



Everybody Counts, Everybody Contributes, Everybody Benefits

MEMORANDUM

DATE: August 9, 2007

TO: Charles P. Austin, Sr., City Manager

CC: Steven A. Gantt, Senior Assistant City Manager
Ken Gaines, Interim City Attorney
James S. Meggs, Esquire

FROM: Marc S. Mylott, AICP, Director of Development Services

RE: Subdivisions, McMansions, and Demolitions

INTRODUCTION

On August 1, 2007, City Council asked me to prepare a list of suggestions that they could use to address three issues:

1. The practice of subdividing new residential lots from existing residential lots where the existing lot is at least twice the size of the minimum lot size for the underlying zoning district;
2. The practice of constructing houses that exceed the size of houses within the surrounding neighborhood; and
3. The practice of demolishing a large house upon a large lot, and the resulting subdivision of that lot into many new residential lots.

At the same time, City Council recognized that the process to correctly establish a historic designation district is time consuming, even with the necessary number of staff in the Preservation Office of the Planning Department.

IMPORTANT! Please understand that these issues are not ones that can be resolved via a memorandum prepared in over a week. Municipalities across the county are wrestling with these same concepts, and staff has not had an opportunity to conduct a thorough peer review. **AS SUCH, THIS MEMORANDUM MUST BE CONSIDERED A WORK IN PROGRESS. THIS MEMORANDUM IS NOT**

INTENDED TO PROFFER RECOMMENDATIONS; INSTEAD IT IS INTENDED TO BEGIN A DIALOGUE ABOUT THE “MENU OF CHOICES” FROM WHICH CITY COUNCIL COULD DIRECT THE CITY MANAGER TO PURUSE FURTHER. Certainly, the options outlined below are not exhaustive, and several could be combined to produce other alternatives. Where an option has administrative pros and/or cons, we have identified them with “thumbs up” (pro) and “thumbs down” (con) icons. Intentionally, we have not attempted to identity the over-arching pros and/or cons from the various perspectives of the various stakeholders that would be affected by these options.

IMPORTANT! These options have NOT been vetted by the Legal Department.

Overarching all these measures, staff for the Preservation Office of the Planning Department must be increased by at least two senior-level persons with historic and/or design preservation experience.

HISTORIC DISTRICT EVALUATION PERIOD ORDINANCE

The intent of such an ordinance would be to provide a time period wherein neighborhoods could determine whether or not they would like to request historic and/or design preservation district protection without concern for actions that could be contrary to that protection or which would otherwise compromise the integrity of the neighborhood. Such an ordinance would freeze – or apply a moratorium to – any new applications for demolition or subdivision within a neighborhood. Notwithstanding the actions frozen by a moratorium, moratoriums must generally include a clear statement of purpose and intent, a specific geography to which it applies, and a specific time period that is reasonably related to the work required to respond to the purpose and intent. If City Council wished to employ the intent stated above, the next step would be to determine the applicable geography:

OPTION 1. Extend moratorium to only those neighborhoods inside of interstate beltway.



Geography is very easy to administer.

OPTION 2. Extend moratorium to only those 17 areas/neighborhoods identified as “Recommended Local Historic Districts” or as “Areas Projected for Intensive Survey by 2010” within the 1993 City-wide Architectural Survey & Historic Preservation Plan (John M. Bryan & Associates). A copy of that study is provided with this memorandum.



Geography is very easy to administer.



Provides rational basis for interim protection.

OPTION 3. Exclude from demolition moratorium all structures less than or equal to 50 years old, according to Richland County Assessor’s Office.



Evaluation is very easy to administer.

The following demolitions should be exempt from such a moratorium, regardless:

- ❑ Partial demolitions where staff to the DDRC determines that the portion of structure to be demolished does not contribute to the design integrity of the structure or the significance of the structure.
- ❑ Where demolition is ordered by the City of Columbia to ameliorate a life/safety issue.
- ❑ Where demolition is ordered by the City of Columbia as a conclusion to a property maintenance or housing case.

Such a moratorium should not apply where the demolition or subdivision was part of an application to rezone property to PUD, and the City Council approves the application.



Would ensure public participation.



Will increase the number of applications for PUDs.

Next, Council would have to establish a specific time period to allow neighborhoods to conduct this evaluation, and it must only be long enough to allow reasonable time for the evaluation and no more. If a neighborhood “applies” (and the Planning Department would need to promulgate a formal application and a process ahead of time), it could simultaneously ask City Council for continued interim protection under the Community Character Preservation Ordinance suggested below. As the Planning Department develops the application and process, it must determine what constitutes a neighborhood. The easiest approach would only allow consideration of those neighborhoods formally recognized by the Columbia Council of Neighborhoods (CCN) based upon the assumption that the geography is already pre-defined and includes leadership that is generally accountable to the persons within that geography. For neighborhoods that are not so recognized, the Planning Department could establish a petition procedure with a minimum number of property owners required.

Lastly, City Council would need to determine the “degree” to which demolition or subdivision is limited, and those options are discussed below (see COMMUNITY CHARACTER PROTECTION ORDINANCE).

COMMUNITY CHARACTER PROTECTION ORDINANCE

The intent of such an ordinance would be to ensure that, where neighborhoods have formally requested historic and/or design preservation protection, actions generally contrary to that protection do not occur which would compromise the integrity of the neighborhood. Such an ordinance would freeze – or apply a moratorium to – any new applications for demolition or subdivision within a neighborhood. The same contents of a moratorium discussed within the above section titled HISTORIC DISTRICT

EVALUATION PERIOD ORDINANCE would be relevant here. Such an ordinance could include the following items:

Demolitions

Demolitions could be prohibited for 2 years or until such time that the neighborhood is evaluated, whichever is sooner.

- ❑ This time frame could be extended for no more than a limited number of 1-year periods, one year at a time, following an amendment to the original protection ordinance.
- ❑ Demolition without permit could result in the issuance of a uniform ordinance summons to both the property owner and demolition contractor, and any contractor found guilty could have his/her license suspended for 12 months.

OPTION 1. Apply limits to all structures.



Very easy to administer.



Could include a structure that does not warrant protection.

OPTION 2. Apply limits to only those structures 50 years old or more and to those structures presented to City Council by the Historic Columbia Foundation in 2004. Process should include posting period.



Very easy to administer.



Less likely to include a structure that does not warrant protection.

OPTION 3. Apply limits to applications to move structures.



Very easy to administer.



Provided structure is preserved, this option would only seem to add time to review process.

The following demolitions should be exempt from such limits, regardless:

- ❑ Partial demolitions where staff to the DDRC determines that the portion of structure to be demolished does not contribute to the design integrity of the structure or the significance of the structure.
- ❑ Where demolition is ordered by the City of Columbia to ameliorate a life/safety issue.

- Where demolition is ordered by the City of Columbia as a conclusion to a property maintenance or housing case.

These limitations should not apply where the demolition is part of an application to rezone property to PUD, and the City Council approves the application.



Would ensure public participation.



Would increase the number of applications for PUDs.

Subdivisions

Subdivisions which create a new residential lot could be prohibited for 2 years or until such time that the neighborhood is evaluated, whichever is sooner. This time frame could be extended for no more than a limited number of 1-year periods, one year at a time, following an amendment to the original protection ordinance.

OPTION 1. Subdivisions that create a new residential lot could be prohibited.



Very easy to administer.

OPTION 2. Subdivisions that create a new residential lot from a corner lot could be prohibited.



Very easy to administer.

OPTION 3. Subdivisions that create a new residential lot smaller than the mean lot within 750 feet (generally 1½ blocks) could be prohibited.



More difficult to administer; can use GIS, but will increase review time.

OPTION 4. Subdivisions that create a new residential lot from a corner lot smaller than the mean lot size within 750 feet (generally 1½ blocks) could be prohibited.



More difficult to administer; can use GIS, but will increase review time.

OPTION 5. The measurement approaches within Options 3 and 4 above could be amended to be limited to only both sides of the immediate block.

These limitations should not apply to any lot of record existing upon the 1999 Richland County Tax Maps.

These limitations should not apply where the demolition is part of an application to rezone property to PUD, and the City Council approves the application.



Would ensure public participation.



Would increase the number of applications for PUDs.

Lastly, City Council should consider a threshold of new residential lots – such as a traditional new subdivision – above which these limitations would not apply.

New Construction and/or Additions

Staff could develop “generic” design guidelines that would be applied to a neighborhood that had requested consideration as a historic and/or design preservation area.



Only true way to ensure specific building fits within specific existing context.



By their nature, design guidelines tend to be subjective; design guidelines that are not preceded by study of a specific area, then crafted with that specific area in mind, could be even more subjective.



While staff would most likely use the Secretary of the Interior Standards for Rehabilitation for historic structures as a baseline, as well as other existing local language regarding landmark structures, the creation of such guidelines could take 6 to 12 months, considering existing workload.



Workload for Preservation Office would increase exponentially. Absolutely would require additional staff prior to implementation.

AMENDMENTS TO EXISTING LAND DEVELOPMENT REGULATIONS


City Council could find the changes below worthwhile regardless of the above ordinances regarding an evaluation period and interim protection measures.


Subdivisions, DDRC, and/or the Planning Commission

- ❑ Expand purview of DDRC to include subdivisions within historic districts.





Foresee the creation of “standards” for the DDRC to apply to subdivisions as very difficult; much of desirable character of these areas is attributed to evolution that included unique lot configurations and varying degrees of density.


 Without such standards, potentially create false expectation amongst neighbors that DDRC could prevent subdivision (i.e. payday loan establishments and Board of Zoning Appeals).

 Would require at least 6-12 months to develop, considering existing workload.

- Expand purview of Planning Commission to include all subdivisions.


 Foresee the creation of “standards” beyond current minimum lot size and lot width for Planning Commission to apply to subdivisions as very difficult. An option would be to base standard upon comparison to existing lots (i.e. within a 750-foot radius or along the same block mentioned above).

 Without such standards, potentially create false expectation amongst neighbors that Planning Commission could prevent subdivision (i.e. payday loan establishments and Board of Zoning Appeals).


 Would require at least 6-12 months to develop, considering existing workload.

DDRC & Demolitions

- Extend purview regarding demolitions to all structures 50 years old or more and of structures presented to City Council by the Historic Columbia Foundation in 2004. Process should include posting period.

 Workload for Preservation Office would increase. Would require additional staff.

OPTION. Include applications to move structures.

 Provided structure is preserved, this option would only seem to add time to review process.

Property Maintenance/Code Enforcement

- Prohibit “demolition by neglect”. Staff will revisit a draft ordinance from approximately 6 to 7 years ago. While most issues, albeit not all, can be ameliorated with the already adopted International Property Maintenance Code, a “demolition by neglect” ordinance could include language whereby the City could intervene and make the necessary repairs to a qualified structure. I have not had an opportunity to understand the current workloads of the Fire Marshals who are charged with code enforcement of multi-family and commercial buildings.

Protect Community Character (McMansions)

- Develop “Generic” Design Guidelines. These guidelines could be applied either Citywide or to a neighborhood that had requested consideration as a historic and/or design preservation area.



Only true way to ensure specific building fits within specific existing context.



By their nature, design guidelines tend to be subjective; design guidelines that are not preceded by study of a specific area, then crafted with that specific area in mind, could be even more subjective.



Creation of such guidelines would require at least 12 months, considering existing workload.



Workload for Preservation Office would increase exponentially. Absolutely would require additional staff prior to implementation.



Would add time to the permit review process.

- Decrease Permitted Height. Within any district zoned single-family residential, two-family, and RG-1 (General Residential):

OPTION 1. Decrease the permitted height from 40 feet to 35 feet or 2½ stories, whichever is less, exclusive of basement and/or cellars.

Would need to write definitions for story, half story, and basement and/or cellar.



Would require floor plans for building permit applications for residential construction, adding to review cost and time.

OPTION 2. Cap any proposed new construction or additions at a height no higher than the mean height of all structures within 750-foot radius or 40 feet, whichever is less.



Very difficult to administer; would require grace period of at least 12 months to record building heights.

For either option, the Zoning Ordinance should state that variances to these height restrictions cannot be granted.

- Limit Size of Accessory Structures. The principal structure upon a lot is not the only instance where community character could be compromised. City Council could consider limiting accessory structures to no higher than the principal structure or 2 stories, whichever

is less. Also, City Council could consider increasing the setbacks for any accessory structure taller than 1 story to the same setbacks as a principal structure.

- ❑ Building Volume Ratios. Rather than regulate buildings by setback, building lot coverage, and height, could convert to (or add) a cubic measurement based upon similar building volumes within the neighborhood. This approach is a hybrid form of regulation, spun from the traditionally two-dimensional commercial application of floor area ratios. Often times, building volume ratios are coupled with impervious surface ratios and/or landscape volume ratios. I have attached to this memorandum an article published within the June 2005 issue of Zoning Practice regarding contextual infill.



Adds a much more complex level of calculations required by the permitting agency, making administration difficult and adding to permit review time.



Creation of this standard would require at least 12 months.

- ❑ Form-based Zoning Standards. This approach to land use regulation is grounded in the New Urbanism movement. It focuses land use regulations much more on the form of structures rather than the use of structures. Some communities – reluctant to fully implement a form-based approach – blend their existing regulations to create a hybrid code. I have attached to this memorandum an article published within the May 2004 issue of Zoning Practice regarding form-based zoning.

INCREASE CITIZEN PARTICIPATION

City Council could find the changes below worthwhile regardless of the above ordinances regarding an evaluation period, interim protection measures, and land development regulations. The intent of each option is to increase the number of persons who are advised of development activity within their neighborhood.

- OPTION 1. Where CCN neighborhood exists, require applicants for variance, special exception, rezoning, and/or application to Board of Zoning Appeals, Planning Commission, and/or DDRC to submit application to neighborhood president.



Would dramatically increase public participation.



Would increase the review time for applications.

- OPTION 1A. Require applicant to publicize and host neighborhood meeting to vet project.

- OPTION 1B. Require such notification for as-of-right subdivisions and site plan review processes.



Existing standards for these reviews are technical and such extra-ordinary notification could create false expectation amongst neighbors that boards/commissions could prevent action (i.e. payday loan establishments and Board of Zoning Appeals).

OPTION 2. Use new City telephone system to advise proximate persons of germane Planning Commission meetings, Board of Zoning Appeals public hearings, DDRC public hearings, and City Council zoning public hearings.

OPTION 3. Mail notification to adjacent property owners of germane Planning Commission meetings, Board of Zoning Appeals public hearings, DDRC public hearings, and City Council zoning public hearings.

Options 2 or 3 absolutely require one additional junior-level staff person on board prior to implementation.

CONCLUSION

Again, these issues and potential solutions are not ones that can be easily and quickly resolved. Each has pros and cons that go well beyond the administrative matters and staffing limitations highlighted above. Also worth repeating, these options have NOT been vetted by the Legal Department. Regardless, staff is more than willing to lend our technical expertise to you and City Council as these difficult policy questions are debated.