

CITY COUNCIL STUDY SESSION MINUTES

December 20, 2016

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a Study Session at 5:35 p.m. in the Municipal Building Conference Room on the 20th day of December, 2016, 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 24 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Allison, Castleberry, Chappel, Clark, Heiple, Hickman, Holman, Karjala, Mayor Miller

ABSENT: None

Item 1, being:

DISCUSSION REGARDING THE CREATION OF AN OVERLAY DISTRICT FOR THE USE OF GARAGE APARTMENTS IN THE RECENT MILLER AND ELM-PARK NEIGHBORHOOD REZONING BOUNDARIES.

Mayor Miller said City Council recently approved a rezoning request downzoning R-3, Multi-Family Dwelling District, to R-1, Single-Family Dwelling District, in the Miller and Elm-Park neighborhoods. The residents of the neighborhood made the request to prevent demolition of historic homes as well as new construction of duplexes and apartment houses currently allowed in R-3 zoning areas. There were property owners that protested the downzoning because it would remove their ability to redevelop their properties with uses allowed in R-3; however, a larger percentage of property owners did not want large newly constructed duplexes or six to eight bedroom rentals in their neighborhoods. During that meeting, property owners requesting the downzoning agreed that allowing garage apartments would be an appropriate use to remain in the area, but R-1 zoning does not allow garage apartments so Staff was asked to provide Council with information on how garage apartments could be allowed in these neighborhoods.

Ms. Susan Connors, Director of Planning and Community Development, said the R-1 Zoning District could be amended to allow garage apartments under a Special Use Permit; however, this would affect the entire City because that would be amending the Zoning Code. She said since most neighborhoods are zoned R-1 this would be an expansive change throughout the City and it is Staff's understanding that Council wanted criteria for the two rezoned neighborhoods.

Ms. Connors said current regulations for garage apartments require minimum lot size, setbacks, and maximum coverage. An Overlay District can establish additional criteria that could include square footage maximums; height maximums; parking requirements; fencing requirements; distance between structures; and architecture requirements.

The current definition for garage apartments in the Zoning Code states, "A single dwelling unit co-located within a building where motor vehicles are normally and regularly stored and having a roof or wall in common." Ms. Connors said Staff created a different definition that defines a garage apartment as, "An apartment built within the walls of, or on top of, the garage of a separate main dwelling (could include a requirement that the dwelling unit to have direct interior access to the garage)." This new definition establishes that a garage apartment should be a two story building with a garage on the bottom and garage apartment on top. Staff heard feedback that some property owners wanted to allow garage apartments on the ground adjacent to the garage and in that case the new definition would not be necessary because the original definition would allow that; however, if Council wants garage apartments to have access to the garage or if Council thinks garage apartments need to be stacked then a modified definition should be reviewed in the Overlay District.

Ms. Connors said if the City creates an Overlay District with more specific criteria than provided in the memorandum that really identifies those elements listed, e.g., maximum square footage per unit whether stacked or side by side; impervious surface requirements; minimum distance between structures; setbacks off alleyways; fencing on side yards; and parking requirements. There would also need to be an amendment to the Zoning Code, which requires a pre-development meeting with notice to all property owners within the boundaries and 350 feet outside of those boundaries. An amendment would be reviewed by the Planning Commission, which also requires notice to the same area and the final step to the process would be City Council approval.

Ms. Connors highlighted proposed Garage Apartment Overlay District Guidelines for the Elm/Park and Miller Neighborhoods as follows:

- Garage apartment defined as, “A garage apartment is an apartment built within the walls of, or on top of, the garage of a separate main dwelling”;
- The overlay boundary areas to allow garage apartments are the location maps of the Elm/Park and Miller neighborhood zone change applications only as depicted in Exhibits E and F;
- Minimum lot area of 6,000 square feet is required;
- Existing garages with new construction of a garage apartment: existing garages may be allowed to add one apartment unit; however, if the required setbacks cannot be met a variance through the Board of Adjustment (BOA) is required;
- New construction of garages and a garage apartment: setback at rear property line of ten feet, or twenty feet if rear is off an alley, side property line seven feet, and ten feet from main dwelling;
- A newly constructed stacked garage apartment (garage on first floor and apartment on second floor) will have a maximum square footage of 800 square feet;
- Minimum distance between habitable structures is ten feet;
- Total impervious surface on the lot is 65%; structures are not to exceed 45% impervious coverage and all other impervious surfaces are not to exceed 20%;
- Garage apartments must be similar in architectural character to primary structure. Elevation rendering of existing structure and proposed structure elevation renderings shall be submitted with the building permit application;
- Building permit applications must be accompanied by a complete floor plan with the building permit application. Any room that has a closet or direct access to a bathroom is considered a bedroom;
- Existing off-street parking must accommodate the main dwelling. The maximum additional off-street parking is two parking spaces for one additional garage apartment dwelling unit. Garages and/or garage apartments that have alley access must locate new parking off the alley. If there is no alley access, new parking spaces must be located behind main structure;
- A six foot privacy fence is required on the side yards for the additional garage apartment unit;
- Any exterior lighting on a garage apartment must be full cutoff fixtures; and
- Maximum height is two stories with a garage on the first floor and an apartment above with a maximum height of twenty-eight feet. The maximum height of a single-story garage with an attached garage apartment is sixteen feet.

Ms. Connors said Edmond, Tulsa, and Oklahoma City do not allow garage apartments to be built in residential neighborhoods unless the zoning is multi-family.

Councilmember Castleberry asked why there needs to be ten feet between structures and Ms. Connors said this would give the back yard more space from the adjacent property owner so it would not be crowded giving space for outdoor activities.

Councilmember Castleberry asked why direct access to a bathroom or a room having a closet designates a room as a bedroom and Ms. Connors said there was some discussion regarding limiting the number of bedrooms which she does not believe the City can legally do so this criteria may not be needed.

Councilmember Clark asked why Staff changed their recommendation from a 500 square foot maximum to an 800 square foot maximum. Ms. Connors said in researching other communities, it seemed to be a reasonable number. Mayor Miller said allowing more than 500 square feet will help make the neighborhood more sustainable as far as walkability and offers more alternative housing options for seniors and young professionals and not just students. Councilmember Clark asked the common rent for a garage apartment and Mayor Miller said \$600 or more for a one bedroom apartment if it is in the campus area.

Councilmember Hickman said it is important for Council to remember that the City has never had this many property owners apply for downzoning of a neighborhood with no help from the City. These property owners walked the streets talking to neighbors and obtained a clear majority of petition signatures required to submit the request for downzoning. Whatever buildings currently exist in those neighborhoods does not matter now because, in his opinion, a majority of property owners have shown they do not want further R-3 type development to occur at the scale that has been ongoing. It is important to honor and respect the work those property owners have done and he has heard that many of them are frustrated and upset that in a relatively short period of time the City is now presenting and proposing a recommendation that is not in accord with what they had recommended through several meetings. He said one of the recommendations in conflict is the square footage limitation on garage apartments. It is unclear to him why the City felt there needed to be a recommendation on a square footage limit at this early stage in the discussions and why the City chose not to recommend what neighborhood representatives had recommended. Mayor Miller said at the Council meeting when the downzoning request was approved by Council, Councilmembers requested that Staff get to work on allowing garage apartments in the downzoned boundaries and that is why it is coming forward now. She said as far as the square footage, Staff researched other communities and brought forward recommendations based on that research and it is now Council's job to review Staff's recommendations. She said this is a process and there are still public meetings and public notifications that will take place. Councilmember Hickman said he is just trying to understand the basis for the recommendation opposed to the recommendation made by the neighborhood. Mayor Miller said the square footage was recommended by Staff as a way to attract young professionals and people other than students to the area and Staff felt a 500 square feet maximum would not achieve that.

Councilmember Castleberry said a 500 square foot garage with an apartment on top is not big enough for two cars so that could be part of the reasoning in the square footage determination. His recollection from the Council meeting is that the neighbors did not mind garage apartments being constructed they were more concerned about the demolition of single-family homes and those homes being replaced with larger two story duplexes or apartments. He said Council could consider a square footage percentage based on the size of the lot.

Councilmember Hickman said property owners have been talking about homes being torn down in the core area of Norman for years, but he has not seen the City coming forward with recommendations to stop those tear downs so he is surprised to see recommendations from the City to allow continued redevelopment whether that is garage apartments or not. He does not know how many Councilmembers have to make a recommendation before it is considered a Council request for an issue is addressed. He has raised concerns numerous times in Council meetings and to the City Manager regarding issues about R-3 zoning, design guidelines; Center City; demolition; and other issues happening in core neighborhoods, but he does not see a rush to prepare a memo or make recommendations based on those conversations. He just wants Council to be sensitive to what the neighbors are telling Council and he does not think there are very many two car garages in core neighborhoods. He said as part of this process, Council needs to consider whether or not there will be a requirement for re-platting because infrastructure improvements, stormwater, impact fees, etc., are not currently being addressed. He said if certain types of development are not currently allowed and Council is going to allow it through an overlay, it is Council's responsibility to look at the total impacts of that. He said it is clear that developers do not have to pay for any type of infrastructure work because re-platting is not required.

Councilmember Hickman said Santa Cruz, California, requires the owner to occupy one of the two dwelling units if there is a garage apartment and the dwelling unit must be considered the primary dwelling unit, but this is not a recommendation for Norman. Mayor Miller said these are things Council is trying to address and Staff is simply supplying information in order for Council to make those decisions. She said there has been discussion about replatting, alleyways, infrastructure, etc., as a part of the Center City discussions and Council will continue those discussions. In terms of the problem with large duplexes, the City spent a year and a half on that discussion during Community Planning and Transportation Committee (CPTC) meetings. The current plan is to bring that discussion back after Christmas.

Councilmember Allison said developers do pay certain fees for redevelopment when they obtain a building permit although they do not pay the same fees as they would for new development.

Councilmember Castleberry said if the City were to require owner occupancy of the main unit, would that be retroactive or would non-conforming properties be grandfathered in? Ms. Connors said Staff did not recommend owner occupancy because there are many existing properties that are not owner occupied and it would be difficult to determine whether one or more of those units are owner occupied.

Councilmember Holman said Council needs to consider an alley improvement impact fee to address the issue with alleys since the City has no funds to maintain alleys. If the City is going to require parking for garage apartments in the alley, there needs to be a program to maintain that alley which will have additional traffic. Councilmember Castleberry asked who owns alleyways and Mr. Shawn O'Leary, Director of Public Works, said alleyways are right-of-way dedicated to the City. Councilmember Castleberry said if that is the case, then the City needs to budget for alleyway maintenance. Councilmember Clark would like to explore what other communities do for alleyways in redevelopment. She said the more garage apartments allowed, the more the alleyways will be used.

Councilmember Holman said there may not be a housing shortage in Norman, but there is an issue with affordable housing in Norman. He said a lot of the older houses that were cheap and affordable for students are being replaced by expensive duplexes that someone working in a restaurant cannot afford. From his standpoint, garage apartments are a very big source of affordable housing and smaller garage apartments would probably be more affordable. Councilmember Allison agreed affordable housing is needed, but said housing also needs to be accessible.

Councilmember Chappel asked if the requirements for impervious surface are more restrictive than the square footage and Ms. Connors said if the main house is large it may restrict how large a garage apartment can be. She said this ensures the whole lot is not covered with paving or a building. Councilmember Chappel said impervious surface regulations could take care of the square footage issue.

Councilmember Chappel asked if full cutoff outside lighting fixtures are exclusive to garage apartments or does that requirement apply throughout Norman? Ms. Connors said it would be criteria specific to garage apartments in the overlay areas to prevent light from spilling onto neighboring properties.

Councilmember Hickman said a majority of the other communities researched contain design guidelines and recommendations from Staff include criteria that garage apartments must be similar in architectural character to its primary structure. He asked who would make that determination and Ms. Connors said Staff. Councilmember Hickman asked about the neighborhood's recommendation that the garage apartment should match the character of the primary dwelling in scale, size, and building material. Did Staff think that should be incorporated in any fashion? Ms. Connors said Staff believes "architectural character" generally includes materials of the primary structure so that means there should be some compatibility in that regard. She said the scale and size is dictated by the 800 square foot limitation, impervious surface requirements, setback, etc.

Councilmember Hickman asked if Staff has researched garage apartments in the Historic District and Ms. Connors said Staff did not address that because redevelopment in the Historic District must go before the Historic District Commission prior to any other action taking place. The restrictions of the Historic District are not by-passed by overlay regulations and Historic District regulations can be more restrictive. Councilmember Hickman suggested the Historic District Commission provide review of design guidelines for the overlay area. He asked if that would be possible and Ms. Connors said yes, if Council chose to assign that duty to the Historic District Commission then they would have that duty. Mayor Miller said the Historic District Commission already oversees three historic districts and felt this would be an additional burden.

Councilmember Hickman said it is unclear in Staff's recommendations if an existing multi-use structure can add a garage apartment on the same lot. He is trying to ensure these regulations protect neighborhoods by requiring a primary, single-family, owner occupied structure in front of the property before a garage apartment could be added. He said, even in R-1 areas, there are developers currently submitting applications for huge single-family homes with six to eight bedrooms that are clearly going to be rental property and that will continue to take place if the primary structure is not required to be owner occupied. This is a legitimate concern in this proposed overlay area and he does not understand why the City cannot regulate the number of bedrooms on property that is supposed to be zoned R-1. He said the City also has a law that states no more than three unrelated persons can live in a single-family residence. Any regulation the City creates has to be in the perspective of what the neighborhoods have requested and the risk of lots being comprised of student rentals only.

Councilmember Castleberry asked before the downzoning, was it allowed to build a garage apartment on the same lot as a duplex? Ms. Connors said no, but they do exist. Councilmember Castleberry said when he agreed to approve the downzoning, it was with the understanding that whatever rights property owners had before regarding garage apartments they would still have. He does not want to put restrictions on garage apartments that were not restrictions before the rezoning so if they could do that before, they should be able to do that now. He said the City just needs to enforce the no more than three person rule.

Councilmember Karjala was concerned about the maximum size of 1,200 square feet for a single story garage apartment because 1,200 square feet is too large for a subsidiary structure. She said most of the other communities researched only allow 500 to 800 square feet maximum so she feels 800 square feet should be the maximum and 500 square feet the minimum footprint. She said the question of owner occupancy is something Council should continue to explore because people have greater ownership over property if they live on the property.

Councilmember Hickman said he likes the Santa Cruz ordinance because it contains regulations on accessory units compatibility in regards to form, height, construction materials, and scale of neighborhood. It also contains regulations on noise; traffic congestion; parking; infrastructure; landscaping; screening for privacy; saving historic trees; etc. These are items Norman should incorporate into their regulations and create a Board to look at these issues and allow dialogue with the applicant that can lead to better solutions. He said the Santa Cruz regulations are not done on a purely administrative review, but a more public review, which is prudent in this situation. Mayor Miller said one of reasons for creating an Overlay District is to specify what can and cannot be done in the district and if it is descriptive enough there does not have to be a public hearing for every application. Councilmember Hickman said he understands that, but argued that Oklahoma City has a Downtown Design Board that oversees the design development of the downtown area even though they have very specific regulations. He said even though there will be specific criteria the City still wants development to be in harmony with the surrounding areas. He feels it would be appropriate for design standards to be in place and a group of people to ensure that what is being proposed as a garage apartment is at proper scale, form, height, etc.

Councilmember Hickman said other considerations for discussion on the Overlay District include re-platting, alley impact fee, and stormwater infrastructure (possible reduction of impervious surface allowance due to flooding issues).

Councilmember Heiple said razing of older homes is what is so upsetting to the neighborhoods. The City needs to proactively reach out to the neighborhood when a demolition permit is requested for input on the project. He suggested Staff make the extra effort of reaching out to the neighbors and working on communication efforts.

Mayor Miller said Staff will make the changes discussed tonight and Council will continue this discussion in the new year.

Ms. Joy Hampton, The Norman Transcript, said it sounds like Council is not following the Center City Vision recommendations for the Overlay District. Mayor Miller said Center City Form Based Code (CCFBC) and the Overlay District are two different discussions. She said the Overlay District is not within the CCFBC boundary; however, the issues are the same. Ms. Hampton asked if Council is going to have further discussion regarding alleyways and stormwater mitigation and Mayor Miller said yes.

Ms. Hampton said there is an article regarding Santa Cruz's accessory dwelling units that do not meet every detail of the City's overly complicated building codes and how rent has reached a new level of ridiculousness. Is there a concern among Council about creating a Board and super high standards while striking a balance that keeps the City out of Court? Mayor Miller said that is a good question and Council is talking about one piece of a much larger puzzle for core Norman, which is a Garage Apartment Overlay District and how simple that can be to protect the neighborhood and offer affordable housing.

Mr. Mitch Barra, 421 Park Drive, said his neighborhood was downzoned to R-1, which he is very happy about, and he was involved in the neighborhood meetings that made recommendations to the City and Council has covered a majority of the recommendations; however, the neighborhood recommended a one bedroom 500 square foot maximum garage apartment although he can see young professionals or millennials needing 600 square feet to include a bedroom and den. He said the neighborhood also made it clear they want to be notified when a garage apartment is being planned. The neighborhood wants some type of process for the application, such as a pre-development meeting and Planning Commission approval, but no Council action would be necessary unless someone wanted to protest the application. He said size and notification were the two main concerns for the neighborhood.

Ms. Cindy Rogers, 633 Reed Avenue, was happy to hear the concerns regarding accessibility and affordability. She suggested that if someone built an accessible garage apartment, the City could have different rules rather than a blanket rule.

Mr. Jonathan Fowler, 422 Park Drive, thanked Staff for the great job of getting very close to what the neighborhood recommended. From his perspective, the neighborhood was looking for a smaller square footage maximum of 500 square feet that would be a true garage apartment above a garage being utilized to store vehicles. He would ask Staff and Council to look at the Santa Cruz model as effective regulations for Norman. He appreciates the discussion tonight regarding accessibility, stormwater impact, alleyway impact, affordable housing, etc., but asked that Council not let all that get wrapped up in garage apartment development regulations. Let that discussion become a broader scale for the community and not become just about Miller and Park/Elm Neighborhoods.

Mr. Ty Hardiman, 630 Miller Avenue, said stormwater management is based on the impervious surface on a property and he does not know that it matters whether that impervious surface is a garage, one-bedroom apartment, or a paved driveway. He said there are already regulations in place to control stormwater run-off so allowing this use would not really increase stormwater problems.

Mr. Russ Kaplan, 4053 Chukkar Court, said if he is building a garage apartment behind an existing house, he wants to provide a two-car garage for the main house while still providing parking for the apartment dweller. Personally, he likes to provide a sturdy garage spot with a door to indoor stairs to the apartment so there would be two parking spots for the primary structure and one parking spot for the garage apartment. He said that scenario would probably require 800 to 850 square feet.

Items submitted for the record

1. Memorandum dated December 16, 2016, from Susan Connors, AICP, Director of Planning and Community Development, to Mayor and City Council, with Exhibit A, Secondary Apartment, Applied Neighborhood-Wide or within Sub-Districts, from Kyle, Texas; Exhibit B, Resolution No. 20140612-062 from Austin, Texas; Exhibit C, Comparison of Regulations Chart of five cities; Exhibit D, Information regarding “accessory dwelling units (ADUs)” from Asheville, North Carolina; Exhibit E, Location map of Elm/Park Neighborhood; Exhibit F, Location map of Miller Neighborhood; Exhibit G, Information on Detached ADUs; and Exhibit H, email dated December 9, 2016, from Jonathan Fowler to Janay Greenlee and Susan Connors regarding garage apartment considerations
2. PowerPoint presentation entitled, “Garage Apartments,” City Council dated December 20, 2016

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The meeting adjourned at 7:05 p.m.

City Clerk

Mayor