

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
8/22/11

**ITEM NO. 2 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
TO ALLOW DETENTION FACILITIES AS A PERMITTED USE IN THE
GPI DISTRICT AND TO AMEND THE DEFINITION OF MAJOR
UTILITIES AND SERVICES IN ARTICLE 17 (SLD)**

TA-6-9-11: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Article 4, Section 20-403 to allow detention facilities as a use in the GPI (General Public Institutional) District and delete “detention and correction institutions” from the definition of Major Utilities and Services in Article 17. *Initiated by Planning Commission on 3/28/11.*

RECOMMENDATION: Staff Recommendation

Staff recommends approval of ta-6-9-11 to amendment to Section 20-403 of the Land Development Code to add “Detention Facilities” as a Special Use in the GPI (General Public and Institutional Use) District and to Section 20-1764 to revise the definition of Major Utilities and Services by deleting “detention and correction institutions”.

A second recommendation is made to instruct staff to change:

- the title of Section 20-1721 from “Detention” to Detention Facilities;
- to correct the use tables in Section 20-402 and 20-403 to list the use as “Detention Facilities”;
- to list “Utility, Minor” as “Utilities, Minor”; and
- “Utilities Services, Major” as “Utilities and Services, Major”

to align with the terms in Article 17.

Reason for Request: A potential land use compatibility conflict has been identified that could be better addressed through the Special Use Permit process. Also, the definition of *Utilities and Service, Major* includes a use already listed as a specific use.

RELEVANT FACTOR:

- Conformance with the Comprehensive Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None to date.

ATTACHEMENTS

- Location of GPI zoning map.

OVERVIEW OF PROPOSED AMENDMENT

The primary purpose of the Development Code is to implement the Comprehensive Plan, *Horizon 2020*. This plan gives deference to neighborhoods and residential uses. A key feature of

the plan, recommends that; *“the City and County consider utilizing development/performance standards for all major land development projects. Standards would give the community reasonable control over design and development, and provide developers incentives for creative and quality new development.”* The Special Use Permit review process is a tool that allows for review of applicable standards for development where potential land use compatibility concerns may exist.

“Detention” is a use listed as a Community Facility in the *Public and Civic Use Group* in the Nonresidential District use table in Section 20-403. A *Detention Facility* is defined in Section 20-1721 as: *“a facility for the housing of persons in the custody of a government agency awaiting trial or serving a sentence after being found guilty of a criminal offense.”*

The community currently operates an adult jail and a juvenile detention facility.

<p>Douglas County Jail: 3601 E. 25th Street in southeast Lawrence.</p> <ul style="list-style-type: none">• GPI Zoning• Existing beds 196• Planned bed expansion 100• Total planned occupancy 300• Currently operating a reentry/work release program - 10 to 15 beds average.	<p>Youth Detention Facility: 330 Industrial Lane in North Lawrence.</p> <ul style="list-style-type: none">• GPI Zoning• Existing beds 14-16• Multi-county facility• 90 – 95% Housing of Douglas County youth.• Includes a day school program.
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Both facilities were developed as *Community Facilities* under the 1966 development code. With the adoption of the 2006 Development Code publicly owned properties were rezoned to the GPI (General Public and Institutional Use) District. Use tables were not revised to include *Detention Facilities* as an allowed use in the GPI district. This text amendment would modify the use table in Section 20-403 to allow “Detention Facilities” as a Special Use in the GPI District.

Two issues are discussed in this report.

1. Detention uses exist but are not currently permitted uses in the GPI District and thus are non-conforming uses. This error occurs in the use table, Section 20-403 of the Development Code.

The definition of Utilities and Services, Major states:

2. *Services and utilities that have substantial impacts. Such uses may be permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest. Typical uses include: water and wastewater treatment facilities, major water storage facilities, airports, power generation plants and detention and correction institutions.* This occurs in Article 17 – Terminology, 20-1764.

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

Applicant Response *The City is the applicant for this request. A review of TA-3-5-11 found that the community rezoned existing detention facilities, along with all properties owned by the City, County or School District, to the GPI district but did not update the development code use table to include detention facilities as a permitted use in the GPI district. This action created non-conforming uses.*

STAFF DISCUSSION

The GPI District was created as a:

“Special Purpose Base District primarily intended to accommodate Institutional Uses occupying significant land areas but not appropriate for development in the H District or on property designated on the official zoning map as U. The District regulations are designed to offer the institution maximum flexibility for patterns of uses within the district while ensuring that uses and development patterns along the edges of the District are compatible with adjoining land uses.” Section 20-218 Land Development Code.

Several land uses that require large land areas include special zoning districts such as Hospitals and Universities. Other land uses are provided with specific overlay districts to meet minimum public health, safety and welfare such as Airspace, Floodplain, Historic and Urban Conservation District designations. Other public land uses that require large amounts of land can be addressed with tools such as site plan review or design standards and in some cases Special Use Permits.

- The incorporation of detention and correction institutions in the *Major Utilities and Services* definition is an error in the Development Code.

This use is typically a governmental function more appropriately located in the GPI district though private facilities can exist. A Detention Facility, especially one serving a catchment area larger than the City or County, can impact a community's social service providers, police, fire, and medical services. A Detention use operates 24/7 and can result in operational incompatibilities.

- The use, “Detention” is not a permitted use in the GPI District. This is an error in the Development Code. The purpose of this text amendment is to correct that error.

Revising the Development Code to permit the use as a Special Use in the GPI District allows for additional review to address the community service demands as well as site compatibility with surrounding uses. Approval of this request will introduce consistency to the Development Code for “Detention” uses that does not currently exist.

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 *The City is the applicant for this request. Staff identified a development code error in the review of a recent text amendment (TA-3-5-11).*

STAFF DISCUSSION

a) Comprehensive Plan Consistency

Community Facilities are addressed in Chapter 10 of *Horizon 2020*. The plan acknowledges that the need for public and semi-public uses is difficult to project. This chapter focuses on education facilities, municipal buildings and facilities, and utilities. The Plan seems to make a distinction between buildings & facilities and Utilities. Utilities are most commonly associated with the provision and delivery of services such as water, sewer, electric and gas. Some community services such as police and fire protection, libraries, hospitals, and public works are a combination of services provided and physical buildings or facilities.

Municipal buildings and facilities specifically considered in *Horizon 2020* are fire protection, emergency services, police and sheriff facilities, municipal offices, public works facilities, libraries and museums. The plan notes the completion of the Juvenile Detention Center that serves a multi-county region and plans for expansion of the County Jail facility. This expansion plan reference resulted in the development of the Douglas County Jail Facility located in southeast Lawrence in the late 1990's.

Municipal Buildings and Facility Strategies noted in *Horizon 2020* include:

- *Close intergovernmental cooperation is recommended to ensure, to the greatest degree possible, facilities and services are maximized while minimizing duplication.*
- *The potential for privatization of municipal services should continue to be explored. The city and county objective is to maximize desired services for residents while providing service delivery at the lowest possible cost. The strategy also includes the consolidation of service providers and entities wherever possible.*

Horizon 2020 supports a mix of uses as well as appropriate land use transitions between residential and intensive non-residential uses. Approval of this text amendment brings the existing development into conformance with the Development Code and provides a public process for the consideration of the benefits of allowing a specific use for future expansions of those facilities if needed. Additionally, this amendment would require a public review process for any new facility that would be proposed in the community.

The Community Facility Chapter of *Horizon 2020* places importance on appropriate site design and land use transition between land uses. The purpose of the Development Code is to implement *Horizon 2020*: "in a manner that protects, enhances, and promotes, the health, safety, and welfare of the citizens of Lawrence." Making the use subject to a Special Use Permit allows the specific use to be considered based on the unique characteristics of the property location and proximity to other land uses. It is in this way that the proposed text amendment is consistent with *Horizon 2020* and the purpose statements of the Development Code.

A Detention Facility is defined in Section 20-1721 of the Development Code. No change to the definition of a *Detention Facility* is proposed. The revision to *Utilities and Services, Major*

removes a potential conflict and the need for use interpretations in the future. A *Detention Facility* includes common institutional uses such as jails but can also include transitional facilities that are part of a court-ordered service known as a “residential reentry center.”

b) Consistency with Development Code Purposes

Individual uses may be permitted by right or as Special Uses within a given zoning district. The Development Code currently prohibits “Detention” uses in all residential and commercial zoning districts. Recent changes to Section 20-403 allow the use in both the IG and IL Districts subject to a Special Use Permit.

The *Detention Facilities* use is currently allowed in the IL (Limited Industrial) and IG (General Industrial) District with a Special Use Permit; the use is not allowed in the IBP (Industrial/Business Park) District. There are no use standards or regulations associated with a *Detention Facility*. Two existing Detention facilities located in the City of Lawrence are currently zoned GPI (General Public and Institution Use) District.

If approved, this text amendment would revise the use table in Section 20-403 of the Development Code to allow “Detention Facilities” in the GPI District subject to a Special Use Permit review. Special Use Permit Review provides a “*discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features*” (Section 20-1306).

The Development Code provides an automatic Special Use Permit Status (Section 20-1306 (b)) for any existing use that was allowed by right at the time it was established, but is now regulated as a Special Use. Both existing Detention Facilities were allowed uses when originally approved. Approval of the text amendment will result in an automatic Special Use Permit status for both sites. The existing facilities will become conforming to the Development Code.

STAFF CONCLUSION

- Approval of the text amendment brings the two existing facilities into compliance with the purpose and intent of the Development Code.
- Allowing this use in the GPI District subject to a Special Use Permit provides the community greater assurances that appropriate site concerns are addressed.
- Correcting the definition of *Utilities and Services, Major* brings the land uses into alignment with the purpose and intent of the Development Code.

- Changes noted in **Strikeout, red and highlight**

**DRAFT CODE TEXT
(Partial Table Only)**

20-403 NONRESIDENTIAL DISTRICT USE TABLE

<div>Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed</div>		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IG	OS	GPI	H	
PUBLIC AND CIVIC USE GROUP																
Community Facilities	Cemetery	P*	P*	-	P*	-	P*	P*	P*	P*	P*	-	P*	P*	-	505
	College/University	S	P	P	P	P	P	P	P	P	P	P	-	P	P	
	Cultural Center/ Library	S	P	P	S	P	P	-	-	P	-	-	S	P	A	
	Day Care Center	S*	P*	S*	S*	S*	P*	P*	P*	P*	P*	P*	-	-	-	507
	Day Care Home, Class A	P	P	P*	-	P	P	-	P	-	-	-	-	-	-	
	Day Care Home, Class B	S*/A*	P*	S*	-	P	P	-	P	-	-	-	-	-	-	507
	Detention Facilities	-	-	-	-	-	-	-	-	-	S	S	-	S	-	
	Lodge, Fraternal and Civic Assembly	S*	S*	S*	S*	P*	P*	P*	P*	-	P*	-	-	P*	-	512
	Postal & Parcel Service	-	P	P	P	P	P	P	P	P	P	P	-	P	-	
	Public Safety	S	P	P	P	P	P	P	P	P	P	P	-	P	-	
	School	P	P	P	P	P	P	P	P	-	-	-	-	P	-	
	Funeral and Interment	-	P*	-	P*	P*	P*	P*	P*	P*	P*	-	A*	-	-	505
	Temporary Shelter	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*	S*/A*	S*	-	S*	S*/A*	544/522
	Social Service Agency	P	P	P	P	P	P	P	P	P	P	P	-	P	P	
	Community Meal Program	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S	S/A*	S	-	S	S/A*	522
	Utilities, Minor	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	P*/ S*	-
Utilities and Service, Major	S	S	S	S	S	S	S	S	S	S	P	S	P	-		

20-1764 UTILITIES AND SERVICES, MAJOR

Services and utilities that have substantial impacts. Such uses may be permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest. Typical uses include: water and wastewater treatment facilities, major water storage facilities, airports, **and** power generation plants. ~~and detention and correction institutions.~~