
JOHNSON CITY REGIONAL PLANNING COMMISSION
Minutes
May 14, 2019

Members Present: Dr. Tim Zajonc, Chairman
Col. Paul Williamson, Secretary
Dr. Stacey Wild, Asst. Secretary
Gen. Gary Harrell
Mr. Clay Hixson
Mr. Jacobus Louw
Dr. Mike Marchioni

Members Absent: Mr. Bob Cooper, Vice-Chairman
Dr. Larry Calhoun, City Commission Representative
Mr. Jamie Povlich

Staff Present: Preston Mitchell, Director of Development Services, City of Johnson City
Asongayi Venard, Development Coordinator, City of Johnson City
Nicole Lawrence, Recording Secretary, City of Johnson City
Allan Cantrell, City Engineer, City of Johnson City
Tim Seaton, Inspector, Public Works, City of Johnson City
Travis Olinger, Engineer, Water Sewer, City of Johnson City
Eric Herrin, Staff Attorney for the City of Johnson City

Chairman Zajonc called the meeting to order at 6:00 p.m. Chairman Zajonc gave the invocation and led the Pledge of Allegiance.

Approval of the Johnson City Regional Planning Commission agenda was put forth, with the deferral of item four; consider Annexation of property located at 3201 McKinley Rd. until the June 11, 2019 Planning Commission meeting. Commissioner Wild made a motion for approval of the agenda as presented with the deferral of item four with a second from Commissioner Williamson. Motion approved 7-0

The minutes of the Johnson City Regional Planning Commission Meeting held on April 9, 2019 were approved unanimously by a 7-0 vote with Commissioner Wild making the motion and Commissioner Williamson with a second.

New Business

The first item on the agenda was Release Bond of Greenwood PUD Subdivision. The Engineering Division has inspected the subdivision listed below and determined that the storm water management improvements for which the bond was posted have been satisfactorily completed. No other City Departments and Divisions requires that the guarantee be held. **Staff recommend that the Planning Commission approve the release of this bond.**

The public hearing was opened; seeing no one wished to speak the public hearing was closed.

A motion to approve as presented was put forth by Commissioner Marchioni with a second from Commissioner Harrell.

Motion was approved as presented.

VOTE: 7-0

The second and third item on the agenda were to consider Annexation of portions of the properties with Tax Map 037, Parcel 084.03 and Tax Map 037, Parcel 083.04, being the Hawks Landing Subdivision, and to consider R-2 Zoning of the property.

The property is located within the Urban Growth Boundary and adjoins current City limits. The annexation is requested by the property owner. The Fiscal Impact Analysis employs the Per Capita Multiplier Method, which uses average government cost per person and school costs per pupil multiplied by a projection of the expected number of new people and students to estimate the costs of a new development. Initial net revenue estimate is \$48,857.67; recurring net revenue is estimated to be \$38,057.67 annually.

The properties that are part of this subdivision are currently zoned A-2 (General Agriculture) and R-1 (Low Density Residential) under the Washington County Zoning jurisdiction. The A-2 zoning district requires a minimum lot size of 1-acre for single-family residential. Therefore, proposed lots 3, 4, 5 and 6 in the existing A-2 Washington County zoning district do not meet current minimum zoning requirements. In the associated annexation request, the applicant requests Johnson City's R-2 (Low Density Residential) district. The lots will meet the City's R-2 Zoning District. **Staff recommended approval of both, the Annexation and the R-2 Zoning.**

Commissioner Marchioni asked the Development Coordinator, Asongayi Venard if the storm water was being handled by a retention basin on site?

Mr. Venard responded that all of the issues pertaining to storm water would come forward to staff for approval when the construction plans are brought in.

The public hearing was opened;

Bill Hawk - 39 Single tree Ct. the applicant spoke in favor of the Annexation, Preliminary Plat and Zoning of this property. He stated that he plans on building his own home on this site as well and would like to have city services.

Holly Gagne - 143 Simmons Ridge Rd. Spoke against the development of the property in question. She lives on the land to the rear of the property in question and has concerns regarding storm water drainage.

Beverly Whipkey - 411 Mizpah hills Dr. Spoke against the proposed development and Annexation of the property in question citing concerns that the homes that will possibly be built in the new proposed subdivision will not be in comparison to the homes currently in Mizpah Hills. She also had concerns about signage for the proposed new subdivision.

Chairman Zajonc informed Mrs. Whipkey that the Planning Commission could not regulate home sizes or Home Owners Association Covenants, however he would have the staff address the R-2 Zoning and what is permitted in that zone.

Seeing no one else wished to speak the public hearing was closed.

The Planning Commissioners at this time asked staff to please address the questions regarding storm water and R-2 Zoning brought forth during the public hearing.

Mr. Venard addressed the R-2 Zoning question by stating that the city's zoning regulations do not control the size of a house on a lot but we can control the lot size. We control the setbacks. The minimum lot size in Mizpah Hills is 1500 Sq. Ft. Setbacks are; Front yard with a front facing garage you must be 25 Ft. from the road, no front facing garage the setback is 20 Ft. minimum. Side yard setback is 12 Ft. and rear yard is 30 Ft. minimums, all from the property line. The developer may set any size home inside those boundaries of the lot.

The city does not have any restrictions on the number of signs showing different subdivisions, we do have restrictions on sign sizes.

Allan Cantrell - City Engineer stated that all storm water issues will be addressed during the construction phase of the development.

A motion to approve the Annexation and Zoning of R-2 as presented was put forth by Commissioner Marchioni with a second from Commissioner Williamson. Motion was approved as presented.

VOTE: 7-0

The next item on the agenda was for Preliminary Plat approval of a 6-lot, 3.42-acre single family residential subdivision, proposed to be named "Hawk Landing" Subdivision.

A total of 9.65 acres of the two existing properties to be subdivided will be left undeveloped. The property is currently in the Johnson City Planning Region, and the developer has requested annexation of the land area for the proposed subdivision into the Johnson City corporate limits. The review and approval of the plat, because the property is within the Johnson City Planning Region, falls within the subdivision jurisdiction of the Johnson City Regional Planning Commission. **Staff recommended approval.**

Commissioner Wild expressed concerns that the homes that will be built on the proposed lots will not be in kind with the home sizes currently in Mizpah Hills.

The public hearing was opened;

Todd Wood - 1185 W. Mountain View Rd. - The engineer designing the lots and subdivision for the property in questions spoke in favor of the proposed Preliminary Plat. He assured the commissioners that there was plenty of room on the proposed lots to build homes equal or greater in size to those currently in Mizpah Hills.

Bill Hawk 39 Singletree Ct. - Spoke in favor of the Preliminary Plat and stated that the lots are 1,074 Ft in depth, 160 Ft. in depth, and 183 Ft. in depth. These lots will accommodate homes in kind with the others in Mizpah Hills. He also stated that he may put a small sign at the entrance to identify Hawks Landing.

Seeing no one else wished to speak the public hearing was closed.

**A motion to approve as presented was put forth by Commissioner Marchioni with a second from Commissioner Williamson, Commissioner Wild abstained from voting. Motion was approved as presented
VOTE: 6-0-1 (Wild Abstained)**

The next item on the agenda was to consider Oliver Springs Subdivision Final Plat. The purpose of the subdivision is to amend the Park Place Phase III subdivision plats as recorded in Plat Book 21, Page 448 and Plat Book 21, Page 551 in the Washington County Register of Deeds office, by changing the name of the subdivision from "Park Place Phase III" to "Oliver Springs Subdivision". The owner of the property intends to establish a separate homeowners' association from the Park Place subdivision homeowners' association. The plat meets Johnson City Zoning Ordinance and Subdivision Regulations requirements, **staff recommended approval.**

At this time Commissioner Williamson recused himself from the discussion and requested to address the board as a private citizen.

The public hearing was opened;

Paul Williamson 413 Oliver Approach - President of the HOA of the Park Place subdivision. He spoke against the name change and expressed concerns over changing the name from Park Place to Oliver Springs. He felt that Mr. Oliver could create his own HOA without changing the name.

Bill Hawk 39 Singletree Ct. – Representing the applicant spoke in favor of the name change. The applicant desires to have his own HOA separate from the Park Place HOA. Oliver Springs is not bound by the Park Place covenants.

Seeing no one else wished to speak the public hearing was closed.

A motion to approve as presented was put forth by Commissioner Hixson with a second from Commissioner Marchioni.

Motion was approved as presented.

VOTE: 6-0-1 (Williamson abstained)

The next item on the agenda was Consider approval of the Replat of Lot 71 of the Village at Beechwood Meadows Phase 1 - Section 3 subdivision.

The Johnson City Regional Planning Commission at its meeting on November 14, 2017 approved the final subdivision plat for Beechwood Meadows Phase 1, Section 3.

The subdivision plat approval hearing involved a dispute between the developer and current owner (Orth Construction) and the previous owner (Gary Phillips) over the use of a detention pond on Lot 19 owned by Gary Phillip to manage the storm water from the Phase 1, Section 3 of the Beechwood Meadows Subdivision owned by Orth Construction. Based on legal advice from the City's Counsel, the Planning Commission approved the final plat subject to the following four conditions as provided in the meeting minutes.

Condition 1: Reserve Lot 71 for the construction of the detention basin, unless the developer agrees with the owner of lot 19 (Gary Phillips) on the use of the detention basin on lot 19 for the management of storm water from lots 51 to 70.

Condition 2: The developer may seek a declaratory judgement permitting the use of lot 19 for this storm water detention within one year of approval of the plat; in which case lot 71 can become a buildable lot.

Condition 3: The developer shall construct the detention pond on Lot 71 if the said agreement between Gary Phillips and Orth Construction is not reached, or the said court judgement is not obtained within one year of the plat approval hearing. The developer shall post a \$10,000 bond for this detention basin construction.

Condition 4: If the owner of lot 19 (Gary Phillips) dedicates to, and the City of Johnson City accepts ownership of lot 19 then lot 17 shall become a buildable lot.

On January 30, 2019, the property owners, through their representative, Mr. Todd Wood, requested extension of the subdivision bond for a six months' period to give the developer enough time for ruling on the declaratory judgement court case that he had filed in line with Condition 2 of the plat approval (see Exhibit 3). The Planning Commission at its meeting on February 12, 2019 approved this extension. This approval considered that Gouge et al. had filed a lawsuit that was awaiting a declaratory judgement after the judge recused himself at the initial hearing session, and it was reasonable to grant the Gouge et al. more time to resolve the issue in court. The central argument and conclusion in the legal opinions of the lawyers submitting for The Gouge et al., namely P. Edward Pratt and David L. Robbins, is that there exists a platted easement appurtenant on Lot 19 that permits this lot to be used as a detention basin for the Village at Beechwood storm water management as originally designed. An easement appurtenant is basically an

easement that runs with the land; therefore, changes in ownership of the land do not eliminate the easement. It is important to point out to the Planning Commission that on November 9, 2017, Mr. Gary Phillips who currently owns Lot 19 sent a letter to Ms. Angie Carrier, former Development Services Director of the City of Johnson City, in which he stated as follows: "Ms. Carrier, there is no easement to these detention ponds that is owned by others, and there is no right to use by these developers or the CoJC [City of Johnson City] Staff to even direct that this detention pond can merely be used by any other party other than the current owners." In this regard, one can infer that the owner of Lot 19, Mr. Phillips, contests the proposition that there exists an easement appurtenant on Lot 19.

Staff recommended the Planning Commission approve the plat based on the recommendation of legal counsel, Erick Herring, Esq. A 5 Ft. control strip dedicated to the Johnson City Regional Planning Commission is required at the end of Nettle Tree Court as shown on the Plat of the subdivision recorded in Plat Book 21, Page 539. If the Planning Commission decides to grant approval to the plat under consideration, the approval should be subject to the provision of this control strip on the plat.

Alan Cantrell - City Engineer gave a presentation on the history of this subdivision from its inception in 2003 to now. His presentation shows the original plat recorded on October 24, 2003 with the county has lot 19 has the detention basin for this subdivision.

The public hearing was opened;

Eddie Pratt with Baker Donelson Attorney at Law / Knoxville office representing Gouge Homes / Orth Construction spoke on behalf of his client. He gave a presentation regarding the Planning Commission's approval of this plat with conditions on November 14, 2017. The applicants are seeking approval of the plat with the removal of the restrictions on Lot 71. According to TN. Code Ant 13-4-403 the City of Johnson City has implemented subdivision regulations however the City has not implemented the authority the legislature has granted them under that statute to impose conditional restrictions on any plat approval. The city could have implemented this however they have not. His position is that the conditions placed on the plat has exceeded the authority of the Planning Commission. Body of law states when one person owns a tract of land and establishes easements for that land and then sells that land, because a dedication is in place when one person owns all the land and it's sold that easement runs with the land. When the bank owned the property they had easement rights to Lot 19 and when it was sold to Mr. Orth they had the rights to the Lot 19 easement detention basin. The recorded plat is an Expressed Grant. There is an Expressed Grant by virtue of the recorded plat in 2003 that Lot 19 is the detention basin. The City accepted the As Built drawings and they show the pipes running under the road to the detention basin. To build the basin on Lot 71 the water would still have to go through lot 19 to get to Lot 71.

Sarah Sims with Penn Stuart representing Mr. Phillips spoke on behalf of her client. She and her client feel that all of this needs to be decided by a court of law. If is before the court currently and these are very complicated issues that need to be decided by a chancellor. She does not feel that this body (the Planning Commission) has the authority to make this decision. She stated that Easements are

rights among parties, not everyone has rights to use Lot 19 as their detention basin. This all needs to be decided in the courts and this board is not a judicial board.

Todd Wood - Engineer who was asked to look at this situation by the applicant, Orth Construction. If a pond were to be designed on Lot 71 the water from Lot 71 will drain into Lot 19 which is a detention Pond.

Bill Hawk - Surveyor spoke in favor of the city maintaining easements and detention basins.

Jason Johnston - 1500 Kings Row - Real Estate agent for Gary Phillips spoke against. He stated that Mr. Orth has not made any attempts to deal with Mr. Phillips and Mr. Phillips was willing to negotiate regarding this issue. By allowing Mr. Orth to use Lot 91 as his detention basin is taking all responsibility off of him for his storm water.

Eddie Pratt spoke regarding the open court case informing the Planning Commission that Mr. Phillips has told the court they cannot grant relief. He (Mr. Phillips) cannot tell the court to decide this and then make a motion telling the court they can decide it.

Seeing no one else wished to speak the public hearing was closed.

Chairman Zajonc raised the question; the Planning Commission is to decide;
1.) Replat removing Lot 71 as a reserve as a retention Pond, would this new Replat meet engineering specifications that would be adequate for a subdivision for drainage if removed?
2.) Do we have a reasonable expectation a responsible flow of water, an easement of pertinent?

Chairman Zajonc also stated that the decision made in November of 2017 was made in good faith according to MTAS and this board does have the authority to make the decision placed before them. This has been in the courts now for over a year, the Planning Commission has a responsibility to the developers to act and make a decision on this matter.

At this time commissioner Hixson recused himself from the discussion and vote due to a conflict of interest.

Commissioner Wild questioned why the board needs to make a decision on this issue right now and should they not allow the courts to decide, what is the rush?

Chairman Zajonc stated that time is important since this is holding up development of this property for the developer, this has been in the courts for a year and there has been no resolution.

Commissioner Wild asked if Mr. Phillips was maintaining the Lot 19 retention basin currently and if he is not what does that mean?

Mr. Venard stated that the city will get involved and that is a code enforcement issue. The city has the power to monitor those conditions.

Chairman Zajonc added that if this plat is approved there needs to be an edit of the dedication of a 5 Ft. Control Strip to the Planning Commission.

Mr. Venard stated that according the Subdivision Regulations, when there is a dead end street that there has to be a 5 ft. control strip dedicated to the Planning Commission. This allows the Planning Commission to look at what a developer wants to add to the area.

Commissioner Williamson noted that he understands the Planning Commission has the authority to make this decision however he has reservations about not allowing the courts to decide.

Chairman Zajonc stated he feels this has had plenty of time to work itself out in the courts and it has failed to do so. Now it is up to the board to make this decision. He feels that had this board had more information on easements in November of 2017 that they may not have placed the conditions on this plat to begin with.

Eric Herrin - City Attorney spoke to the time frame of the filing of the lawsuit. Mr. Orth and Mr. Gouge came before the board to ask for more time to file the court pleadings, this board agreed to give more time. He urged the board to accept that if an error was made by this board, by deciding on easements back in November 2017 then they need to make a correction at this time.

A motion to approve the plat as presented with the addition of the dedication of the 5 Ft. control strip to the Johnson City Regional Planning Commission was put forth by Commissioner Williamson with a second from Commissioner Wild, Commissioner Hixson recused himself from the discussion and vote. Motion was approved as stated.

VOTE: 4-2-1 (Harrell and Louw against) (Hixson Recused)

*At this time the Planning Commission took a 10-minute recess at 8:10 pm.
The Planning Commission resumed meeting at 8:20 pm.*

The final item on the agenda was to consider amendments to the West Walnut District Zoning as recommended by the Legislative Committee.

The intent of the West Walnut Street District is to promote a compact urban corridor with a mixture of commercial, office, and residential uses that promotes bicycling and pedestrian mobility and supports the University, the Downtown, and surrounding residential areas.

A discussion ensued between Chairman Zajonc and staff in regards to the parking requirements. Chairman Zajonc felt that there needs to be more parking in the district and the options for parking garages.

Another discussion ensued with Commissioner Louw stating he was not sure the requirement for such uniformity for the buildings in the district was the best option. He feels that by having "*The building façade shall occupy at least seventy-five percent (75%) of the primary street buildable width, and at least 35% of the side street buildable width*" is too uniform for this area and does not give builders much room for creating unique buildings.

Staff made note of these issues and assured the Commissioners that all of these issues brought up will be addressed throughout the process of creating the WWD zoning. It was imperative however, that the proposed changes, if acceptable be voted upon tonight so the developers currently building or wishing to purchase property on west Walnut had something to go by.


A motion to approved the West Walnut District Text Amendments as presented was put forth by Commissioner Williamson with a second from Commissioner Marchioni.

Motion Approved as presented.

VOTE: 7-0


Attached to these minutes are the WWD amendment changes as they were approved at this meeting. All changes and additions in red were accepted.

There being no further business the meeting was adjourned at 9:00 pm.


Chairman - Dr. Tim Zajonc

6/11/19

Secretary - Col. Paul Williamson


Date

6.34 – WWD, WEST WALNUT STREET DISTRICT

6.34.1 INTENT:

The intent of the West Walnut Street District is to promote a compact urban corridor with a mixture of commercial, office, and residential uses that promotes bicycling and pedestrian mobility and supports the University, the Downtown, and surrounding residential areas.

6.34.2 PERMITTED USES:

Within the West Walnut Street District, the following uses are permitted:

- 6.34.2.1 Accessory structures and uses;
- 6.34.2.2 Amusements and recreation, including theaters;
- 6.34.2.3 Bakeries;
- 6.34.2.4 Beer serving/sales establishments;
- 6.34.2.5 Churches, parish houses, Sunday school buildings, and other church related activities;
- 6.34.2.6 Cultural, civic, and institutional uses;
- 6.34.2.7 Financial institutions;
- 6.34.2.8 Fraternal organizations and clubs, not operated for profit;
- 6.34.2.9 Graphics, printing, and newspaper publishing facilities;
- 6.34.2.10 Home occupations (Subject to Section 4.13.5);
- 6.34.2.11 Hotels;
- 6.34.2.12 Liquor Stores;
- 6.34.2.13 Micro-breweries and distilleries;
- 6.34.2.14 Municipal, county, state, or federal buildings and uses;
- 6.34.2.15 Offices, both private and governmental;
- 6.34.2.16 Outdoor dining, drinking, music, entertainment areas or places designed for congregating or gathering of people shall be allowed

along the north side of W. Walnut Street. Outdoor dining shall be allowed along the south side of W. Walnut Street under the following conditions:

- A. The outdoor dining area shall be located in the front or side of the building. No outdoor dining, drinking, music, entertainment areas or places designed for congregating or gathering of people shall be allowed in the rear or roof of the property. The outdoor dining area shall not extend beyond the rear of the building;
- B. For side yard dining, an eight (8) foot tall masonry wall or wood fence shall be constructed between the outdoor dining area and rear of the property (See Figure 1). When architectural elements are employed for screening, they shall be of the same building materials as the principal structure; and
- C. The serving or consumption of food or alcohol shall not occur after 11:00 p.m.

- 6.34.2.17 Parking lots and garages with first floor ~~retail encouraged~~ commercial, recreational or public uses;
- 6.34.2.18 Personal, business, and professional services;
- 6.34.2.19 Pharmacies;
- 6.34.2.20 Public utility stations;
- 6.34.2.21 Residential dwellings on the upper floors of buildings;
- 6.34.2.22 Restaurants;
- 6.34.2.23 Schools, public and private;
- 6.34.2.24 Stores and shops conducting retail trade;
- 6.34.2.25 Warehousing associated with a permitted use in the district.

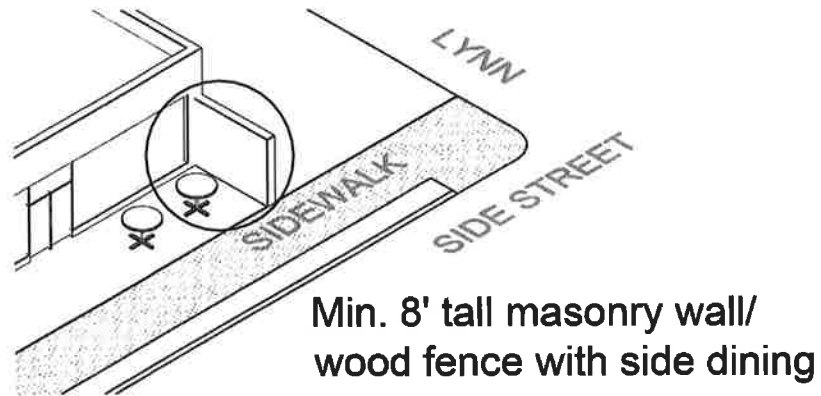


Figure 1. Wall / Fence Placement

6.34.3 USE PERMITTED BY APPROVAL AS SPECIAL EXCEPTION:

The following use is permitted when approved by the Board of Zoning Appeals as a Special Exception as provided by Section 15.4.

6.34.3.1 Sidewalk dining in accordance with Section 6.15.3.2. The serving or consumption of food or alcohol shall occur within the hours of operation, not to exceed 11:00 p.m.

6.34.4 AREA REGULATIONS:

6.34.4.1 Building Placement:

All buildings shall be set back no further than fifteen (15) feet from the adjoining property line of West Walnut Street. There is no setback for other streets (See Figure 2).

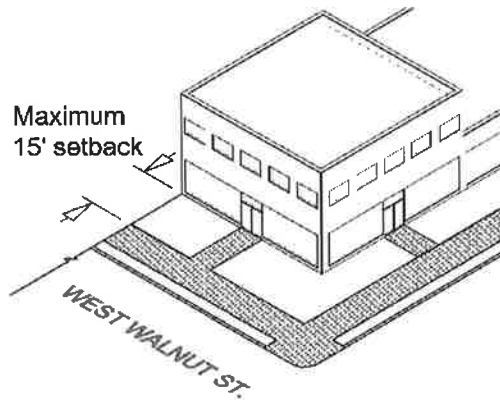


Figure 2. Building Placement

6.34.4.2 Exterior Building Treatment:

A minimum of fifty (50) percent and a maximum of seventy (70) percent of the street level facade shall be transparent glass. Openings above the street level on the principal frontage shall be a minimum of 25 percent and a maximum of fifty (50) percent of that level's wall area. (See Figure 3).

This section applies to the following streets: State of Franklin Road, W. Walnut Street, Ashe Street, University Parkway, Buffalo Street, and Watauga Avenue.

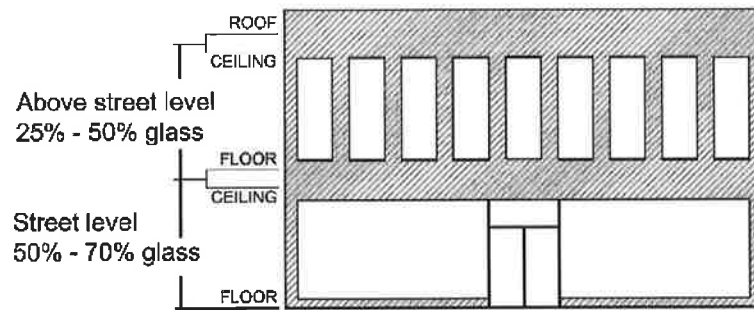


Figure 3. Exterior Glass

6.34.4.3 Building Facades:

Building facades conform to Design Overlay, Section 6.30.3.3.

6.34.4.4 Building Height:

The maximum height of buildings along the south side of W. Walnut Street shall be two stories. There is no height limit for buildings along the north side of W. Walnut Street. (See Figure 4).

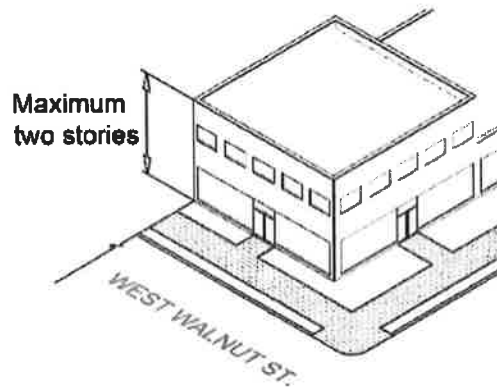


Figure 4. Building Height

6.34.4.5. Build-to Zone

The building façade shall occupy at least seventy five percent (75%) of the primary street buildable width, and at least 35% of the side street buildable width. Clearly designated outdoor amenity space between or at the side of buildings on the same lot may be included in the building façade or build-to zone percentages. West Walnut Street shall be the primary street for all lots adjoining West Walnut Street. Ashe Street shall be the primary street for all lots adjoining Ashe Street and West State of Franklin Rd. As used here, “Build-to zone” refers to an area running along a property line in which the building façade, or the building facade and designated outdoor amenity space must be built. As used here, “Outdoor amenity space” refers to areas designed and reserved or designated for outdoor accessory recreation, dining, or commercial uses; and “buildable width” refers to the distance between the side lot lines.

6.34.5. SIGN REGULATIONS:

The signs in this district shall comply with the B-2, Central Business requirements under Section 7.3.3.

6.34.6 PARKING:

6.34.6.1. Minimum parking requirements for residential uses shall be one space per dwelling unit.

6.34.6.2. There shall be no minimum parking requirement for public, commercial and recreational uses.

6.34.6.3. When parking is provided, maximum allowed parking for all public, commercial and recreational uses shall be 110% of the required parking specified in Section 11.3 of this Zoning Code for different land uses.

6.34.6.4. Off-premise parking shall be approved by the Board of Zoning Appeals and shall be exempt from the following provisions of Article 11.4, Off-Premise Parking:

- A. The property shall lie within four hundred (400) feet of the main entrance of the principal use;

- B. The property shall not be separated from the principal use by a collector or arterial street as designated on the zoning map and shall be located on the same street as the principal use; and
- C. Such spaces shall not exceed fifty (50) percent of the required parking.

6.34.7 PARKING LOT SCREENING

When on-site parking is provided for properties along the south side of W. Walnut Street, a minimum four (4) foot tall masonry wall or wood fence shall be required along Lynn Street/Lynn Alley whenever a new principal building is built or the gross floor area of an existing principal building is expanded by twenty-five (25) percent or greater (See Figure 5). When architectural elements are employed for screening, they shall be of the same building materials as the principal structure.

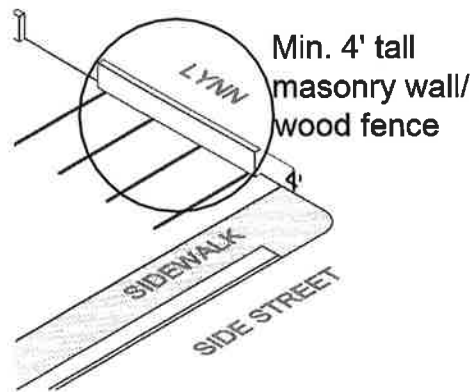
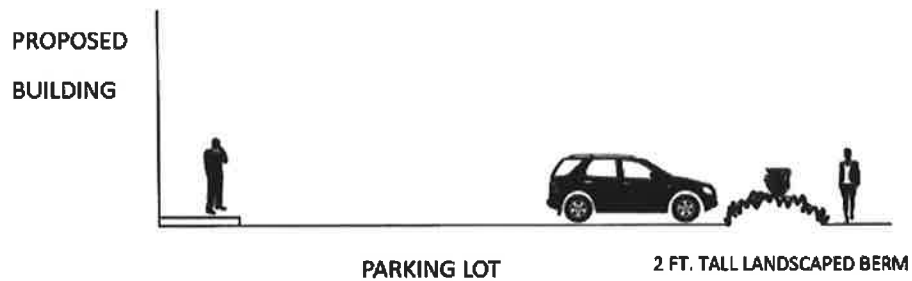


Figure 5. Parking Lot Screening

When on-site parking adjoins State of Franklin Road, in addition to the landscape requirements under Section 12.2, Landscape Yard, a minimum two (2) foot tall landscaped berm shall be constructed with a row of evergreen shrubs spaced a maximum of five (5) feet on center which grow to a minimum height of 2 feet. (See Figure 6).



- 6.34.8 **UTILITIES:**
All new utility lines, including, but not limited to, electric, telephone, and TV cable, shall conform to Section 6.30.3.1.
- 6.34.9 **MECHANICAL EQUIPMENT:**
The installation of mechanical equipment shall conform to Section 6.30.3.2.
- 6.34.10 **SERVICE, LOADING, AND EQUIPMENT STORAGE AREAS:**
Service areas, including storage, special equipment, maintenance, and loading areas, shall be screened shall conform to Section 6.30.3.2.
- 6.34.11 **LIGHTING:**
All lighting shall conform to Section 6.30.3.7. The maximum height of lights not located in the public right-of-way shall be fifteen (15) feet.
- 6.34.12 **SPECIAL USE PERMIT**
A Special Use Permit, obtained from the Building Division and approved by the City Commission, shall be required for outdoor events extending past 11:00 PM. Outdoor events include, but are not limited to, festivals, outdoor music/entertainment, and other similar activities. Sidewalk dining is excluded in order to be considered for City Commission approval, a completed Special Use Permit shall be received by the Building Division no later than thirty (30) days prior to the City Commission meeting at which it is to be considered.