

CITY COUNCIL STUDY SESSION MINUTES

September 16, 2014

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 16th day of September, 2014, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT:

Councilmembers Heiple, Castleberry, Miller, Holman, Lang, Quinn, Williams and Mayor Rosenthal

ABSENT:

Councilmember Jungman

Item 1, being:

DISCUSSION REGARDING POSSIBLE AMENDMENTS TO THE R-3, MULTI-FAMILY DWELLING DISTRICT, ZONING DISTRICT FOR APARTMENT HOUSES.

Ms. Susan Connors, Director of Planning and Community Development, said on June 23, 2014, the Community Planning and Transportation Committee (CPTC), reviewed the zoning ordinance in regards to R-3, Multi-Dwelling Districts, due to concerns about tearing down single family homes in the central part of Norman and replacing them with large structures that are out of character with the neighborhood. She said the new structures are much larger in scale than the houses they are replacing. The new structures are being built with maximum, impervious surfaces on the lot as well as the parking area. She said these new structures create parking issues as well as traffic congestion. She said tonight Council will be reviewing recommendations from the CPTC that would require additional review and approval for the most out-of-character buildings allowed in R-3 Zoning Districts.

In the CPTC meeting of June 23rd, the Committee requested Staff research other cities rules and/or regulations regarding controlling the number of bedrooms within a unit, research and tweak special use setbacks adding language to include “or other residential units having eight or more bedrooms,” and amend language in zoning districts R2, Two-Family Dwelling District, RM-2, Low Density Apartment District, RM-6, Medium Density Apartment District, and RO, Residence-Office District, to bring back to full Council.

Ms. Connors said R-3 Zoning Districts are primarily located in the boundaries of Robinson Street on the north, Ponca Avenue on the east, Timberdell Road on the south, and Chautauqua Avenue on the west. She said there are very few R-3 zoned properties outside of those boundaries. There are square footage requirements in the district for each type of dwelling unit allowed. She said R-3 Zoning District’s permitted uses include a) any use permitted in the R-1 zoning district; b) two-family dwelling or a single-family dwelling and a garage apartment; c) apartment house; and d) accessory building and uses customarily incidental to any of the above uses when located on the same lot.

Ms. Connors highlighted districts in which apartment houses or buildings are allowed that include RM-2; R-3; RM-6; and RO. She said there are no current zoning districts that require special use for an apartment house or building. She said if a special use is needed for an apartment house, it will require a public process that includes a pre-development meeting with neighbors and a public hearing at both Planning Commission and City Council.

Ms. Connors said in the proposed ordinance, Staff is incorporating a definition change for “apartment house” and “apartment building,” to “apartment” in order to be consistent with all zoning districts. The proposed definition of an apartment building is proposed to be “A dwelling unit containing culinary and bathroom facilities consisting of a room or suite of rooms intended, designed, or used by an individual or single family within a building containing other such dwelling units or permitted uses.”

Ms. Connors said the RM-2, Low Density Apartment District, currently allows apartment buildings containing four or fewer units. In order to remain consistent, Staff is recommending that a single apartment building containing four or fewer units become a Permitted Use in the R-3 Zoning District since it is already allowed in the RM-2 Zoning District, which is a lower-intensity zoning district. Staff is also recommending any new apartment buildings containing five or more units in an R-3 Zoning District be required to apply for a special use permit. The Committee members requested the ordinance allow only three or fewer units in an apartment building to be a permitted use and a special use permit be required for four or more units.

Committee members also asked that a setback requirement of at least thirty (30) feet be added for an apartment building under the special use category when a common boundary abuts another property in a residential district. It was also discussed to amend Section 2(b), which is a section under the special use category that describes a setback requirement for certain types of uses when they share a common boundary with another residential use.

In response to CPTC's request to research other communities regarding limitations based on the number of bedrooms in a building or unit, Staff reviewed the zoning ordinances for Oklahoma City, Lawton, Stillwater, Tulsa, and Waco, Texas. While some of the cities had a few regulations regarding the number of units allowed per acre or per zoning district, none of the cities limited the number of bedrooms per unit via their zoning ordinances. In addition, the City Attorney's Office researched the legal authority for such a regulation and there does not seem to be any case law in Oklahoma on the issue. The City Attorney's Office felt regulations limiting the number of bedrooms per building instead of number of bedrooms per unit would be more defensible in Court.

Mayor Rosenthal asked about the history of the R-3 Zoning District and Ms. Connors said the R-3 Zoning District is an original zoning district from 1954, but the Code does not include a statement of the district's intended purpose.

Mayor Rosenthal said the crux of the current problem is larger structures being built in single family neighborhoods and she believes the intent of the proposed ordinance is to give notice to neighbors that something is happening and give them a chance to respond. She said that is the logic behind more than three units requiring a special use permit. Ms. Connor agreed and said any building out of character within a neighborhood should be reviewed and discussed with the neighborhood as well as the Planning Commission and City Council.

Councilmember Castleberry asked if the proposed ordinance is approved, will some of the existing properties be non-conforming and Ms. Connors said yes. Councilmember Castleberry asked if property is sold or transferred would the property have to conform to the new regulations and Ms. Connors said no, there are legal non-conforming uses so as long as the property remains a legal non-conforming use there should not be a problem. Ms. Connors said none of the existing properties would have needed a special use permit to build so there would not be many properties that would become non-conforming.

Councilmember Castleberry asked how the proposed ordinance will tie into the Center City Visioning Project and Ms. Connors said this specific language has not been discussed by the Center City Visioning Committee or during the Charrette.

Mayor Rosenthal said the problem was identified and discussed during the Charrette process and there was some concern about these supersized buildings that have been built. She said she has concerns about the timeliness of this ordinance going forward because of the City Center Visioning Process and believed the City should wait until the process has been completed.

Councilmember Holman said his biggest concern is not so much the setbacks, but notification to neighbors. Mayor Rosenthal said the intent of the setbacks is privacy issues for the residential homes. Councilmember Williams said there is no recourse to notifications unless the project comes before Council. He asked if that is part of the amendment to the ordinance and Ms. Connors said the special use permit would require a public

hearing process for a building with four or more units. The majority of tear downs the City is seeing right now are for duplexes that are two units so this ordinance would not affect those buildings. Councilmember Holman said two units equal four bedrooms and Ms. Connors said the ordinance addresses units, not bedrooms. Councilmember Holman said he mentions this because a three bedroom house on Jenkins Avenue was replaced by an eight bedroom duplex.

Councilmember Williams asked Legal Staff if it would be safer to talk units versus bedrooms and Ms. Leah Messner, Assistant City Attorney, said case law resources indicate the City would be safer regulating the number of units versus the number of bedrooms because that is a better marker of density as opposed to regulating bedrooms which gets into regulating what type of family structure can live in the building. Councilmember Castleberry said the Three Unrelated Persons Ordinance pretty much governs the family structure of a single family house. Councilmember Holman asked if a three story building would be considered two units and Ms. Connors said the square footage dictates how many units can be built on a property.

Councilmember Miller was concerned about notification to neighbors, but is also concerned about building things that are so dense in a single family area. She said houses are built on small lots so changing that house into a duplex where more cars come into play will impact the neighbors. She made the assumption that if the ordinance was approved the City would be moving forward from that point affecting people that wanted to do something with their property now, not impacting people that have already built something larger than what will be allowed if the ordinance is approved.

Councilmember Lang felt the biggest issue is setbacks since a 30 foot setback on a small lot would basically eliminate building large buildings on an individual lot. He said a builder would need to find more houses in the neighborhood to tear down in order to meet setbacks. Councilmember Miller said a person could still build a house with a garage apartment behind it on a single lot.

Mayor Rosenthal felt Council should not be moving forward with this proposed ordinance at this time, but should wait to see how the Center City Visioning Process regarding Form-Based Codes would deal with these issues. She said that is where the discussions need to take place. Councilmember Heiple agreed, but said the bigger question is when the City will get tough enough as a community to create a new set of zoning laws. Mayor Rosenthal said that will come with the Form Based Codes, which will regulate many of the zoning issues.

Councilmember Holman said with many of the new duplexes being built, the builder paves the entire backyard for parking so there is no longer a grassy backyard area. He said this places all the parking in the alleyways that were not built for that and the City has to maintain the alleyways, not the property owners. He said there is also the danger of having all these cars driving up and down the alleyways and some of them have fences abutting the alleyway making it difficult to see pedestrians. He said the alleyway between Jenkins Avenue and DeBarr Street is a really good example of how dangerous this can be.

Councilmember Castleberry said, to him, rental properties are not a neighborhood and asked if Staff knew how many rental neighborhoods versus residential neighborhoods are in Norman and Ms. Connors said she could not answer that question today. Councilmember Miller said she owns two rental houses on Symmes Street, but there are also people that own and live in their houses all along that street. She said there are a lot of rental properties in core Norman, but there are also a lot of families still living there and that is where people can afford to buy a starter home.

Councilmember Holman agreed with Mayor Rosenthal that Council should wait for the Center City Visioning process to be completed. Mayor Rosenthal said Form-Based Codes are one way to regularize what is currently a real patchwork of zoning throughout the area. She said Form-Based Codes will address building mass and size more than use and those are the issues driving this concern.

Councilmember Quinn asked what Form-Based Codes are and Mayor Rosenthal said it is a way of thinking about what the City wants in terms of streetscapes, building fronts, and how a neighborhood should look. She said it is really about the form and style of building structures and less about the use. In an area where the City wants urbanized forms there will be pictures and design guidelines for that so in a neighborhood where the City wants residential neighborhoods, the area needs to look like a residential neighborhood without three story buildings in the area.

Mayor Rosenthal said the consensus of Council seems to be to put the proposed ordinance on hold until discussions on Form Based Codes have been completed. She said the Charrette Steering Committee received their final report and City Staff is working on a second draft ordinance of actual language for the Code. She asked if the report has been made available to the public and Ms. Connors said it should be made available to the public within a couple of weeks. She said the Charrette Steering Committee will get a chance to review the Form Based Codes before being reviewed by Council and there will be additional public meetings for public input as well.

Items submitted for the record

1. Memorandum dated September 12, 2014, from Susan Connors, AICP, Planning and Community Development, to Mayor and Councilmembers
2. Section 422.5 – R-3, Multi-Family Dwelling District, of the City of Norman Zoning Codes
3. Zoning map
4. Pertinent excerpts from the Community Planning and Transportation Committee minutes of June 23, 2014
5. PowerPoint presentation entitled, “Amendments to the R-3 Zoning District Regarding Apartment Buildings,” dated September 16, 2014

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The meeting adjourned at 6:07 p.m.

ATTEST:

City Clerk

Mayor