

MINUTES
CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held February 27, 2020 in the City Council Auditorium, City Hall, 212 SW 9th Street, Lawton, Oklahoma.

The agenda for the meeting was posted on the bulletin board in City Hall in compliance with the Oklahoma Open Meeting Act.

The meeting was called to order at 1:30 p.m. by Chairman David Denham.

MEMBERS PRESENT: David Denham
 Ron Jarvis*
 Paula Bowen
 Neil Springborn
 Dave Davison
 Deborah Jones
 Darren Medders
 John Jones

MEMBERS ABSENT: None

ALSO PRESENT: Richard Rogalski, Secretary
 Debbie Dollarhite, Assistant Secretary
 Greg Gibson, Assistant City Attorney
 Tammy Anderson, Recording Secretary
 John Mackey, Legal Counsel

*entered meeting at 1:32 p.m.

APPROVAL OF MINUTES OF THE FEBRUARY 13, 2020 MEETING.

MOTION by Davison, SECOND by Medders, to approve the minutes of the February 13, 2020 meeting. AYES: Springborn, Denham, Jarvis, Medders, D. Jones, Davison, Bowen, J. Jones. NAYS: None. MOTION CARRIED 8 - 0.

APPROVE A RESOLUTION OF RECOGNITION TO PAT HENRY AND PRESENT TO MRS. HENRY.

MOTION by Davison, SECOND by D. Jones, to approve Resolution 20-1 honoring the service of Pat Henry to the City Planning Commission of the City of Lawton. AYES: Unanimous. MOTION CARRIED.

Mrs. Henry said she loves and misses her fellow commissioners, and she thanked them for honoring her. She said the Commission has done great things for the Lawton community.

**DISCUSS PROPOSED REGULATIONS FOR SHORT TERM RENTALS AND
PROVIDE DIRECTION TO STAFF.**

Short term rentals hosted on websites such as Airbnb and Home Away are becoming quite popular for travelers. Lawton does not provide any regulations for this type of use, and the Planning Division was directed to remedy this. Staff has drafted a working paper and would like to review the proposed regulations with the Commission prior to scheduling a public hearing.

A draft of the proposed ordinance which includes some questions along with a matrix of the highlights of the proposed regulations was presented to the Commission. Also provided were the sections of the City Code that are referenced in the draft regulations, i.e., hotel-motel tax and parking.

Rogalski said he has received a number of complaints from property owners regarding Airbnbs in their neighborhood. Rogalski said he has also received questions about Airbnbs from Council members.

Rogalski said the primary issues when dealing with Airbnbs are location and zoning. According to research done by staff, communities have been handling these issues in a variety of ways. Rogalski noted that according to City Code, hotel motel tax should be collected for facilities that rent more than one room.

Dollarhite said for most communities the duration of a short-term rental is 30 consecutive days (or less). According to her research, she said most places divide Airbnbs into categories of “owner-occupied” and “nonowner-occupied.”

Dollarhite said licensing requirements for Airbnbs could vary depending on how many rooms are rented out. She said all the communities have required annual licensing renewal. If the Airbnb is located in a residential district, it must maintain a residential character.

Dollarhite noted regulation states only the area of property approved for residential occupancy shall be allowed to be rented out. She said there’s been issues with people pitching tents on the property and renting them out as rooms. Regulation would prevent property owners from renting out things such as tents, vehicles, storage sheds, etc. Dollarhite said the maximum number of guests could vary, but staff currently has this number set at two per bedroom. She said this seems to be a common number with other cities. Dollarhite said many cities set a minimum age of 21 for the renter. Dollarhite said another regulation could be to only allow one renter at a time (even if the Airbnb has multiple rooms). She said there would be no individual cooking facilities in any of the rooms, and meals cannot be served at the facility.

Dollarhite said the proposed ordinance permits businesses to have a small 2 foot sign, which is what's currently allowed for home occupations.

Dollarhite said a business license must be displayed inside the residence, and the license number must be included in all advertisements. This would help the City track how often the facility is rented. The license holder will be responsible for collecting and paying taxes.

Commissioner Davison asked how often taxes would be collected.

Rogalski said hotel taxes are typically remitted on a monthly basis.

Commissioner D. Jones said she understands why hotel motel tax should be collected. However, she asked if the collected taxes could go towards the general fund because the City would administer all Airbnb applications and would be responsible for enforcement.

Rogalski said licensing fees would cover the administrative costs and are a separate fee from money collected for hotel motel tax. Hotel motel taxes are used to promote tourism.

Commissioner D. Jones asked if staff has discussed how much the licensing fee would cost.

Rogalski said staff must first determine the level of code desired by the community before determining what the application fee will be.

Commissioner Springborn asked who would ensure compliance.

Rogalski said licensing compliance would be handled through license and permits, and taxes would be handled by finance.

Commissioner D. Jones asked how many zoning violations have gone to municipal court in the last two years.

Rogalski said he doesn't know, but generally speaking people comply after staff talks to them about an issue.

Dollarhite said staff would require a register of guests to be maintained for three years, which is similar to hotel requirements. She said licenses are not transferable, and a separate license would be required for each rental property.

Mackey asked how staff would know there was only one renter at a time.

Dollarhite said a lot of the enforcement would be done on a complaint basis.

Commissioner D. Jones said she understands there is a concern over regulating health, safety and welfare, but her concern is the non-occupant dwelling unit (i.e. someone who owns 5-6 rental houses). She said she's concerned about the regulation that states there

CPC Minutes
February 27, 2020

can only be one renter at a time. This is because there are a number of defense contractors and nurses who come to town to work for a short period, and simultaneous renting might be necessary.

Rogalski said that's just how the ordinance was proposed, but it can be changed.

Chairman Denham said he's concerned because the nonowner occupied unit would not be permissible in R-1 or R-2 zoning classification.

Dollarhite said they would be allowed with a Use Permitted on Review, which would come before the Commission and Council for approval.

Commissioner J. Jones said approximately 50% of the dwelling units in Lawton are rental properties. He said this is out of kilter with other cities. Because of this, our City Code may need to look different than that of other cities. He said he knows many people who have bought rental properties and converted them into Airbnbs because they've had more financial success this way. Commissioner J. Jones asked if it's necessary to compose an ordinance regarding short term rentals because he has not heard of any complaints about these types of facilities.

Commissioner D. Jones inquired about the vacancy rate in Lawton.

Commissioner J. Jones said he does not know the vacancy rate.

Chairman Denham said he thinks the Chamber has been tracking the vacancy rate, but he does not have the information.

Chairman Denham said there are currently dozens of short term rentals in town, and there are a couple of owners in his neighborhood. Chairman Denham suggests staff create a committee to include some of the Airbnb owners.

Commissioner D. Jones said there are so many different categories within City Code for residential uses (e.g. boarding houses, rental houses, Airbnbs, group homes), and she's afraid it will be hard to enforce compliance.

Chairman Denham said he'd like to see the hotel motel tax reports on current hotels before going after Airbnbs for taxes.

Rogalski said this is also a policy decision, and if it's determined that the City does not want to collect hotel motel taxes from short term rentals then the ordinance will be rewritten.

Chairman Denham asked how the City would know who all is operating a short term rental.

CPC Minutes
February 27, 2020

Dollarhite said when these businesses apply for a license they'll be required to list the places where they advertise. In their advertisement(s), they will be required to list their license number. This way, staff will know which facilities are operating without a license.

Commissioner D. Jones said she's concerned to hear that 50% of homes in Lawton are rentals, and they're not being inspected. She said she wants the land owner to be liable for their properties.

Dollarhite said when these rental facilities operate a commercial-type business, then they should adhere to City Code.

Commissioner D. Jones said she'd like to know the number of short term rentals in Lawton and if there is a need to regulate them.

Dollarhite said after researching what other cities have done, adopting regulations can be a 2-3 year process to get the regulations worked out.

Commissioner Davison said he supports going forward with regulations due to potential safety concerns. He said if the City is going to regulate, then they should also tax these facilities.

Chairman Denham said he has not heard of anyone renting rooms. The ones he's familiar with are renting out their houses.

Dollarhite said there are four websites she knows about, and there are 54 houses advertised between these four websites. Out of these 54 houses, 36 were advertising rental of a room within a house.

Commissioner J. Jones agreed with Chairman Denham in that all the Airbnbs he's aware of are renting out the entire house.

Rogalski said he wanted to make a distinction between fees collected from these rentals and hotel motel tax. He said the purpose of hotel motel tax is to foster more tourism for the community.

Commissioner D. Jones said landlords pay taxes as well.

Rogalski said landlords pay a different kind of tax.

Commissioner Bowen asked how these facilities are insured. She asked if the City would have any liability.

Dollarhite said the property owners would have to provide proof of insurance when applying for their business license.

CPC Minutes
February 27, 2020

Rogalski said the City does not create liability through its licensing and inspection functions.

Chairman Denham said he thinks more in-depth study needs to be done on this topic before going forward. He recommends creating a committee to finesse the regulations of short term rentals. He suggested this committee be comprised of a couple Commissioners, a City Council member, owner(s) of Airbnbs, hotel owner(s), and possibly a member of the Chamber.

Commissioner Medders said there are employers in the City that bring in temporary workers (i.e. pharmacists, doctors), so there's an income revenue for somebody like this.

Commissioner D. Jones said she is very familiar with the rotation of contract nurses, and they are much needed by hospitals. She said she would hate having to enforce this ordinance.

Chairman Denham doesn't want the ordinance to create more frustration for current and/or potential business owners in Lawton.

Mackey said he is concerned about potential parking issues. He said there are some neighborhoods where parking is already a problem, and creation of more short term rentals may exacerbate the issue.

Commissioner Medders asked if any of the commissioners have ever rented an Airbnb.

Commissioner Bowen said she has.

Commissioner Medders said most of the time Airbnbs are self-regulating in the sense that customers/guests look at reviews before booking their stay. He suggested maybe looking at tourist towns such as New Orleans or Destin to see how they regulate short term rentals.

Dollarhite said the Tulsa Planning Commission recommended an ordinance last spring, and the City Council has yet to adopt it. She said Tulsa is getting a lot of back lash from Home Owners Associations that do not want short term rentals in their neighborhood. Dollarhite said the proposed ordinance includes a statement that says the short term rental does not conflict with any restrictive covenants.

Commissioner D. Jones asked how this would be enforced.

Dollarhite said it wouldn't be enforced by the City, but the statement would put Airbnb owners on alert that they may be creating a problem.

Commissioner D. Jones said creating a committee to address short term rentals is fine, but she said Lawton has a code enforcement problem all over town.

Commissioner J. Jones said he thinks it would be hard to find communities that have similarities with our community.

Chairman Denham likes the idea of researching how Destin handles short term rentals. He said he will reach out to the two Airbnb owners that he knows to ask if they'd be interested in working on the committee.

Rogalski said staff has been gathering data on short term rentals for about a year. He said he began getting phone calls in December indicating this issue needed to be addressed. Rogalski said he's actually been getting calls for years about home owners that are renting out their homes to multiple people simultaneously. Many of these complaints are about the number of cars parked at the residence or the noise coming from the residence due to young tenants and large crowds.

Commissioner D. Jones said it's a difficult thing to address when people are abusive of their neighbors.

Chairman Denham said half the homes on his street have been vacant at one point and time, and he'd rather see these homes periodically rented out then to remain vacant for 6 months – 1 year.

Gibson said he has a couple of children who are millennials, and they prefer staying at an Airbnb over staying in a hotel. Gibson said this trend will continue to grow.

Commissioner Davison asked if Airbnb rates are cheaper than hotel rates.

Chairman Denham said it depends on the house, but typically yes.

Rogalski noted that it's even cheaper to rent out a single room in someone's house.

Chairman Denham asked for two volunteers to serve on the short term rental committee. Commissioner Jarvis and Commissioner J. Jones said they would like to serve on the committee.

Chairman Denham clarified that the short term rental committee will be comprised of Commissioner Jarvis, Commissioner J. Jones, 5-6 short term rental owners, a Chamber representative, a realtor, a Fort Sill representative, and a hotel owner or manager.

DISCUSS PROPOSED REGULATIONS FOR SIMPLE PLANNED UNIT DEVELOPMENT AND PROVIDE DIRECTION TO STAFF.

The Planning Division has been approached by the Lawton Housing Authority to amend the City Code to allow smaller lots for affordable housing. Staff has drafted a working paper and would like to review the proposed regulations with the Commission prior to scheduling a public hearing.

A draft of the proposed ordinance establishing the simple planned unit development (SPUD) was presented to the Commission. The SPUD would be an overlay zoning district that provides an alternative approach to conventional land use controls and to a traditional PUD to maximize the unique physical features of a site and produce unique, creative, progressive and/or quality land developments. The SPUD would require a narrative and development plan map which would be adopted as part of the ordinance approving the SPUD overlay. General design and development guidelines include amenities, land area, off-street parking, relationship to abutting uses, and common access. The public hearing process for approval of a SPUD would follow the same process as a rezoning.

Rogalski said the homes that the Lawton Housing Authority are proposing to build would be 500-600 square feet in size. The LHA wishes to create a community of small homes. He said current subdivision code does not allow for this.

Dollarhite said the addition of an overlay zoning district would not change what uses are permitted in the underlying district. Dollarhite said the development plan map would be binding, just like a Use Permitted on Review.

Chairman Denham asked if this idea is envisioned in existing areas or primarily in new development.

Dollarhite said this is mainly for existing areas for infill development.

Commissioner D. Jones asked if these affordable homes would be like row homes. She is wondering if a replat will be required.

Dollarhite said this is being initiated for a small residential development. However, the way the code is written, it allows for commercial development as well.

Dollarhite said the developer will set their own setbacks.

Rogalski said 10-foot separation would still be a requirement.

Chairman Denham asked what the difference is between small homes and tiny houses.

Rogalski said tiny houses are mobile units that can be relocated. Small homes are just like regular homes but smaller.

Commissioner J. Jones said this concept reminds him of the smaller houses on the 500 block of SW H Avenue. He said these used to be called railroad houses. He said these homes are still occupied today. However, Commissioner J. Jones said he is concerned that new development within an existing subdivision may affect nearby property value.

CPC Minutes
February 27, 2020

Rogalski said that's why this is an overlay zone. The overlay zone has to go through the Commission and City Council for approval. Rogalski said this particular request is located in Lawton View Addition, and most of the surrounding lots are vacant.

Commissioner D. Jones asked if all the infrastructure would be dedicated.

Dollarhite said it would be dedicated with the new subdivision the developer creates.

Commissioner D. Jones asked for clarification on the statement that says, "the streets are to be built to the City standards or some other standard."

Rogalski said water and sewer would have to be public, but the streets could be private in some instances. For example, a street could be private if a Home Owner's Association were created. However, Rogalski said HOAs make homes less affordable.

Commissioner D. Jones said her concern with private streets has to do with accessibility for emergency vehicles and maintenance of the street.

Rogalski said that's a valid concern.

Dollarhite noted that all street designs must be approved by the public works department.

Dollarhite said that SPUD regulations would be limited to a maximum of five acres. If the land exceeds 5 acres then PUD regulations would apply.

Dollarhite said the developer will have to show their relationship(s) to the abutting uses, to include screening, landscaping etc. Dollarhite said the Commission can put conditions on these plans.

Dollarhite said the Planning Director can approve minor modifications and adjustments, but if the change is major it must come before the Planning Commission and City Council.

Commissioner Davison asked for clarification on the intended use.

Dollarhite said these homes will be on individual platted lots. The homes will be owner occupied – the Housing Authority will have buyers for each home.

Chairman Denham asked if CDBG funding would be available for this project.

Dollarhite said the LHA is looking into that.

Mackey asked if the homes will always have to be owner occupied.

Dollarhite said that is the Housing Authority's plan. She said the Housing Authority will not be renting out these homes to people.

Commissioner Davison asked if there is a process for the upkeep of the properties.

Dollarhite said upkeep would be regulated by City Code.

Mackey asked what the comp would be for one of these small homes.

Rogalski said it's difficult to determine the comp because these homes will be the first of their kind.

Commissioner Davison said it might help to hold the developer responsible for upkeep of the properties.

Commissioner J. Jones said the developer wouldn't want to do that with no income. He said some type of association would have to be responsible for the upkeep. He said HOAs work great if they're properly run.

Commissioner Davison said he would not be in favor of the development without incorporation of a HOA.

Rogalski said the plan is to have no common area(s) within the subdivision. He said the subdivision would rely on the pride of ownership for upkeep.

Commissioner Bowen said it shouldn't be assumed that the property owners will fall behind on the upkeep of their properties. She said they should be given a chance. She said there is a group in Lawton View that helps with the upkeep of the entire neighborhood. She said Councilwoman Johnson plays an active role in this group, and the group mows overgrown grass in the area and makes an effort to keep the neighborhood clean.

Rogalski said these homes will not be facing the main road like in a traditional subdivision – they will be facing each other. He said this should create a sense of community.

Commission Bowen said the biggest concern for the Lawton View area right now is getting dilapidated homes torn down.

Rogalski said the community recently approved \$3.75 million to tear down houses, so the City will be tearing down 120 houses a year for the next several years.

Commissioner J. Jones asked if the proposed ordinance is strictly for the Lawton View area.

Rogalski said this is the area where the current proposed project will take place, but staff is trying to write a code that could work anywhere. The code could be written to exclude certain areas if that's the Commission's desire. However, Rogalski noted that each

proposal for a new subdivision will still have to come before the Commission and City Council for approval.

Chairman Denham inquired about the estimated size of the homes.

Dollarhite said 700-800 square feet.

Rogalski said the new code is not so much about the size of the home, but rather the size of the lot. Currently code does not allow for lot sizes less than 6,000 square feet.

Commissioner Davison said he wouldn't be opposed to the idea of this subdivision if the homes were guaranteed to be built nicely.

Dollarhite said the developer must submit a description of the architecture of all buildings to include exterior building materials. The approval of the subdivision will be binding.

Rogalski said the City already has building material requirements. If building plans are submitted that do not conform to the building material requirements, a permit would not be issued. Rogalski said if the City finds a building being built without a permit, the City will issue a stop work order. If the stop work order is not honored, the City can issue citations of up to \$800 a day until the issue is remedied.

Chairman Denham asked if the Commission has any recommendations for staff.

Commissioner J. Jones said doing a trial run with a limited number of these homes would be a good idea. If successful, more of these homes could be built in the future and corrections can be made where needed. Commissioner J. Jones also noted that in his experience, privacy is very important to homeowners. He also mentioned financing concerns. He said there are some financing options that have a "no rent" clause. This can pose a problem if the homeowner needs to move but has problems selling their house. Many homes end up in foreclosure because of this issue. Commissioner J. Jones said all of these factors need to be taken into consideration, with privacy being the main concern.

Chairman Denham clarified that the proposed subdivision only includes six homes. This would be a good trial run. He doesn't foresee passage of this ordinance resulting in a flood of applications for additional small home subdivisions.

Mackey said HOA rules and regulations are fine in the beginning, but changing or amending these regulations years down the road can be troublesome. This is currently an issue in MacArthur Park. Mackey said it's difficult to plan something perfectly that is supposed to stay in effect for many years. He said organized ownership of property can be challenging because people tend to have differing opinions.

COMMISSIONERS' REPORTS OR COMMENTS

Chairman Denham asked for the status of an appointment for Ward 2.

Rogalski said he has spoken to someone who is interested, but the decision has not been finalized.

Commissioner J. Jones said the MacArthur Park Townhouse HOA was told by the City that the water and sewer in the subdivision is private. Commissioner J. Jones said he developed this subdivision, and the City agreed to accept the water and sewer for this project. He asked Rogalski to look into this.

SECRETARY'S REPORT

None.

AUDIENCE PARTICIPATION

None.

Meeting adjourned at 3:15 p.m.

David Denham, Chairman
City Planning Commission

ta