

Statement prepared by Phil Englehart – 5/24/2024

Prominent features of the Revised Land Development Code that likely will impact the city's established neighborhoods.

The Land Development Code (LDC) is a complex legal contraption that details many (though certainly not all) of the ground rules that govern a local community's development and redevelopment. The current effort to revise the LDC focuses on guiding development in ways that are consistent with Plan 2040; this overarching document emphasizes the need for Lawrence to promote more compact (read "denser") growth. In principle, this approach is more environmentally and fiscally sustainable compared to development engendered by the common post-WWII era model.

Using increased density as a development model still carries a significant price tag; there are indirect and "hidden costs" and there also are many equity-type questions surrounding who and/or what groups might bear a disproportionate share of the development cost burden. The following discussion reflects first, my personal perspective as a resident of a traditional, diverse, core neighborhood and second, my participation as a member of the LDC Steering Committee and a non-voting member of the Lawrence Association of Neighborhoods (LAN). To satisfy myself at least, I have defined four aspects of the LDC revisions that going forward appear most likely to have significant impacts on the Pinkney neighborhood. I think that to a greater or lesser extent, these same features will impact all the non-Home Owners Association (HOA) and non-covenant restricted plats and subdivisions located within the existing City limits.

Although the verbiage here may seem excessive, trust me, the presentation is purposely skeletal – there are a lot of details involved in formulating and interpreting the possible impacts of land development code. I would be happy to discuss any or all of the notions in greater depth.

1) Duplex Conversion – Densification by developing 2-housing units (HUs) from a single-family detached home. The revised code incentivizes this development form in several ways and as a result, it seems likely that it will happen. The scale and speed at which conversion occurs will depend upon many factors – the real estate market, socio-economic conditions, demographics and consumer preferences to name a few of the major players. My guess is that we could see limited activity within a year after the code is adopted and maybe some significant activity in the 2+ year timeframe.

One of the key points to note here is that as the draft code currently sits, it includes essentially no requirements for public notice of activity within the neighborhood where a conversion permit is issued. My feeling is that residents of established neighborhoods

should push for provisions in the code that require public notice of duplex conversion development to be done prior (or at least as a condition) of issuing of the building permit. This notice must be substantially more than just displaying the yellow building permit card. There are equity arguments and property rights arguments to support this position, not to mention the often-cited aspirational calls for transparency in local government.

2) Redevelopment of denser forms including new duplexes (as opposed to conversion), triplexes and quadplexes. The revised code also incentivizes this general development mode so that it seems certain that it will be in the final product. The extent to which it ultimately will translate to the ground in established neighborhoods again depends upon many factors – market forces and so on (see above). This development form is not intrinsically bad for existing neighborhoods – experiments in this direction are taking place all over the country. However, in order for it to be a net positive for the surrounding neighborhood (and the city at large), there is a lot of weight on the code to be thoughtfully and tightly constructed. In my opinion, we’re not nearly there yet. Note that some preliminary ideas have been floated that in a loose way involve some limits on the redevelopment potential of land parcel consolidation so that the result could well be redevelopment activity that satisfies the scale of the surrounding neighborhood. Depending upon how it is constructed, this code formulation could help ameliorate some of the most troublesome aspects of denser form redevelopment.

It is important to recognize that as compared to duplex conversion (1 above) the redevelopment of new duplexes, triplexes, and quadplexes provides somewhat more requirements for public notice. In general form, the permitting process here is what is called “site plan review.” My view is that this is an area of the code where the existing neighborhoods can push fairly hard. Although it does not at this point, the new code can incorporate greater local notification and participation in the form of notification requirements as well as defined built-in avenues for neighborhood comments and concerns. Notification under site planning review falls short of the current Special Use Permitting format (that requires the Planning Commission and the City Commission hearings), but if the new code is appropriately structured, it would be possible for concerned citizens to have a meaningful voice in the permitting process. A key notion here is that for each site plan review, a person in Planning and Development Services must be responsible for synthesizing citizens’ concerns and making sure that the collective voice is given explicit weight in the process.

3) Expanding the number of unrelated individuals occupying a housing unit from 3 persons to 5 persons. This is a concise change, but one that in a theoretical sort of way has development impacts that are practically impossible to envision. In simplest context one

could ask the question: The “City” is not very active in enforcement of the current limits, so what is the point of worrying about a change from 3 to 5? One rejoinder is that this change could influence choices that developers/landlords of existing single family detached housing rental stock make in regard to decisions like adding a bedroom or a bathroom and thereby increasing the number of occupants in a unit. Note that similar scale activity could occur on existing duplexes under the building permit review process (see 1 above). In any event, each existing neighborhood likely has a somewhat different take on the impact of this code formulation, and I believe that each neighborhood should try and arrive at a position on this change. Subsequently, I believe that LAN would be a good forum for conversations about this code change. In this venue perhaps a consensus could be put together and formally entered into the code review process at the appropriate juncture.

4) The elimination of parking minimums in residential neighborhoods. This is the elephant in the room. Although a fair fraction of people might wish it otherwise, we live in a car-centric environment. For the foreseeable future, people will require automobiles and consequently, physical space (i.e., parking) to store them. With respect to the revised code, the global line at this point is that residential development whether it be conversion, redevelopment to denser forms, or residential development on “new ground” will not be required to provide any off-street parking – hence no parking minimums. This general line of thinking is currently in vogue in professional and academic planning circles and development experiments based on this notion are underway across the country.ⁱ

For the established neighborhoods of Lawrence, my opinion is that the crude simplicity of this code specification will likely produce more development outcomes that damage the fabric of existing neighborhoods as opposed to outcomes that maintain and strengthen it. I don’t generally advocate using “worst case scenarios” as a basis for argument, but in this instance, I think the approach is instructive so consider a situation in which a developer/entrepreneur inherits a poorly maintained modest frame home from her great-aunt. She decides to “scrapeoff” the structure and replace it with a quadplex – four units, 2 studios and 2 1-bedroom units. The development meets all relevant design requirements (setbacks and so forth) of the new code. In this instance, the developer determines that the best use of her resources and the best holding period return on investment would be to provide no off-street parking – therefore tenants with cars would need to use on-street parking. There are many nuances here and one can get lost in the rabbit holes of development scenario particulars, but one reasonable interpretation would be that under this scenario, development is effectively subsidized by public resources as the cost burden of providing parking is removed from the developer and transferred to the public sphere. Beyond this subsidy, the explicit reliance on off-street parking certainly has the potential to

produce what economists refer to as negative externalities – adverse impacts on the surroundings beyond the actual development. In real people terms, “parking wars.”

Hopefully the foregoing scenario hints at the complexity involved in formulating code that will effectively ameliorate some of the tensions arising from reduced requirements for off-street parking. My view is that the blunt hammer of “no parking minimums” represents an unacceptable approach to permitting conversion and redevelopment in existing neighborhoods. Lawrence has the capacity to craft a code in which parking requirements strike a balance between neighborhood concerns and the demonstrable need for denser form development. In this context, it is important to note that Brad Finkeldei (Chairman of the Steering Committee and standing Commissioner) recently advanced an idea that illustrates how the code could reasonably accommodate parking requirements in the case of duplex conversion. Paraphrasing but I hope capturing his intent, the notion is that the revised code require a duplex conversion to “maintain the existing off-street parking capacity.” To strengthen his proposition and to help reduce the potential for neighborhood friction and “parking wars”, my thinking is that added to this idea, is a code requirement for one (1) additional parking space. Sure, there probably still will be an added on-street parking burden, but together, these code specifications stand a reasonable chance of ameliorating the worst aspects of conversion (at least in terms of parking) while maintaining the integral qualities of existing neighborhoods.

There is a lot of work remaining on parking requirements, particularly for redevelopment. I have seen evidence that local government has the analytical capabilities to do this work so that in conjunction with the knowledgeable and experienced contractor (Clarion and Associates), we can get to the point where the resulting code will adequately balance the densification imperatives of Plan 2040 with the need to maintain the City’s Strategic Plan Outcome of Strong and Welcoming Neighborhoods.

¹ For a readable comprehensive view of this line of thinking see [Paved Paradise: How Parking Explains the World](#) by Henry Grabar (2023).