

**ITEM NO. 3      SPECIAL USE PERMIT FOR RESEARCH SERVICES; 647 MASSACHUSETTS ST (SLD)**

**SUP-2-1-09:** Consider a Special Use Permit to allow Research Services in Downtown Commercial district at 647 Massachusetts Street, [Lot 19 on Massachusetts Street, 2<sup>nd</sup> Floor Only]. Submitted by Barber Emerson, LC, for GCB Holdings, LC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Harris asked if there was an elevator in the building and how supplies would get to the second floor.

Ms. Day said she would let the applicant respond to that question because she did not know about the interior layout of the building.

Commissioner Rasmussen inquired about how toxins were being defined.

Ms. Day said staff did not define them in the staff report and used the wording from the applicant. She stated that some of the things were specific to water quality tracking and that would be part of the building permit review and fire code review during the tenant finish. She said there is a lengthy list from the Utility Department of what can and cannot go into the waste systems.

**APPLICANT PRESENTATION**

Mr. Mark Anderson, was present on behalf of the landowner/applicant. He stated that regarding the elevator it was his understanding that an elevator would be added. He said the hope was that the second floor of the adjoining building would be leased with the space. He stated that regarding the definition of toxin they were looking at definitions found in the dictionary. He said that there should be nothing going through the waste system and that the potential company occupying the site would be required to abide by state and local laws. If there is anything to be disposed of it would not be going down the drains.

Commissioner Rasmussen was concerned with staff's understanding of 'toxins.'

Commissioner Harris expressed concern about the possibility of substances spilling down to the first level.

Mr. Anderson said the quantities involved are so small that spillage down to the first floor would not be in the realm of likely possibility. He said the substances are in eyedropper type quantities. He stated that the landowner of the second floor is also the landowner of the first floor as well. He said that the activity planned for the second floor is what would be found in an office with very little chemical activity.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Harris inquired about approving a Special Use Permit without knowing what specific business it was for.

Mr. McCullough said Special Use Permits can be used for businesses such as medical offices and daycare centers where the exact business may not be known, but the use is. He felt that Planning zones the land use impact, not businesses.

Commissioner Moore asked if the Special Use Permit would transfer to other uses.

Mr. McCullough said yes, the Special Use Permit would run with the property.

Commissioner Singleton said she would prefer to know exactly who the tenant would be and if special regulations were needed. She was also concerned about the visible location in downtown.

Commissioner Dominguez said the Special Use Permit has safe guards that regulate any industry that comes in and that they should not pick and chose what business can go in there.

Commissioner Finkeldei agreed with Commissioner Dominguez. He said there are several quarries and day care centers with Special Use Permits that have changed owners. He felt that the Special Use Permit should be based upon the use, not the owner.

Commissioner Singleton said that an air strip or daycare is a more specific activity, whereas a research facility is a broad category.

Commissioner Harris said she was on the fence on the issue. She had reservations approving a Special Use Permit for a research facility without knowing more information.

Commissioner Rasmussen said he would like more information about what would be located there and what type of research would take place.

Commissioner Finkeldei said there are toxins in all the buildings on the KU campus and it is not the land use stage where that should be a concern, it is the building permit stage that would look at those issues.

Mr. McCullough read the definition of research services as defined by the Development Code.

Commissioner Harris asked if any other Special Use Permits have been approved for 'research services.'

Mr. McCullough said that this is the first request since the adoption of the new Development Code in 2006.

Commissioner Singleton asked if this is really something they want on downtown Massachusetts Street without the specifics being known.

Commissioner Finkeldei said yes, he would like to see scientists working downtown.

Commissioner Blaser asked if the only reason the item came to Planning Commission was because of the exhaust hoods.

Mr. McCullough said the type of use, research service, needs a Special Use Permit to exist downtown.

Commissioner Blaser said he would be in favor of approving the Special Use Permit because there are enough state, federal, local regulations and inspections to govern it.

## **ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Dominguez, to approve SUP-2-1-09, a Special Use Permit for Research Service uses located at 647 Massachusetts Street [Lot 19 on Massachusetts Street, 2<sup>nd</sup> Floor Only], based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Publication of an ordinance per Section 20-1306(j).

3. Applicant shall provide a revised site plan to include the following listed restrictions:
  - a. No manufacturing or production activities shall be conducted on-site;
  - b. No radioisotopes or other radioactive materials shall be used on-site;
  - c. No known type 1 mutagens or carcinogens shall be used on-site
  - d. No known toxins or pathogens shall be used on-site; and
  - e. No animal research shall be conducted on-site.
4. Applicant shall provide a revised site plan to include the following note: "SUP is granted approval for 10 years. A new SUP shall be required before July 2019 to continue Research Service uses."

Commissioner Harris said she would vote against the motion. She said that if the Special Use Permit were tied to a specific business then she would be more inclined to approve it.

Motion carried 5-3, with Commissioners Single, Harris, and Rasmussen voting in opposition.