

## **PLANNING COMMISSION REPORT**

### **Regular Agenda -- Public Hearing Item**

PC Staff Report  
05/19/08

#### **ITEM NO. 6: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE (JCR)**

**TA-04-02-08:** Consider a text amendment to include "Extended Care Facilities, General" as a use permissible by a special use permit in the IBP (Industrial/Business Park) District. Initiated by City Commission on 4/15/08 at the request of Landplan Engineering, P.A.

**RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments [TA-04-02-08 to permit Extended Care Facilities, General in the IBP District with a Special Use Permit] to Chapter 20, Development Code to the City Commission.

**Reason for Request:** A member of the public has requested amending the nonresidential district use table of Article 4 to list Extended Care Facilities, General as a permitted use in the IBP (Industrial/Business Park) District.

#### **RELEVANT GOLDEN FACTOR:**

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is the zoning regulations, is an implementation step in Chapter 13 of HORIZON 2020, the City/County Comprehensive Land Use Plan.

#### **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None to date.

#### **OVERVIEW OF REVISIONS PROPOSED**

The applicant proposes amending the nonresidential district use table of Article 4 to permit Extended Care Facilities, General by Special Use Permit in the IBP (Industrial Business Park) District. The use table classifies two types of such facilities, general and limited. Extended Care Facilities are defined as follows:

<b>Extended Care Facility (Dependent Living or Nursing Care Facility), General</b>	A long term facility or a distinct part of an institution occupied by nine (9) or more persons with a disability who require the provision of health care services under medical supervision for twenty-four (24) or more consecutive hours and who need not be related by blood or marriage. An <b>Extended Care Facility</b> must be licensed by one (1) or more of the following regulatory agencies of the State: Department of Social and Healing Arts, Behavioral Sciences Regulatory Board, State Board of Healing Arts, or Kansas Department on Aging. Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; (b) a record of having such impairment; or (c) being regarded as having such impairment. Such term does not include illegal use or addiction to a controlled substance, as defined in Sec. 102 of the Controlled Substance Act (21U.S.C.802). Extended Care Facilities include facilities for the provision of skilled nursing care, hospice care and similar services.
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<b>Extended Care Facility (Dependent Living or Nursing Care Facility), Limited</b>	A long term facility or a distinct part of an institution occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage, and who require the provision of health care services under medical supervision for twenty-four (24) or more consecutive hours, and also not to be occupied by more than two (2) staff residents who need not be related by blood or marriage to each other or to other residents of the home. An <b>Extended Care Facility</b> must be licensed by one (1) or more of the following regulatory agencies of the State: Department of Social and Healing Arts, Behavioral Sciences Regulatory Board, State Board of Healing Arts, or Kansas Department on Aging. Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; (b) a record of having such impairment; or (c) being regarded as having such impairment. Such term does not include illegal use or addiction to a controlled substance, as defined in Sec. 102 of the Controlled Substance Act (21U.S.C.802). Extended Care Facilities include facilities for the provision of skilled nursing care, hospice care and similar services.
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Both facilities provide health care services under medical supervision for a period of 24 or more consecutive hours to persons with a disability. The key distinction between the two types of facilities is that the "general" facilities are defined as 9 or more persons whereas "limited facilities" are restricted to 8 or fewer persons with a disability. Both facilities may provide the same services. Dependent care facilities, hospice, nursing homes and rehabilitation centers may all be classified as Extended Care Facilities. While both Limited and General Extended Care Facilities are quasi-residential uses, General Extended Care Facilities are more likely to include institutional elements than limited facilities given their larger size.

### **Conformance with *Horizon 2020***

Chapter 7 of *Horizon 2020* promotes the retention of land zoned for industrial, manufacturing and business park uses. The primary physical location for IBP zoned property is located along the Wakarusa Drive corridor near its intersection with Bob Billings Parkway. *Horizon 2020* identifies this area as the *Oread West Research Park* and recommends a "continued emphasis on office and research use" for this area. And further notes that this location "has strong potential for new technology-related industries and should be the focus of an "industrial cluster" as described in the economic development element [of *Horizon 2020*]."

*Horizon 2020* Industrial and Employment-related Land Use Goals and Policies:

Goal 1: Established Industrial Area Development

Policy 1.3.a: Maintain an appropriate supply of industrially-zoned land so that site choices are available and infrastructure expansion can occur in an efficient and orderly manner. Annually evaluate current land use and availability.

### Analysis of Extended Care Facilities

The IBP district does not currently permit either limited or general Extended Care Facilities. General Extended Care Facilities are larger than limited facilities and could thus have more of an institutional function rather than a residential function. Uses with institutional elements may be more compatible with the purpose of the IBP District.

Extended Care Facilities provide medical care and supervision and are classified as medical facility uses. The only other type of medical facility permitted in the IBP District are health care office(s)/clinic(s).

Extended Care Facilities are permitted in other zoning districts as follows:

Zoning District	Extended Care Facilities, Limited	Extended Care Facilities, General
<b>Residential Districts</b>		
RS3	P	
RS5	P	
RS7	P	
RS10	P	
RS20	P	
RS40	P	
RSO	P	S
RM12	P	P
RM12D	P	P
RM15	P	P
RM24	P	P
RM32	P	P
RMG	P	P
<b>Nonresidential Districts</b>		
CN1	P	
CN2	P	S
CO	P	S
CD		
CC		
CR		
CS		
IBP		
IL		
IG		
OS		
GPI	S	
H	P	P
"P" = Permitted by Right      "S" = Permitted by Special Use Permit		

Given the intent of the district and the extensive opportunity to locate such uses in other zoning districts, the decision to use land zoned for industrial, manufacturing and business park development for General Extended Care Facilities should be a conscious one on the part of the Planning Commission and City Commission.

## Analysis of the IBP District

The purpose of the Industrial/Business Park District is as follows:

### 20-214 IBP Industrial/Business Park District

#### (a) Purpose

The IBP, Industrial/Business Park District, is intended to provide space in attractive and appropriate locations for certain low-impact employment and manufacturing uses in a planned industrial/business park setting.

IBP zoning provides a location for industrial, manufacturing and business park development which has been identified to be in scarce supply throughout the city. Over time, the district has evolved to include general office uses and a number of other uses. The following uses are permitted in the IBP District:

Uses Permitted in IBP District	
<b>Public &amp; Civic – Community Facilities</b>	
Cemetery	Postal & Parcel Service
College/University	Public Safety
Cultural Center/Library	Funeral & Interment
Day Care Center	Utility, Minor
	Utility & Service, Major
<b>Public &amp; Civic – Medical Facilities</b>	
Health Care Office/Clinic	
<b>Public &amp; Civic – Recreational Facilities</b>	
Active Recreation	Passive Recreation
Participant Sports & Recreation, Indoor	Nature Preserve/Undeveloped
Participant Sports & Recreation, Outdoor	
<b>Commercial – Animal Services</b>	
Veterinary	
<b>Commercial - Eating &amp; Drinking Establishments</b>	
Private Dining Establishments	Restaurant, Quality
<b>Commercial - Office</b>	
Administrative & Professional	Financial, Insurance & Real Estate
Other	
<b>Commercial – Retail Sales &amp; Service</b>	
Business Equipment	Business Support
Communications	
<b>Industrial – Industrial Facilities</b>	
Manufacturing & Production, Limited	Manufacturing & Production, Tech.
Research Service	
<b>Industrial – Wholesale, Storage &amp; Distribution</b>	
Exterior Storage	Light Wholesale, Storage, Distribution
<b>Other – Adaptive Reuse</b>	
Designated Historic Property	
<b>Other – Communications Facilities</b>	
Amateur & Receive Only Antennas	Broadcasting Tower
Communications Services Establishment	Telecommunications Facilities
<b>Other – Recycling Facilities</b>	
Small Collection Facility	
"P" = Permitted by Right "S" = Permitted by Special Use Permit	

### Analysis of Areas Zoned IBP

There are 243 acres of land zoned IBP in the City of Lawrence, as shown in the map below. Of this total, approximately 240 acres are located in the vicinity of Bob Billings Parkway and Wakarusa Drive with about 3 acres located along East 19<sup>th</sup> Street between Learnard and Haskell Avenues.

In staff's opinion, consideration of new uses added to the IBP District should be thoughtful given the land area and location of property zoned IBP. The decision to use this land for development for General Extended Care Facilities and not for more conventional industrial/employment related uses should be carefully considered given the fact that ten other zoning districts permit such facilities.

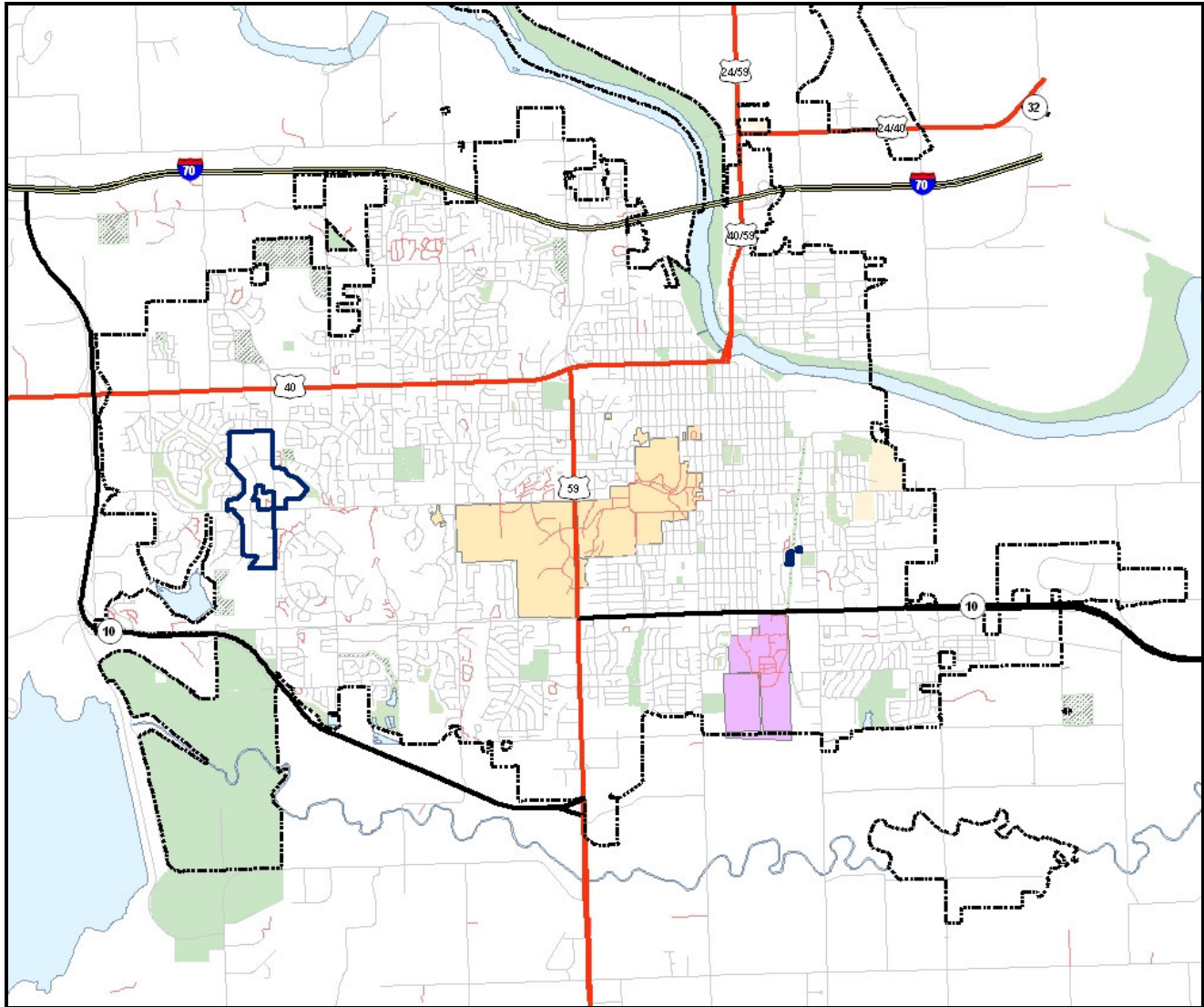


Figure 1 Areas Zoned IBP (outlined in blue)

The IBP District was originally established as the M-1 District, a general industrial district of the 1966 Zoning Code. In 1983, at the request of property owners of land near what was then 15<sup>th</sup> Street & Wakarusa Drive, the M-1 District was amended extensively to provide an industrial environment used exclusively for the development and protection of modern administrative facilities and research institutions compatible with nearby commercial and residential uses. The district was re-titled "Research Industrial" District.

Following this re-write, the M-1 District was amended several times from 1987 to 1998 to add new uses. In 1987 limited light manufacturing, banks, administrative/professional offices, government offices, advertising offices, business incubator uses and education/training uses were added. In 1989 the district was amended to add lodging, communications and teleconferencing uses. In 1990 it was amended to add medical offices and again in 1995 to add veterinary clinics.

Until 1998 certain office uses including medical offices, veterinary clinics, architecture offices, financial institutions, law offices and accounting offices had been permitted but limited to a total of 15% of all land area in the IBP District. In 1998, this limitation was lifted. Since 1998, the area near Bob Billings Parkway and Wakarusa Drive (formerly 15<sup>th</sup> & Wakarusa) has experienced extensive development of such uses.

The IBP District is one of three industrial zoning districts, the other two being IG (General Industrial) and IL (Limited Industrial). There are 78 acres zoned IL and 1,556 zoned IG for a total of 1,634 acres. The majority of the areas zoned IG and IL, shown below, are located along I-70, in North Lawrence, or east of Iowa Street.

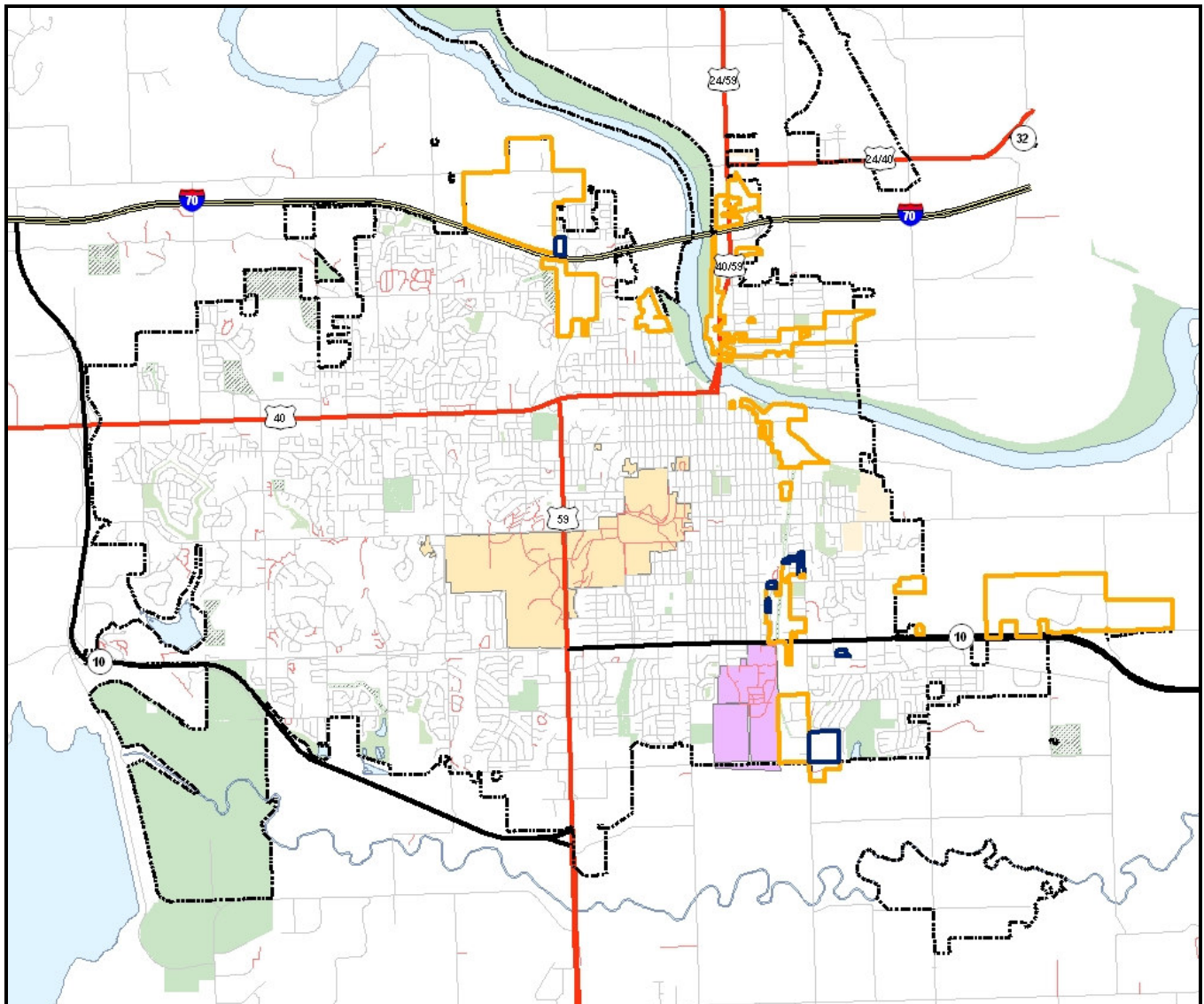


Figure 2 Areas Zoned IG (outlined in orange) or IL (outlined in blue)

### **Criteria for Review and Decision-Making**

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

**1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and**

The proposed amendment does not correct a clear error or inconsistency in the Development Code. The previous zoning code (1966 Zoning Code) did not permit similar uses. Since the adoption of the Development Code, two uses have been added to the district, including veterinary clinic and quality restaurants. Veterinary clinics were added to the district because they had been permitted in the former M-1 District and they were inadvertently omitted from the IBP District, thus creating a nonconforming use designation for an existing property. Quality restaurants were seen as being compatible and desirable to be permitted to locate within a large business park.

Extended Care Facilities, General are classified as a medical office use. The Development Code permits only health care offices/clinics in the IBP District which is a compatible use. The proposed amendment would permit General Extended Care Facilities with a Special Use Permit, thus making the land use decision a conscious one.

The proposed amendment does not meet the challenge of changing conditions; however, over time the IBP District has evolved from one that was designed and dedicated to support research-oriented and administrative offices, to one that permits many types of smaller-scale office uses and other land uses. The addition of other uses has permitted the development of areas zoned IBP with small-scale offices and reduced the area of undeveloped land zoned IBP.

**2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).**

The proposed amendment to permit Extended Care Facilities, general in the IBP District is not inconsistent with *Chapter 7: Industrial and Employment-related Land Use of Horizon 2020* since the amendment proposes permitting the use by Special Use Permit. The plan recommends the retention of industrially-zoned land for employment and economic development purposes. Permitting Extended Care Facilities in the IBP District by right may result in a further reduction of the amount of industrially-zoned land available for industrial development over time. Staff recommends that they be permitted only by Special Use Permit, so that the land use decision is a conscious decision based upon the Special Use Permit criteria of section 20-1306(i) for a project which will not have a significant adverse impact on the surrounding uses or on the community at large.