

**August 8, 2010 City Commission Meeting Minutes  
TA-4-4-10**

***Consider approving Text Amendment, TA-4-4-10, to the City of Lawrence Land Development Code, Chapter 20, Section 20-403 of the code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. Adopt on first reading, Ordinance No. 8543, for Text Amendment (TA-4-4-10).***

Scott McCullough, Director of Planning and Development Services, said this revision to the Lawrence Land Development Code would permit by right, the hotel/motel and extended stay use in the City's Industrial Park Zoning category. It was initiated by the Planning Commission at staff's suggestion after recent revisions to the development code that permitted the same uses in the IL (Light Industrial) District.

There were currently only two areas where the IBP District showed up near 19th and Haskell and a very large area near Bob Billings Parkway and Wakarusa Drive. However, there was potential for quite a bit more IBP District zoning in the areas that were Sector Planned and other areas of the community. He said IBP was mainly office use in a light industrial zoning category and had very limited commercial uses permitted in that category.

The specific hotel/motel and extended stay use came with accessory uses which included bar/restaurant or night club and those were permitted based on degrees on number of units with each hotel and 50 or more rooms permitted a restaurant with accessory uses and 100 or more rooms could have a bar as an accessory use and 150 or more rooms could have a night club as an accessory use. He said for example, the Holidome had 192 rooms with a Bar and Grill; Spring Hill Suites, 105 rooms; Hampton Inn, 89 rooms; and, less from that point. The Planning Commission discussed adjacent property protections because of the accessory uses permitted with hotels/motels and extended stays, and staff provided information that there were currently in the code, 40 foot setbacks adjacent to residential zoning districts, commercial design standards did apply to this use and buffer yards were required when adjacent to all residential districts and the type 3 buffer yard, in particular, was required and that was the city's highest density of landscaping.

Staff focused on the west side of the community that had the current IBP zoning district, because that area had the greatest potential for a new use. He said development in this particular research business park would be coming up upon the RS zoning and other types of residential zoning, in the future. He said staff provided the Planning Commission, and idea of a 40 foot setback and its relationship to the property lines for both the north and south areas of that research park.

He said some key points that were discussed and included in the staff report were that hotels and motels could act as supporting uses for industry and office uses, particularly in this part of the community and the existing codes did offer some protections to existing residential districts; that the use would be required to develop with the commercial design standards in mind; and there was potential for use in other districts,

in other areas identified through sector planning. Specific Planning Commission discussion focused on that the Planning Commission in general, desired this use in the IBP zoning, but the Planning Commission was split however, on whether hotels were any more or less intense than other permitted IBP uses.

There was also discussion about the fact that hotels could include, more night time components such as bars and nightclubs that were a little more commercial oriented versus industrial oriented or office oriented. They discussed whether use standards should be created which provided additional protections for adjacent or nearby residentially zoned properties and there was a faction of the Planning Commission that if restrictions were created, it might discourage hotel development in the IBP zoning district if it was otherwise seen as compatible within the IBP zoning district.

After a lengthy discussion, the Planning Commission made a motion to return this issue to staff to consider use standards that would offer those protections and that motion failed 4-6 and a second motion to approve it as proposed without use standards was approved by the Planning Commission 6-4 and staff was asking the City Commission to uphold the Planning Commission's recommendation and adopt on first reading Ordinance 8543, if appropriate, but staff was also considerate of a direction to go back and look at use standards as well.

Mayor Amyx asked McCullough to provide more detail on use standards and the outcome of sending that item back to the Planning Commission for consideration.

McCullough said currently, there were no use standards and the use standards in the development code were a way to address compatibility issues with different types of uses and there were development code permits in the different zoning categories. He said there seemed to be agreement that hotels were an appropriate use, but it was when the accessory use was looked at of a specialty bar and nightclub that tended to get into night time activity which tended to bring increased traffic, potential for noise and lights and other issues. He said staff would look at those specific accessory uses to determine if there should be distance requirements from residential districts where there should be standards related to the size of those accessory uses so there was an amenity to the hotel, but might not open it up to the general public and those types of things.

Mayor Amyx said regarding the second motion to approve the text amendment without the text standards, he asked why the Planning Commission did not want to look at the use standards.

McCullough said the majority believed it was a compatible use, even with those accessory uses in an industrial setting that there were existing protections in the development code through buffer yard, setbacks, and the fact they were accessory in nature anyway that additional protections were not necessary. The other uses permitted in the IBP district could have just as much impact on residential property as a hotel with the accessory uses.

Mayor Amyx said he would have a hard time believing a bar could be screened enough in close proximity to a residential home.

Mayor Amyx asked what would it take to ask the Planning Commission to reconsider the use standard.

McCullough said the City Commission would make a motion to return it to the Planning Commission with specific direction to consider use standards for the accessory uses associated with hotels/motels and extended stay.

Mayor Amyx said since there was already approval of the text amendment and asked if it took a supermajority to return it to the Planning Commission.

McCullough said it would not take a supermajority to return it to the Planning Commission, but a supermajority to do something different than what the Planning Commission had recommended.

Mayor Amyx said he wanted to make sure the Planning Commission had the opportunity to consider the entire request and the use standard seemed like a big sticking point. He said he heard from others that it needed to be looked at further.

Alan Cowles, speaking on behalf of the neighbors, said it was pointed out that the Planning Commission did not send this text amendment to the City Commission with much enthusiasm and one vote the other way would have changed the outcome. He said it was very inappropriate to redefine the zoning as to put hotels/motels, nightclubs, bars and restaurants in the back yards of residences in that area.

He said suggestions were made at the Planning Commission and there were other options which would be reasonable to both the owners of the property which was under consideration and to the neighbors, especially a wide buffer between homes and any types of hotels/motels, nightclubs, bars and restaurants, commercial development. In certain areas of Wakarusa that might be appropriate, but understood at the Planning Commission meeting that a comment was made that it was too much work for the Planning Commission to consider.

He said it was pointed out by a commercial realtor that nobody would want to build hotels/motels, nightclubs, bars and restaurants in that area because it was way off the primary thoroughfares. He said if no one wanted to build those types of uses in that area, he asked why the zoning was being considered to make that possible. At the same time, it would immediately lower the values of those properties that border that area, especially if a buyer knew a bar or restaurant could be placed in someone's backyard.

The reason for this text amendment was a reasonable need to build a hotel in the McDonald Drive Area, but had no objection for that type of facility being built in that area, but not appropriate to affect those homeowners, the way it would if the City Commission took a pass on this issue. He suggested the City Commission asked that it be zoned correctly and if they needed to rezone on McDonald Drive than it should be done, but not injure the homeowners in the process.

Gwen Klingingberg, speaking on behalf of the Lawrence Association of Neighborhoods, said the neighborhood bordered everything on the north and west side of this IBP and in

the past, on the northern border, they saw there was commercial zoning and the neighborhood requested that be changed and down zoned to the surrounding area of industrial because the neighborhood did not want a hotel. Now the City Commission was asking the neighborhood to take back what they had fought to stop. In the northern part, that area was big enough for two large hotels and parking. Also, the road to the north, Biltmore Drive, that part neighborhood requested that that access was stopped and now the City Commission was being asked to take back what was promised in the past. She said if two hotels were constructed at that location, it would force that access because it was determined by sized and use. Someone asked if she would rather have a bottling company at that location, in which she replied "yes" because there would be no bar or night traffic through the neighborhood.

She said what McCullough offered, at the Planning Commission, was a win/win situation because there was room to put hotels further inward away from residential and McCullough could determine the size of a hotel by the proximity to residential and some of those other factors could be taken in to account.

One other option was to grandfather this IBP because that area was already built up. She said Planning Commissioner Liese said it was wasting the Planning Commission's time to have the Planning Director go through this process again. She asked that this issue be sent back through the Planning Commission.

Commissioner Dever asked McCullough to discuss the restrictions associated with a bar/restaurant.

McCullough said there were not many restrictions associated except it had to be accessory and had to reach that certain room count in order for it to be an accessory use. The smaller hotels would not have the bar and it took 150 rooms to get to the nightclub. He said past that room count, the code did not describe how big the nightclub could be.

Commissioner Dever said it was a permitted accessory use and then the city lost control of the restriction past that 150 room count as long as the lot was large enough and there was adequate parking.

McCullough said correct. It was not a permitted use as a principle use, but with a hotel.

Commissioner Dever asked if it was 150 rooms and not 150 beds.

McCullough said it was 150 rooms.

Commissioner Dever asked where that standard came from.

McCullough said he had to research whether there were standards in the former code and was not sure of the history.

Commissioner Dever said he was curious if that number was common and was it protective enough for the land space and fitting into residential areas.

McCullough said in part, they were seen as true amenities to hotels in terms of once reaching a certain size, providing restaurants, bars and other uses.

Mayor Amyx said in the Planning Commission minutes, McCullough stated spending time reviewing the bar and restaurant portion for the use standards.

McCullough said the testimony provided at the Planning Commission were centered on the accessory use; restaurant, bar, and night club. Most of the discussion centered on the bar and nightclub use.

Mayor Amyx said if this item were to be sent back to the Planning Commission, they would spend their time discussion bar and nightclub use and have a recommendation within 30 days.

McCullough said during the Planning Commission there was some room to look at protection standards and set this particular use up to be compatible with residentially zoned districts and to work well with IBP uses that were already permitted. He said he thought the Planning Commission was accurate in that the hotel use with those accessory use available were a little different than the office industrial uses that tended to shut down after the workday was over, versus a hotel that could be a little more active throughout the evening and night.

Commissioner Chestnut said he agreed there was certainly division among the Planning Commissioners about this issue, but it was not about the use, but about the accessory uses. If reading the comments in the Planning Commission, the vast majority thought the use had some merits, but it was the accessory uses that started become problems.

Also, there was no statement, he could find, in the Planning Commission about not having time, but it was a statement of not a good use of staff time and was more resource allocation discussion than it was trying to do sloppy work, which was something he wanted to clarify.

He said IBP zoning was not industrial and was a type of mixed use that had a lot of office applications.

He said there might have been some discussion and understanding with the developer, at that time, about ending Biltmore, but it was never on a site plan or any Planning staff that ever changed that. In the end he agreed with the discussion of the minority on the Planning Commission that there needed to be some limitations on accessory uses if zoning IBP. He said he envisioned some smaller type of business related use type of hotel that might have a bar and seated about 4 people. He said they needed to ensure that was the case and try to place some reasonable limitations because it was wide open and the land was available.

There seemed to be from the Planning Commission's discussion a concept of what those applications might be, but with the recommendation there was no probability it would come out that way. He said he agreed that there was a win/win situation and if they could take some of those accessory uses and have discussions about what that meant

and how to size that down. There was a challenge to come up with the language, but to make them continue to be accessory uses and not primary uses if it was not controlled. He said there was merit in sending this issue back to the Planning Commission to have a discussion because there was a possibility of having an unintended outcome. He said he was reminded of where mixed use went on 24th and Inverness and all of a sudden it became something that was not intended and he wanted to put a few more boundaries around this one to make sure it did not happen.

Commissioner Cromwell said there was an opportunity for a win/win situation, but the law of unintended consequences ruled and should fight against it.

Commissioner Dever said industrial uses could continue 24 hours a day, 7 days a week as well as, and office use, for example, a call center where there was a shift of people coming and going. The idea that people would come at 8:00 am and leave at 5:00 pm was unrealistic.

He said the City Commission needed to make sure an area was not considered just because it would only be used between 8 am to 5 pm. He said hotels could co-exist well in residential areas, but most were limited service hotels, extended stay hotels, or residence type inn. He said it was important when hotels or motels were constructed next to residential areas that there were limitations. He said he had a concern about negative impact on a neighborhood, but believed there were ways to solve that problem. He said he thought it was a good use, but needed to remove some of the potential negative externalities from having a larger hotel. He said the market would drive some of this use as to where it would locate and how many would be constructed. He said he was in favor of honing the ancillary uses/accessory uses and spending staff time to discuss this purpose.

Commissioner Johnson concurred.

Mayor Amyx said he was glad McCullough, during the Planning Commission, brought the idea of the additional look of the use standards and to come up with a way of addressing the compatibility with the surrounding residential areas for the accessory uses. He said he agreed it was a good use of staff time.

**Moved by Dever, seconded by Cromwell**, to send this item back to the Planning Commission Text Amendment (TA-4-4-10), regarding the City of Lawrence Land Development Code, Chapter 20, Section 20-403 of the Code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District, to discuss and consider the use standards for compatibility of the accessory uses. Motion carried unanimously.