

**ITEM NO. 13     TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; SEC 20-403;  
DETENTION PERMITTED WITH SPECIAL USE (SLD)**

**TA-3-5-11:** Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Article 4, Section 20-403 to change "Detention" from a use permitted by right in the IG (General Industrial) District to one permitted with Special Use approval. *Initiated by Planning Commission on 3/28/11.*

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Harris asked where other properties in town were zoned GPI.

Ms. Day said GPI properties could include City treatment facilities, schools, emergency services, police stations, fire stations, sewer plants, water treatment plants, and any public property that was not also the hospital.

Commissioner Finkeldei asked if it was safe to say all GPI zoned land was owned by government entities.

Ms. Day said that was correct.

Mr. McCullough said it was predominantly developed with those public uses.

Commissioner Dominguez asked if Planning Commission should determine whether there should be a Special Use Permit or not.

Ms. Day said there were two recommendations. She said with the GPI there was discussion about whether that should be a use by right or under the venue of a Special Use Permit.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Liese said it was his understanding that this was being recommending so they had more control over a decision to place a detention center where the community wanted it.

Commissioner Harris agreed with approval of the first part of the staff recommendation and that for the GPI district a Special Use Permit would absolutely be appropriate.

Commissioner Finkeldei said he did not absolutely agree that a Special Use Permit should be in the GPI district. He was not convinced a Special Use Permit was needed and that it could be awkward between the City and County. He said he would support the first part.

**ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to initiate a text amendment to the Land Development Code to require the Detention use to be approved through the Special Use process in lieu of being permitted by right.

Unanimously approved 9-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to initiate a text amendment to Section 20-403 to include Detention as an allowed use in the GPI district (this use could be permitted as either by right or as a Special Use, depending on a more complete analysis of the change).

Commissioner Harris felt a Special Use Permit would be important because there were many GPI properties in residential neighborhoods and it would be a prudent process.

Commissioner Rasmussen said he would not vote in favor of this unless they do specifically recommend a Special Use Permit be required.

Commissioner Burger asked if it was permitted by right would there not be notice to the neighbors.

Mr. McCullough said one of the distinctions between IG and GPI was that there was not an inventory of GPI out there being marketed as GPI zoned property like there was IG. He said the big assumption was that if the County or City wanted to do a detention facility they would have to find a piece of property and go through the public process of rezoning it to GPI with the use known, the same process as a Special Use Permit. He said with IG a piece of property could be found in the community and an administrative Site Plan for a detention facility could be approved without any public process.

Commissioner Rasmussen asked if non-conforming uses could be expanded.

Mr. McCullough said likely they would have to request IG zoning.

Commissioner Rasmussen said it sounded like staff already determined that they need to have detention as an allowed use in GPI.

Mr. McCullough said staff identified that there were non-compliant uses in one of the three industrial categories and detention in two of the industrial categories so it was prudent to go through the process to attempt to remedy the non-conforming governmental uses. He said if it was concluded that it does not belong in GPI staff would need to take action to rezone those properties to IG or IL.

Commissioner Harris asked if there was any other method, such as another zoning category, that could be explored. She said industrial use had different impacts than detention use on the surrounding properties.

Mr. McCullough said staff could expand the analysis to talk about whether this particular use should be permitted in other districts.

Commissioner Rasmussen said his understanding was the motion was to allow detention facilities in a GPI district and put the burden on the staff to recommend Special Use or some other permitted use.

Commissioner Finkeldei said the motion was to initiate the drafting of a Text Amendment to be brought back before Planning Commission for consideration. He said he was leaving it up to staff to say either one of those because he did not want to pre-judge what the Text Amendment might say.

Commissioner Rasmussen asked what the motion was.

Commissioner Finkeldei said the motion was to initiate a Text Amendment to section 20-403 to include detention as allowed by the GPI district.

Commissioner Rasmussen said the motion already jumped to the conclusion that it needed to be an allowed use in GPI. He felt that one of the options that needed to be looked at was whether it should be allowed in GPI.

Commissioner Finkeldei said this would just initiate it and was the start of the process.

Mr. McCullough said what was initiated on all Text Amendments was consideration whether an allowed use was appropriate. He said the analysis would be whether detention should be an allowed use in the GPI district.

Commissioner Rasmussen said he would rather determine whether or not it should be an allowed use, as opposed to determining that it was already allowed.

Commissioner Finkeldei said the motion he made was exactly what Mr. McCullough said, in his opinion. He stated initiating a Text Amendment was initiating the consideration of the Text Amendment. He said he could say it differently or withdraw his motion and vote for Commissioner Rasmussen's motion because he felt they were talking about the same thing.

Commissioner Finkeldei withdrew his motion, seconded by Commissioner Singleton.

Motioned by Commissioner Rasmussen, seconded by Commissioner Finkeldei, to recommend staff examine what the proper use should be in the GPI district and whether or not detention should be an allowed use, and if so, how should it be an allowed use.

Motion carried 9-0.