ORDINANCE 360

AN ORDINANCE AMENDING THE LAKEWOOD ZONING ORDINANCE AND MUNICIPAL CODE BY ADDING FIVE SUB-SECTIONS TO THE GENERAL PROVISIONS SECTION OF TITLE 11

WHEREAS, the City of Lakewood seeks to manage the site plan approval process more effectively, and;

WHEREAS, more specific language to needed to manage that process effectively;

WHEREAS, the Lakewood Municipal Planning Commission recommended approval at its meeting held February 28, 2008; now therefore,

BE IT ORDAINED, by the Board of Commissioners of the City of Lakewood, Tennessee as follows:

Section 1. The Lakewood Municipal Code is hereby amended by adding a new sub-section 11-209.1 as follows:

11-209.1 Site Development Plans:

. (a) Activities Requiring Plans

A Site Development Plan containing the information indicated herein is required for specified community facilities and all commercial, industrial and residential activities (excepting one- and two-family dwellings) and for feed lots, stockyards and mining and quarrying activities contained within the agricultural and extractive activity grouping. This plan shall be approved prior to any grading and excavation, including removal of trees, or of any construction activity of any type. This plan shall include:

(b) Plan Content, Preparation and Submittal:

1. Plan Content:

A site plan shall be submitted in a form and content established by the City Manager. The plan shall be sufficient to fully describe the nature, scope, design features and ultimate appearance of the proposed development.

2. Plan Preparation:

All site plans, excepting those subject to approval in the manner provided in Subpart c, 2, Plans for Small Additions and Free-Standing Accessory Structures, of this section, shall be prepared and stamped by individual(s) licensed and/or certified by the State of Tennessee to perform such design service as may be required.

3. Plan Submittal

All site plans shall be submitted to the office of the City Manager for review and appropriate action as provided in Subpart c, of this section.

(c) Plans Complete:

1. Plans to Be Complete

No application for approval of a site plan shall be considered until such plan is complete. An application is complete when it contains all the information required by Subpart b, of this section, in a form sufficient for the City Manager to determine whether or not the development, if completed as proposed, will comply with the requirements of this ordinance.

2. Plans for Small Additions and Free-Standing Accessory Structures A site plan submitted for a structure which is either an addition to an existing building or a free-standing accessory structure up to two thousand (2,000) square feet in floor area or fifty (50) percent of the total square footage of the existing building, whichever is less, is authorized by the Planning Commission to be approved by the City Manager. This plan is exempt from the following requirements:

i. The requirement that the plan be prepared and stamped by an individual licensed and/or certified by the State of Tennessee, to perform such design service.

ii. The requirement that topographic features be shown.

3. Plans Subject to Planning Commission Approval

All site plans, other than those that may be approved by staff as provided in Subpart 2 (above), shall be subject to approval by the Planning Commission.

(d) Planning Commission Action

The City Manager shall forward a copy of the application and supporting documents to all appropriate departments or agencies. The City Engineer may, as directed by the City Manager, review the proposed plan and recommend action thereon prior to consideration by the Planning Commission.

11-209.2 Grading Plans:

Grading plans containing the information required by this section shall be prepared, submitted and approved prior to any grading, placement of fill material or excavation, including the removal of trees, or any construction activity of any type.

(a) Activities Requiring Plans

In any instance where a site plan is required by the provisions of Subsection 11-209.1, the grading plan shall accompany such plan and be acted on in the manner specified in that section. In addition to the grading plans required with site plans, grading plans shall be required for the following uses and activities:

1. Any mining and quarrying uses.

2. Any grading activity which involves removal or stripping of topsoil in excess of ten thousand (10,000) square feet of land area or the excavation or placement of fill material in excess of one hundred (100) cubic yards. This section expressly exempts excavation or fill for the purpose of constructing a swimming pool, basement, garage or similar use which is deemed to be an accessory structure to a principal one or two-family

residential building or minor grading one (1) foot or less in depth done for purposes of constructing a one- or two-family dwelling.

3. Any excavation or placement of fill material that would infringe upon a drainage way, floodplain or wetland area as determined by the City Manager.

(b) Plan Content, Preparation and Submittal

1. Plan Content and Preparation
Grading plans shall be submitted in a form and content established by the City Manager.. Plans shall be prepared and stamped by an engineer engaged in the practice of civil engineering who is licensed by the State of Tennessee to perform such design service as may be required.

(c) Plan Review

1. Plans to Be Complete
No application for approval of a site plan shall be considered until such plan is complete. An application is complete when it contains all the information required by Subpart b, of this section. Application shall be made in a form sufficient for the City Manager to determine whether or not the development, if completed as proposed, will comply with the requirements of this ordinance and generally accepted engineering practice.

2. Action by City Manager
Within thirty (30) days after receipt of a complete grading plan the City Manager shall unconditionally approve, conditionally approve or disapprove the plan.

3. Appeal to the Lakewood Municipal Planning Commission
The applicant may, upon disapproval of a grading plan, appeal the decision of the City Manager to the Lakewood Municipal Planning Commission. The appeal shall be filed within ten (10) days of the adverse decision and shall be placed on the next available agenda of the planning commission.

11-209.3 Time Limits upon Approvals:
Due to rapidly changing conditions within the city, it is necessary to establish specific time periods after the passage of which approved plans shall become null and void, thereby assuring that no new development will, due to altered conditions, etc., damage the public interest.

(a) Time Limit on Plot Plans, Site Plans and Grading Plans
Any plot plan, site or grading plan approved under the provisions of this ordinance shall become null and void one (1) year after the date of its approval, unless a building permit for the project has been obtained in which case the provisions of Subpart b (below) of this section shall apply, provided, however, that in no instance shall an approved site plan become null and void in less than one (1) year.

(b) Time Limit on Building Permit
Any building permit issued shall become null and void six (6) months after the date of issuance, unless "actual construction" has begun and been continued in a diligent manner.

11-209.4 Construction to Be in Accordance with Approved Plans
In general, all site construction and development activity shall proceed in strict compliance with the approved site plan. Minor modifications in the terms and conditions of the approved site plan may be made from time to time as provided in the following paragraphs. Any proposed modification that is not permitted under these provisions may be approved only as an amendment to the site plan (see Subpart d, below). Any modification in site construction or development activity that exceeds the minor modifications permitted herein under shall, unless approved as an amendment to the site plan, constitute a violation of this ordinance.

(a) Minor Modifications During Construction
The City Manager may approve minor modifications in the location, and configuration of buildings and structures if required by engineering or other circumstances not foreseen at the time the development plan was approved so long as:

1. No modification violates any provision of this ordinance.

2. No modification involves an item for which modification is prohibited under the provisions of Subpart c, below; and

3. The total of such modifications approved by the City Manager shall never in the aggregate result in:
i. Any increase in residential density;
ii. A net increase in the floor area of any nonresidential building which exceeds the lesser of two (2) percent of the gross floor area or two thousand (2,000) square feet;
iii. An increase of more than three (3) percent in the total ground area covered by buildings, provided that no such increase shall be permitted which would exceed the impermeable surface ratio established for the site;
iv. A reduction of more than two (2) percent in the area set aside for open space (exclusive of parking area green spaces and required screening areas);
v. Movement of a point of access by a distance greater than fifteen (15) feet.

4. No modification may be approved which is greater than the absolute minimum necessary as defined by the provisions of Subpart b (below) of this section.

(b) Minimum Adjustments Only
Any modification identified below must be held to the minimum necessary. The City Manager must find that each of the following conditions apply to the particular circumstances prior to the granting of the adjustment.

1. Practical Difficulties or Unnecessary Hardship

That strict application of the provisions of this ordinance would result in practical difficulties or unnecessary hardship.

2. Not Detrimental
That granting the application will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood of the premises.

3. Health or Safety Not Adversely Affected
That granting the application under the circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant.

4. Maintains Intent of Ordinance and the Development Plan
That such adjustment is within the intent and purpose of this ordinance and will not adversely affect the community objectives of the comprehensive plan.

(c) Subjects Not Included for Modification
The following are not subject to modification under the provisions of this section:

1. Uses permitted;

2. Increases in the number of dwelling units or increases in the nonresidential floor area permitted in excess of increases permitted as staff approved projects;

3. Increases in building height (excepting minor modifications in non occupied portions of the building) or reduction of the number of required parking spaces;

4. Significant changes to the drainage pattern, as determined by the City Engineer.

(d) Amendments to Approved Site Plans
Any modification to an approved site plan that exceeds the minor modifications that may be approved by the City Manager shall only be approved as provided herein. All such amendments to site plans shall be presented to and acted upon by the Planning Commission. Should the Planning Commission approve the amendment to the site plan, the applicant may proceed with the amended plan as a basis for modifications. In the event that the Planning Commission disapproves the proposed modifications, the applicant may proceed with the original plan. In any instance where the Planning Commission disapproves proposed modifications to an approved site plan the Commission shall note specific violations of this ordinance as reasons for it's action.

11-209.5 Plats to Be Filed with Site Plans:
Any development plan submitted which requires dedication of right-of-way or recording of any easements shall either be accompanied by a final plat of the property shown on said plan, or shall be accompanied by a legal instrument which is sufficient in form to record in the Register of Deeds Office. This document must be legally recorded in the Register of Deeds Office prior to issuance of a building permit.

Section 2. If the provisions of this ordinance shall conflict with the provisions of any other ordinance of the City of Lakewood, the most restrictive provisions shall prevail. If any provision of this ordinance shall be determined unconstitutional or invalid for any reason, the remaining provisions of this ordinance shall remain in full force and effect.

Section 3. This ordinance shall take effect at the earliest date allowed by law, the public welfare being benefited.

PUBLIC HEARING DATE April 3, 2008

PASSED:

FIRST READING: February 7, 2008

SECOND READING: April 3, 2008

City Recorder

Mayor