would have to be the height of that structure.

Mr. McCullough said yes.

Commissioner von Achen asked if they did not exceed it and were 35' then what would the setback be.

Mr. McCullough said under the current Code if the changes were made in this section and the current setbacks were kept the setback would be 5'.

Commissioner Britton asked if this was an earlier proposal.

Mr. McCullough said it was on the books today.

Commissioner Liese thanked Ms. Klingenberg for her comments. He said no matter how far away a large structure was it could still feel imposing. He said the number for the height of the building was arbitrary because there could be a building 100' away and could still feel imposing. He said 25' was arbitrary but it made sense to have it be a constant number versus a variable number.

Commissioner Hird made comments regarding footnote 5 where it uses the including but not limited to language. He said he knew the intent was to draw attention to the sections listed but when the words 'including but not limited to' were used it reduced the reader to search the Code. He felt it would be helpful to have a reference to the sections in the Code. He felt it was a fairly well supported text amendment and that one of the major points of contention was whether section 20-1101 should be mandatory or not. He said his general inclination was that they should allow staff the flexibility to impose additional requirements. He said in the past few years Planning Commission has shown as a policy that protecting single-family residences was

important. He stated Planning Commission has shown an inclination to be sensitive to preserving neighborhoods and single-family ownership because they are an important part of the mix. He said he would support the text amendment. He said he would probably disagree a little bit with the League of Women Voters letter about whether or not section 20-1101 should be mandatory and did not see it as a crisis.

Commissioner Finkeldei asked if the use table and 25' was mandatory.

Mr. McCullough said yes.

Commissioner Finkeldei said section 20-1101 being mandatory was really a question about whether or not it was mandatory it might increase what was in the table. He asked if it was Ms. Klingenberg's point to have that be mandatory so it would be reviewed each time.

Ms. Klingenberg felt it should at least be looked at and not accept what was being submitted by the applicant.

Mr. McCullough said the footnote also includes buffer standards and things that might increase a setback because the buffer yard needs to be accounted for. He said if there was a compelling neighborhood issue that was brought to staff that made staff identify that as an issue and then identify the resolution to be a greater setback staff would be authorized to do so. Staff makes sure applications are compliant with the Development Code.

Commissioner Finkeldei inquired about buildings being set a certain way so windows were not facing a certain direction.

Mr. McCullough said there were other standards for balconies on multi-dwelling unit buildings; it needs to double the required minimum setback and have enhanced landscaping. He said neighborhood input was important as well and that neighbors receive notice for site plans.

Commissioner Singleton said she supported the text amendment as presented by staff. She appreciated the comments made by the public but felt that the flexibility the changes offer to the Planning Commission would be more beneficial. She stated there was a shift in culture about housing within communities. She said it was expensive to buy single-family homes because of new regulations on financing and that the community needed to start looking at apartment buildings as part of neighborhoods since a lot of people could not afford a 30% down payment on a house. She said they offer as much to the neighborhoods as the people who can afford to buy a home in Lawrence. She said she could look into her neighbors windows just as easily as an apartment building could. She liked the text amendment as written and thought the premise about single-family housing being the only thing that needed to be stabilized was not the right premise in the community.

Commissioner von Achen asked Ms. Klingenberg to clarify what she was requesting for section 20-602.

Ms. Klingenberg said with section 20-602 the changes in the table would require some changes. They would make a good difference but do not necessarily make a strong difference. She said home ownership was important. She thought section 20-602 could be downgraded to keep somewhat mandatory but limit the mandatory. She said she did not have the answer but did not feel the text amendment was ready. She said it was a great start. She suggested maybe changing 20-602 to acknowledge the tables.

Commissioner Hird inquired about including a provision that if there was RM next to RS that staff shall review the provision of section 20-1101 to make a determination.

Mr. McCullough said staff does review it as part of the review process and the way staff uses 20-1101 was contextual. He said they could consider making any non-RS zoning district, when adjacent to an RS district, have a setback equal to its maximum height. He said that would presume that every applicant would try to get the maximum height which wasn't always the case.

Commissioner Liese asked if there was any science to the arbitrary numbers.

Mr. McCullough said they were standard and typical to other communities nationwide.

Commissioner Finkeldei said he would support what staff was proposing. He understood LANs position on knowing that in certain situations this wouldn't work. He still thought there could be times in which 20-1101 that the 25' was not enough. He said they either needed to trust staff to handle these issues or come up with a pretty complex way to impose that. He said given those two choices he would side with trusting staff to use 20-1101 with the use tables that set the 25' minimum. He said under the current standards an average one story house was closer to 21' setback so this would put a minimum of 25'. He felt separating out 12D was helpful to make that a transitional zone.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve the proposed amendments, TA-8-12-11, to the Land Development Code, Sections 20-211, 20-212, 20-601, 20-602, and 20-1701, and forwarding to the City Commission.

Commissioner Britton said he shared Ms. Klingenberg's concerns about homeowners expectations about their neighborhood. He said they could try and make as many rules as they want to accommodate as many situations as they could possibly envision but they would never accomplish and anticipate all of them. He felt the process was a good one and said he would support the text amendment.

Commissioner Blaser said he would support the motion. He said they couldn't write something to cover everything. He felt the planners had done a good job.

Commissioner Burger appreciated the staff presentation and comments from LAN and LOWV. She said it was a lot clearer to her now. She said the culture was changing and residential real estate was changing. She said there was some evidence that cultural desires were changing and that home ownership may not be as desirous as it was at one time. She felt this was a really good start to preserve and maintain as best as possible, as well as being sensitive to culture changes. She said she would support the motion.

Commissioner von Achen said 20-1101 should not be mandatory and would not serve anyone and she felt they needed the flexibility. She was concerned about protecting the character of existing neighborhoods and she wished she knew how to accommodate that and give more protection. She said she would support the text amendment only because she did not know of a better answer.

Unanimously approved 8-0. Student Commissioner Davis voted in the affirmative.