

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
May 21, 2012

ITEM NO. 3: TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; TO CREATE A MENTAL HEALTH CARE USE WITHIN AN APPROPRIATELY DETERMINED EXISTING ZONING DISTRICT. (SLD)

TA-4-2-12: Consider a Text Amendment to the City of Lawrence Land Development Code to create a mental health care use within an appropriately determined existing zoning district. *Initiated by City Commission on 4/17/12.*

STAFF RECOMMENDATION

Staff recommends approval of the addition of a new definition to Article 17 creating a Community Mental Health Care Facility use and recommending that this use be permitted by right in the GPI District. Staff recommends the Planning Commission forward this recommendation for approval of TA-4-2-12 to the Land Development Code to the City Commission with a recommendation for approval.

Reason for Request: To create a Community Mental Health Care Facility use separate from the Hospital Use and but that allows overnight stay longer than 24 hours. This request accommodates a recent request from Bert Nash to establish zoning for a future project located at 138 Alabama Street.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Plan

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Representatives from Lawrence Memorial Hospital and Bert Nash provided input on the definition. Both organizations have indicated they generally support this proposed code language.

ATTACHMENTS

1. Initiation memo to the City Commission dated April 17, 2012.
2. Federal Health Requirements provided by Bert Nash to explain planned activities.
3. Article 4 Use tables

OVERVIEW OF PROPOSED AMENDMENT

Following the January 25, 2012 Planning Commission consideration to rezone property located at 138 Alabama Street from IG (General Industrial) to H (Hospital), and employ the "Hospital Use" for the intended use of the property, which would include a psychiatric hospital component, staff was contacted by Lawrence Memorial Hospital who expressed concerns about the long term applicability of the H (Hospital District) zoning and use for the Bert Nash site. Upon further review of the use definitions all parties agree that the proposed use would be better served with its own use category and definition.

This proposed text amendment, if approved, amends the Land Development Code Article 17th creating a definition for "Community Mental Health Facility" and amends Article 4 to permit this use in the GPI (General Public and Institutional) District. The need for this text amendment resulted from discussions with Bert Nash and Lawrence Memorial Hospital to provide more clarity in the Development Code regarding mental health care and future community health programs.

The proposed text amendment will add a use to the Medical Facilities group in the Development Code. This definition is intended to capture the multiple uses and coordinated programs envisioned by Bert Nash but to make a distinction from a general hospital use. The complex nature of a community facility that addresses mental health requires a definition sufficiently broad enough to capture the many related programs and services that make up this use. The proposed definition therefore incorporates multiple descriptive statements to articulate what this use is as well as what it is not.

Community Mental Health Facility

- *Facility that provides space for care and programs specializing in services for individuals who are chronically mentally ill and their families. Facilities contain space for waiting rooms, patient rooms, accommodations for licensed health care providers providing case management. Services for either or both in patient or out-patient care for individuals who are chronically mentally ill and may include care services under medical supervision for more than twenty-four consecutive hours but excludes surgery and obstetrical care as to be found in a hospital.*
- *Community Mental Health Facilities shall be licensed by the appropriate State Agency. A Community Mental Health Facility may also include office space, outpatient medication (limited pharmaceutical services), education, consultation, treatment and rehabilitation services, employment and housing services, medical and dental care in a coordinated manner with mental illness services, and general community wellness programs as accessory uses.*
- *A Community Mental Health Facility shall not include Hospitals, Group Homes, Extended Care Facilities, or Temporary Shelters currently defined in the Development Code.*

This use is suggested to be permitted by right in the GPI (General Public and Institutional) District.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Health services are addressed in Chapter 10 – Community Facilities in *Horizon 2020*. The Plan recognizes the importance of adequate facilities to serve Lawrence and Douglas County. The Plan states that such facilities should be located within the incorporated areas of Douglas County. The Plan further recognizes the existence of a general hospital – Lawrence Memorial Hospital. The plan further provides a definition of a General Hospital as:

An establishment with an organized medical staff of physicians, with permanent facilities including in-patient beds and acute care facilities, and with medical services – including physician services and continuous registered professional nursing services – for not less than 24 hours of every day, for the purpose of proofing diagnosis and treatment for patients who have a variety of medical conditions. (Page 10-7)

This definition is further refined in the Development Code. The *Horizon 2020* further addresses the need to retain the existing Hospital's economic viability. From this perspective the use of the hospital zoning district for activity and uses that do not meet the full and complete definition of a hospital could lead to an oversupply of the district. This oversupply can lead to development of single service and for-profit medical uses that threaten the economic viability of the existing general hospital.

The Bert Nash proposal for a community health facility that addresses mental health care in a holistic approach requires overnight stay for patients as well as space for practitioners, care providers and support services. There would not be surgical or obstetric care provided as part of this use which is a distinguishing characteristic from a general hospital.

The comprehensive plan does not address the growing need for a facility that can accommodate multiple programs and services along with a mental health care (in-patient) component. *Horizon 2020*'s focus is on a "bricks and mortar", classically defined, hospital. This focus gives rise to the need to establish a defined use and designate an appropriate zoning district for a medical use that is not a general hospital but has some similar characteristics. The community nature of the mental health care

use makes this use appropriate for the General Public and Institutional District rather than the hospital or commercial-office district. The fact that a mental health care facility is expected to include overnight and transitional stay for patients longer than 24 hours means that the development code must be either interpreted to accommodate the use or amended to specifically classify the use. These actions must be conducted within the scope of *Horizon 2020's* policy to protect the public interest in its general hospital.

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

Bert Nash has reported a rise in the demand for mental health care services and related and supportive programs and services that provide a comprehensive approach to patient care. The existing uses included in the zoning code address only certain aspects of any one activity intended for a Community Mental Health Facility. Use of the Hospital zoning district and land use jeopardize the integrity of the existing general hospital thus the need for a new Community Mental Health Facility use. Approval of this request will add a use that expressly states what a Community Mental Health Facility is and what it is not. This text amendment intended to provide clarification to the Development Code that does not currently exist for some medical related uses.

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

As discussed above, the proposed amendment is intended to provide clarification to the various medical related uses in a manner that addresses the significant policies included in *Horizon 2020*. The overall concern is that using the Hospital zoning district and the existing definition for a use that may or may not develop could result in an unintended consequence of creating an overabundance of Hospital zoning and attracting uses that would jeopardize the economic viability of the existing general hospital.

NEXT STEPS FOR BERT NASH

The approval of this proposed text amendment facilitates the Bert Nash project by allowing a consideration of the property at 138 Alabama Street to be rezoned to GPI and developed as a Community Mental Health Facility use. The applicant for the 138 Alabama Street is expected to make a request to amend the current zoning application to rezone the property to GPI. If approved, the applicant would proceed with additional development applications such as zoning and site planning as applicable.

SUMMARY

The purpose of this text amendment is to provide clarity to the Development Code with regard to a medical related facility that provides community services and programs that accommodate in-care mental health treatment as well as other services to the public but is distinguishable from a general hospital. The location of this use in the GPI (General Public and Institutional) District reflects the community orientation of this use rather than other medical related uses that function in more commercial/commercial-office zoning districts.

DRAFT CODE TEXT

- Changes noted in **Red** and **Highlight**
20-403 NONRESIDENTIAL DISTRICT USE TABLE(Partial Table only)

	Base Zoning Districts															Use Specific Standards (Sec. 20)
	CW1	CW2	MU	CO	CO	CC	CP	CS	IBP	IL	IM	IG	OS	GP	H	
Class A																
Day/ Care Home, Class B	S*/A*	P*	S*	-	P	P	-	P	-	-	-	-	-	-	-	507
Detention Facilities	-	-	-	-	-	-	-	-	-	S	S	S	-	S	-	
Lodge, Fraternal & 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	-	P	-	
Public Safety	S	P	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*	P/S*	530
Utilities and Service, Major	S	S	S	S	S	S	S	S	S	S	P	P	S	P	-	
Medical Facilities	Community Mental Health Facility	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
	Extended Care Facility, General	-	S	-	S	-	-	-	-	S	-	-	-	-	P	(Ctrl)
	Extended Care Facility, Limited	P	P	P	P	-	-	-	-	-	-	-	-	S	P	
	Health Care Office, Health Care Clinic	P	S	P	P	P	P	P	P	P	P	-	-	P	A	
	Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Outpatient Care Facility	P*	P*	P*	P*	P*	P*	P*	P*	-	-	-	-	-	P*	P*	519

20-1770 COMMUNITY MENTAL HEALTH FACILITY

Facility that provides space for care and programs specializing in services for individuals who are chronically mentally ill and their families. Facilities contain space for waiting rooms, patient rooms, accommodations for licensed health care providers providing case management. Services for either or both in patient or out-patient care for individuals who are chronically mentally ill and may include care services under medical supervision for more than twenty-four consecutive hours but excludes surgery and obstetrical care as to be found in a hospital.

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