

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Dave Corliss, City Manager

**FROM:** Dan Warner, AICP, Long-Range Planner

**CC:** Cynthia Boecker, Assistant City Manager  
Diane Stoddard, Assistant City Manager

**Date:** 12/9/08

**RE:** Lawrence SmartCode – Draft Changes

The Lawrence-Douglas County Planning Commission recommended unanimous approval (8-0) of the Lawrence SmartCode at their regular meeting on May 21, 2008. The Planning Commission included two changes to the draft as part of their recommendation for approval. Those changes were to require 200 feet of notice to neighbors for Consolidated Review Committee (CRC) submittals and to clarify a platted lot requirement. Those changes are shown below:

#### 1.4.9 Notice

(a) Notice of a proposed Article 3, 5a or 5b application shall be posted on the property covered by the application, in accordance with Sec. 20-1301(q)(4) of the Lawrence-Development Code. In addition, written notice of the application shall be mailed to the Owner of record of all property within 200 feet of the subject property, and to all Registered Neighborhood Associations whose boundaries include the subject property or are adjacent to the neighborhood the subject property is located in. ~~For purposes of this provision, "adjoining property" includes all property that touches the subject property, including right-of-way of the subject property.~~ The notice shall be sent by the applicant by regular mail, postage pre-paid. The applicant shall submit a Certificate of Mailing at the time of submission of the application. An application for Article 3, 5a or 5b review will not be considered complete without an executed Certificate of Mailing.

5.1.1 Lots and buildings located within a New Community or Infill Community Plan shall be subject to the requirements of this Article. No more than one Principal Building shall be located on a platted lot.

Staff also made a number of minor changes to the draft following Planning Commission action. These changes do not materially affect the processes of the code. They are changes to clean up the formatting of Article 1, fortify language and address inconsistencies. The changes are listed below:

1.3.4 Except where otherwise specifically provided in this Code, the Director of Planning and Development Services shall be the administrative official charged with interpreting and enforcing the provision of this Code.

1.4.3 Should a violation of an approved plan occur during construction, the CRC has the right to require the Developer to stop, remove, and/or mitigate the violation as set forth in 1.7.6 of this Code. ~~or to require allow the Developer to secure seek a Variance to cover obtain relief from correcting the violation.~~

1.4.9.4.ii This letter is being sent to the Owner of property adjoining, or a Registered Neighborhood Association encompassing, the proposed development described further in this letter. It is being sent for the purpose of informing the notified person and other interested parties about the proposed development. This letter is being provided solely to advise adjoining Landowners of the pending proposed development and does not grant the recipient and/or Landowner any additional legal rights to challenge the proposed development beyond those granted as part of the normal appeal process. For further information, contact the applicant's designated representative at (xxx) xxx-xxxx or the Planning and Development Services Department at (785) 832-xxxx.

#### 1.4.13 Appeals

Appeals of the CRC's decision on Article 3, 5a or 5b applications may be taken to the City Commission by filing a notice of appeal with the Planning Director.

Appeals shall be filed within 9 10 days of a decision to approve or disapprove Article 3, 5a or 5b applications.

#### 1.4.14 Right to Appeal

The following persons and entities have standing to appeal the action of the CRC on Article 3, 5a or 5b applications: 1) the applicant; 2) the City Commission; 3) the neighborhood association for the neighborhood the application is located in or is adjacent to; or 4) ~~record~~ Owner of all any adjoining property within 200 feet of subject property as the term "adjoining property" is defined in Sec. 20-~~1305(g)~~.

1.4.17 A Preliminary Plat shall be submitted ~~and~~ that demonstrates compliance with the platting procedures in Section 1.4.18 and 1.4.19.

1.4.18

1.4.18 a. A Developer shall apply for Preliminary Plat approval by submitting an application to the Director of Planning and Development Services.

(1) The application shall contain the materials required by this Section, as well as any additional materials required as part of the application form provided by the Director of Planning and Development Services.

(2) Each application shall be accompanied by:

(i) The applicable filing fee;

(ii) A completed application form;

(iii) The required number of copies for a complete submission of a Preliminary Plat, and,

(iv) A drainage plan that complies with Chapter IX, Article 9 of the Code of the City of Lawrence, Kansas and amendments thereto, per Chapter 9-901 of the City Code of the City of Lawrence.

b. The Planning Commission shall conduct the review of the application at the meeting at which it is scheduled by the Planning Director, unless the Developer shall request deferral to a future meeting. The Planning Commission shall take final action on the Preliminary Plat at a meeting occurring not later than 60 days after the date of receipt of a complete application ~~by the Planning Director the Planning Commission's initial receipt of the Preliminary Plat that the Planning Director has found to be a complete application~~ as determined by the Planning Director.

c. If the Planning Commission finds that the proposed ~~Plan~~ Plat conforms to all of the criteria set forth in this Code the Planning Commission shall approve the Preliminary Plat.

j. A Preliminary Plat that has been approved by the Planning Commission shall be submitted to the City Commission, as applicable, for its consideration of acceptance of the Dedication of Street/Roads and other public ways, service, and utility Easements and any land dedicated for public purposes.

(1) The City Commission shall accept or refuse the Dedication of land for public purposes within 30 days after the first meeting of the City Commission following the date of the Preliminary Plat's submission to the City Clerk of the appropriate City Commission. The City Commission may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the City Commission. No additional review and recording fees shall be assessed during that period.

(4) ~~The respective Governing Bodies~~ City Commission maintains full legislative discretion to reject any proposed Dedication, regardless of the approval of the Preliminary Plat.

If the City Commission rejects part or all of a proposed Dedication, the Developer may amend the Preliminary Plat and resubmit it for consideration by the Planning Commission without the rejected Dedication; if the Developer takes no action within 60 days of the rejection of any proposed Dedication, it shall constitute failure of a material condition of the approval of the Preliminary Plat and the Preliminary Plat shall be deemed to have been rejected.

m. After approval or approval with conditions of a Preliminary Plat by the Planning Commission, the Developer shall have prepared for recording a Final Plat, which is consistent with the action of the Planning Commission and with the formatting and content requirements of this Code. The Planning Director shall review the Final Plat for incorporation of the Planning Commission's recommendations and comments and to insure that the Final Plat is in the required format.

(1) If the Planning Director finds that the submitted Final Plat conforms with the content requirements of this Code and is consistent with the Preliminary Plat approved by the Planning Commission, including satisfying any conditions incorporated in that approval, the Planning Director shall approve the Plat and attach to it a formal certification that the submitted Final Plat:

(i) Conforms to the Preliminary Plat previously approved by the Planning Commission;

(ii) Satisfies any conditions of approval imposed by the Planning Commission;

(iii) Includes the same Dedications accepted by the City Commission, subject only to minor technical adjustments;

(iv) Satisfies any conditions of acceptance of Dedications imposed by the City Commission;

(v) Represents a plat for which all required Public Improvements have been completed, or for which adequate Guarantee of Improvements has been provided; and

(vi) Is otherwise consistent with the requirements of this Code for a Final Plat.

(2) If the Planning Director finds that the submitted Final Plat is deficient as to format or content or otherwise technically deficient, the Planning Director shall notify the Developer of the deficiency(ies) within 5 10 working days.

n. If the Planning Director has approved and certified the Final Plat in accordance with this Code, the Planning Director within 5 10 working days of receipt of the recordable copies of the Final Plat, shall submit the Final Plat to the Chair of the Planning Commission and to the Mayor for signatures. Each of these persons shall, if he or she accepts the certification of the Planning

Director, sign the Final Plat, including the "Acceptance of Dedications" certificate; if any of these persons refuse to sign the Final Plat,

- o. After all signatures have been obtained, the Planning Director shall forward the the recordable copy of the Final Plat to the Register of Deeds for recording. The recorded version of the Plat shall bear the endorsements herein provided, including the endorsement by the City Commission accepting the Dedications.

(1 ) Upon approval and acceptance of all Final Plats that create new Street/Roads, detailed Street/Road plans shall be submitted to the City Engineer for approval prior to filing of the Plat, and these plans shall include the following:

(i) Plan, profile, ditch grades, and cross-sections of all Street/Roads, Alleys and other public ways; and,

(ii) Drainage areas and size and length of cross-road drainage Structures.

(2) Prior to the Final Plat being recorded with the Register of Deeds, a digital version of the Plat shall be submitted to the Planning Director in a format approved by the Planning Director. The digital file shall be registered to the State Plane Coordinate Grid System used by the city and county. Any Final Plat not submitted in a digital format will be converted by the City, and the cost for conversion will be paid by the Developer before the Plat can be recorded at the Register of Deeds.

(3) Errors found in closure shall be corrected prior to filing the Final Plat.

(4) Approval of a Final Plat by the Planning ~~Commission~~ Director and acceptance of Dedications by the appropriate City Commission shall be effective for no more than 18 months from the date of acceptance unless all conditions of approval have been completed.

1.4.19 All Subdivisions shall comply with the following sections of Article 8, Subdivision Design and Improvements, of the ~~Lawrence~~ Development Code. ~~Any references or requirements in the following code sections to property outside the of the corporate limits of the City of Lawrence, Kansas or provisions of Article 8 enforceable by the Board of County Commissioners for the Unincorporated Area of Douglas County shall not apply to SmartCode applications.~~

Deleted the language in the referenced sections following the above paragraph. Those sections from the Subdivision Regulations are now referenced by section number only.

1.4.20 Vesting of Development Rights; Expiration

Upon recording of a Final Plat, development rights in land covered by that Plat shall vest in accordance with K.S.A 12-764.

a. For all purposes other than single-family developments in the event the ~~Landowner~~ Developer fails to file an application for Building Permit within 18 months after final approval of the Article 5a or 5b submission has been granted, then such Article 5a or 5b submission shall expire in accordance with the following provisions:

(1) For good cause shown, the expiration date may be extended by the City Commission for a period not to exceed 6 months. The application for extension or modification may be made by letter to the Planning Director and will be considered only if received before the expiration date of the Article 5a or 5b submission. The Planning Director shall place such request, with any recommendation of the Planning Director on the agenda of the City Commission.

The Planning Director shall notify the applicant by mail of the date of the proposed consideration by the City Commission. On that date, the City Commission shall hear from the applicant and the Planning Director and may hear from other interested parties. Only one such extension may be granted;

(2) No action by the City shall be necessary to cause the Article 5a or 5b submission to expire. Its expiration shall be considered a condition of the original approval. After the expiration date, or extended expiration date, any further application for a Building Permit or for other development activity on the site shall be considered as though the Article 5a or 5b submission had not been granted.

b. Approval of an Article 5a or 5b submission does not, in itself, vest any rights under K.S.A. Sect. 12-764. For all purposes other than single-family developments rights vest only after the related Building Permit is issued and substantial construction is begun in reliance on that permit.

c. For all purposes other than single-family developments rights in an entire Article 5a or 5b submission shall vest under K.S.A. Sec. 12-764 upon timely issuance of an initial Building Permit and completion of construction in accordance with that Building Permit, or upon timely completion of substantial site improvements in reliance on the approved Article 5a or 5b submission.

Table 3C: Inserted correct graphic for RD-50-24

5.3.4 ~~e. The Required Parking may be modified by the CRC by Warrant.~~

5.3.8 f. All provisions of Chapter V, Article 18, Signs, shall continue to be applicable, and where in conflict with this Code, the stricter provision shall apply.

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#### Article 7. Definition of Terms

**Blade Sign:** Blade signs may either project from a wall or hang from an overhanging architectural element. Bracket or other suspension shall match style of sign and shall not be computed as part of the allowable size of the sign.