

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
10/22/08

ITEM NO. 11: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE (JCR)

TA-08-15-08: Consider an amendment to Section 20-403 and 20-1766 of the Development Code to permit Light Equipment Sales/Rental uses, which includes car rental agencies, as a permitted use in the CN2 (Neighborhood Commercial Center) District, and to clarify that this use includes an accessory wash bay and storage of vehicles onsite. Initiated by the Lawrence City Commission on August 26, 2008 at the request of Murl Westheffer of The Malls Retail Center/American Real Estate & Investments, Inc.

RECOMMENDATION: Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments [TA-08-15-08 to permit car rental agencies in the CN2 District with use standards] to Chapter 20, Development Code to the City Commission.

Reason for Request: The City Commission initiated this amendment at the request of The Malls Retail Center to allow a car rental agency with an accessory wash bay and storage of rental vehicles onsite. The Malls Retail Center is zoned CN2, a zoning designation which does not currently permit car rental agencies.

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.

KEY POINTS

- Rental car agencies are defined by the Development Code as Light Equipment Repair/Rental uses.
- The applicant has requested that the Light Equipment Sales/Rental use classification be permitted by right in the CN2 District.
- The applicant has requested clarification that Light Equipment Sales/Rental uses are permitted to operate an accessory wash bay and storage of rental vehicles.
- The CN2 Zoning District is a Neighborhood Commercial Center zoning district. The purpose of the district is to implement *Horizon 2020's* "Neighborhood Commercial Centers" policy of providing for the sale of goods and services at the neighborhood level.
- Staff recommends that the Light Equipment Sales/Rental use classification be permitted in the CN2 District subject to new use standards.

OVERVIEW OF PROPOSED AMENDMENT

The amendment proposes permitting Light Equipment Sales/Rental uses by right in the CN2 (Neighborhood Commercial) District. The amendment also proposes use standards which govern the use to ensure compatibility with the purpose of the zoning district and to ensure compatibility with residential uses which may be adjacent to commercial development in CN2 Districts.

Staff has determined through analysis of this amendment, that additional amendments may be

necessary in the future. Amongst the Vehicle Sales & Service use category, the Development Code currently permits car washes, gas & fuel stations, and light equipment repair uses by Special Use Permit in the CN2 District, however, the code does not prescribe use standards for such uses. Staff may recommend at a later date, that use standards be adopted for these types of uses rather than requiring a Special Use Permit since they are similar in their characteristics to Light Equipment Sales/Rental uses.

CONFORMANCE WITH *HORIZON 2020*

The CN2 Zoning District is intended to implement *Horizon 2020*'s "Neighborhood Commercial Centers" policy. Neighborhood Commercial Centers may contain a variety of commercial uses including grocery and smaller retail shops as well as services such as barbershops and beauty salons. A Neighborhood Commercial Center is intended to "provide for the sale of goods and services at the neighborhood level".

The Malls Retail Center is part of the 23rd Street Commercial Strip as identified by *Horizon 2020*. Policies regarding "Commercial Strip" developments are different from those regarding "Neighborhood Commercial Centers" in *Horizon 2020*. The zoning district designation in the Development Code intended to implement "Commercial Strip" developments as described by *Horizon 2020* is CS (Commercial Strip) District. The CS District permits Light Equipment Sales/Rental uses.

CRITERIA FOR REVIEW & 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**

Applicant Response: "We believe that it (the amendment) will allow the property, The Malls Shopping Center, to become consistent with the surrounding businesses and zoning that is currently in place along our area of the West 23rd Street Corridor & Louisiana Street. The proposed amendment does not meet the challenge of a changing condition."

Staff Response: The proposed amendment does not correct an error or inconsistency in the Development Code nor does it meet the challenge of a changing condition. Staff believes that Light Equipment Sales/Rental uses are not currently permitted in the CN2 District because the CN2 District is intended to implement neighborhood commercial centers that provide retail and services on a neighborhood scale. Light Equipment Sales/Rental uses are automobile-oriented uses that may be most appropriately located in areas designated as "Auto-Related Commercial Centers", "Community Commercial Centers", "Regional Commercial Centers" or "Existing Strip Commercial Developments".

The pattern of existing development along 23rd Street from Iowa Street eastward to Louisiana Street is that of an "Existing Strip Commercial Development" and *Horizon 2020* identifies it as such. However the official City zoning map identifies the site of The Malls Shopping Center as being zoned CN2. Much of the remainder of the 23rd Street corridor in this area is zoned CS (Commercial Strip). The pattern of development indicative of The Malls Shopping Center itself is that of a "Neighborhood Commercial Center" due to the design and orientation of the center as well as the uses included in the center.

There are two other examples of property zoned CN2 located in an area that is not identified by *Horizon 2020* as an existing "Neighborhood Commercial Center". One such area is located along 25th Street just west of Iowa Street. This area is part of an area identified by *Horizon 2020* as an existing

"Regional Commercial Center". Another such area is located at the southwest corner of 9th & Iowa. This area is identified by *Horizon 2020* as an existing "Community Commercial Center". Staff discussed whether these three areas (including the subject area) should be rezoned to the appropriate zoning district designation instead of a text amendment. The CS District is intended to accommodate and implement the policies of the Existing Strip Commercial Development" category outlined by *Horizon 2020*. The CR District is intended to implement the "Regional Commercial Center" category and the CC District is intended to implement the "Community Commercial Center" category. During review of this amendment, staff considered the appropriateness of rezoning each of these properties from CN2 to CS, CR and CC compared to the appropriateness of the proposed amendment. Rezoning would permit many new uses not currently permitted in the CN2 District which may result in loss of neighborhood commercial center character. The pattern of development indicative of each of these areas (The Malls Shopping Center, 25th & Iowa, and southeast corner of 9th & Iowa) is that of a neighborhood commercial center, despite the fact that they are identified by *Horizon 2020* differently. They function as neighborhood commercial centers that are a part of a larger Regional or Community Commercial Center area or Strip Commercial corridor.

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

Applicant Response: "We absolutely believe that our request and the proposed amendment is consistent with *Horizon 2020*, we have abundant parking due to the large parcel of ground, we fit within all of the new parking ratios which has been supplied by the City previously. We believe since neighborhood commercial centers may contain a variety of commercial uses including smaller retail shops and services as stated on pg 6-5 (of *Horizon 2020*), that this use should be amended to be an allowed use. This use gives an added benefit and value for the surrounding businesses, neighborhoods, Kansas University, faculty, staff and students. The demographics prove out and show strongly that the aforementioned groups will do business at this location and was the reason why it was their choice to be located here at The Malls and nowhere else in the city of Lawrence. Since a neighborhood commercial center provides for the sale of goods and services at the neighborhood level as stated on pg 6-5 (of *Horizon 2020*) we also believe what better supports our proposed amendment than the business owners, couples, families, singles students in rental properties, list can go on forever, etc., that have real need for the requested use at our center. Since the commercial development along W 23rd Street is the prototypical "strip development" that is centered on the automobile and this area was once considered to be one of Lawrence's most desirable locations for retail business we maintain this amendment will help keep this area of the W 23rd Street corridor as an important and vibrant location with the amended use and also bring in a known and respected national tenant. At one point and time not long ago this retail center was struggling severely and still does, as we are much older and do not have the street frontage the strip centers do. As you already well know the status of the W 23rd Street corridor has long been supplanted by retail development on S Iowa and in the western portion of the city of Lawrence for this reason we also ask you to please amend the text to ensure and help us to be able to compete and lure new prospective clientele and their respective customers. This will enable and help us to maintain Goal 1 & Policy 1.4 pgs, 6-24, 6-35 (of *Horizon 2020*). With new occupancy it encourages our current occupants to stay and relet which in turn allows the ownership the financial ability to be able to improve and upgrade the centers appearance, landscaping, signage, etc."

Staff Response: The proposed amendment is consistent with *Horizon 2020* with the adoption of use standards. The proposed use standards ensure that Light Equipment Sales/Rental uses are compatible with the intent of the CN2 District and adjacent residential uses.

PROPOSED LANGUAGE

Section 20-403 of the Development Code (use table) is proposed to be amended as follows:

20-403 Nonresidential District Use Table																
KEY: A = Accessory P = Permitted S = Special Use * = Standard Applies – Use not allowed		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IG	OS	GPI	H	Use Specific Standard
PUBLIC AND CIVIC																
Vehicle Sales & Service	Cleaning (e.g., Car Wash) (Ord. 8098)	–	S	–	–	–	P	P	P	–	P	P	–	–	–	
	Fleet Storage (Ord. 8098)	–	–	–	–	–	P	P	P	–	P	P	–	–	A	
	Gas and Fuel Sales (Ord. 8098)	–	S	S	–	–	P	P	P	–	P	P	–	–	–	
	Heavy Equipment Repair (Ord. 8098)	–	–	–	–	–	P	P	P	–	P	P	–	–	–	
	Heavy Equipment Sales/Rental (Ord. 8098)	–	–	–	–	–	P	P	P	–	P	P	–	–	–	
	Inoperable Vehicles Storage (Ord. 8098)	–	–	–	–	–	P	P	P	–	P	P	–	–	–	
	Light Equipment Repair (Ord. 8098)	–	S	–	–	S	P	P	P	–	P	P	–	–	–	
	Light Equipment Sales/Rental (Ord. 8098)	–	P*	–	–	S	P	P	P	–	P	P	–	–	–	20-545
	RV and Boats Storage (Ord. 8098)	–	–	–	–	–	P	P	P	–	P	P	–	–	–	

Section 20-1766 of the Development Code (terminology) is proposed to be amended as follows:

20-1766 Vehicle Sales and Service

Sales of motor vehicles or services related to motor vehicles. The following are vehicle sales and service use types:

- (1) **Cleaning**
Washing and polishing of automobiles. Typical uses include car washes.
- (2) **Fleet Storage**
Fleet storage of vehicles used regularly in business operation and not available for sale, or long-term storage of operating vehicles. Typical uses include taxi fleets, buses, mobile-catering truck storage, and auto storage garages.
- (3) **Heavy Equipment Repairs**
Repair of trucks and other heavy equipment as well as the sale, installation, or servicing of automotive equipment and parts together with body repairs, painting, and steam cleaning. Typical uses include engine repair shops, body shops and motor freight maintenance groups.
- (4) **Light Equipment Repairs**
Repair of automobiles and the sale, installation, and servicing of automobile equipment and parts but excluding body repairs and painting. Typical uses include tire repair and alignment, muffler shops, auto or motorcycle repair garages and auto glass shops.
- (5) **Heavy Equipment Sales/Rentals**
Sale, retail or wholesale, and/or rental from the Premises of heavy construction equipment, trucks and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales.
- (6) **Light Equipment Sales/Rentals (including automobiles)**
Sale, retail, wholesale, or rental from the Premises of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, motor homes and boat dealers, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies **with accessory wash bays and vehicle storage**, and recreational vehicles sales and rental agencies.
- (7) **Storage of Non-operating Vehicles**
Storage of non-operating motor vehicles. Typical uses include storage of private **Parking** tow-a-ways and impound yards.
- (8) **Storage of Recreational Vehicles and Boats**
Storage of recreational vehicles and boats. Typical uses include the collective storage of personal recreational vehicles and boats.

NEW LANGUAGE

Section 20-545 is proposed to be added to the Development Code to prescribe use standards for Light Equipment Sales/Rental uses as follows:

20-545 Vehicle Sales & Service Uses in the CN2 District

(1) Purpose

The purpose of these use-specific standards are to ensure that vehicle sales and service uses permitted in the CN2 District conform to the intent of the purpose of the CN2 District as set forth in Section 20-208 of this Development Code.

(2) Applicability

The use-specific standards of this section shall apply to any vehicle sales and service uses listed below.

(3) Light Equipment Sales/Rental

- (i) Shall be limited to automobile sales and/or rental.
- (ii) Shall permit a maximum of 12 vehicles to be stored onsite for sale or rental.
- (iii) Accessory vehicle wash bays are permitted but may not be made available for public use and shall be limited to one wash bay.
- (iv) Accessory vehicle wash bays shall be located within enclosed structures.
- (v) Automobile cleaning and detail activity shall be conducted in enclosed structures.