

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
09/27/2017

**ITEM NO. 1C      SPECIAL USE PERMIT; 401 ELM ST (BJP)**

**SUP-17-00496:** Consider a Special Use Permit for *Manufacturing & Production, Limited*, and *Retail, General and Non-Ground Floor Dwelling* uses at 401 Elm Street. Submitted by Margretta O. Farrar-de Vries, property owner of record.

**STAFF RECOMMENDATION:** Planning Staff recommends approval of a Special Use Permit to allow *Manufacturing & Production, Limited*, and *Retail, General* uses, located at 401 Elm Street, and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Provision of a site plan performance agreement.
2. Applicant shall provide a revised plan that includes the following notes and changes:
  - a. Dimension the length and width of the on-street parking spaces.
  - b. Show where the bicycle parking will be located and add the following note, "Bicycle parking that meets the APBP bicycle design recommendations will be provided for at least 2 bicycles with the development of the retail use."
  - c. Add the following notes:
    - i. "Exterior storage of materials, equipment or products is prohibited. Exterior fabrication of products is prohibited."
    - ii. "Truck deliveries or pick-ups of supplies or products, associated with the nonresidential uses are allowed only from 7 a.m. to 9 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods."
    - iii. "The hours of operations associated with the *Manufacturing & Production, Limited* use shall be during the hours of 7 a.m. and 7 p.m. Change in hours of operation to the *Manufacturing and Production, Limited* use would be subject to a new public hearing by the Planning Commission with approval by the City Commission"

**Applicant's Reason for Request:** *"The property at 401 Elm Street needs to be rezoned to match three existing and historical uses, reflecting the building's 19<sup>th</sup> century character: 1)retain the upstairs apartment (1,000 sq ft), and 2)approve a special use permit for two separate uses of the ground floor. The 1920s addition (1,500 sq ft) should be allowed to continue in use as an artisan woodworking shop, and the original ground floor storefront space (800 sq ft) should be allowed to be used for retail/office space, suitable for a small business, gallery, or meeting space. See Attachment B: Historical Profile from rezoning application.*

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

The following items are also being considered by the Planning Commission at their September 27, 2017 meeting:

- **TA-17-00495:** A Text Amendment to the City of Lawrence Land Development Code to permit nonresidential uses and vertical mixed-use structures in the Tertiary Zone of the MU (Mixed Use) District. *Initiated by Planning Commission on 8/23/2017.*
- **Z-17-00322:** A request to rezone approximately 2500 sq ft from RS5 (Single-Dwelling Residential) District to MU (Mixed Use) District, located at 401 Elm St. *Deferred by Planning Commission on 8/23/17.*

#### Other Action Required

- Submittal of 1 copy of the approved site plan for release to Development Services for building permits in a digital format.
- Change of Use Permit to review for compliance with Building and Fire Codes. Staff encourages the applicant to seek advice of an architect to determine what improvements will be necessary to accommodate the proposed mix of uses.

#### KEY POINTS

- This staff report assumes approval of the corresponding Text Amendment to permit limited nonresidential uses in the Tertiary Development Zone through the Special Use Permit approval process and the associated rezoning request to the MU District.
- The proposed Special Use Permit request would accommodate an existing woodworking shop (*Manufacturing & Production, Limited*) and facilitate the redevelopment of the front ground level area with a retail use.

#### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Staff received a letter of support from the North Lawrence Improvement Association and a letter from a neighbor expressing concerns regarding future potential noise and parking issues. Please see Z-17-003322.

#### ATTACHMENTS

##### 1. Site Plan

Current Zoning and Land Use:

RS5 (Single-Dwelling Residential) District; *Non-Ground Floor Dwelling*, Home Occupation (woodworking shop), and unoccupied non-building code compliant dwelling on the first floor.

Proposed use: *Manufacturing & Production, Limited*, and *Non-Ground Floor Dwelling*. The applicant indicated that the unoccupied residential area on the ground floor may potentially be developed with a *Retail, General* use (such as a grocery store) in the future.

Surrounding Zoning and Land Use:

RS5 (Single-Dwelling Residential) District to the south, east, and west; *Detached Dwellings* and *Neighborhood Institution* (Centenary United Methodist Church).

IG (General Industrial) District to the north; *Detached Dwellings*.

### Summary of Request

The subject property contains a two-story structure, in which the first level contains a woodworking shop and a vacant non-building code compliant dwelling, and the second level contains an occupied dwelling.

At the time of this report, the property is zoned RS5 District, which does not permit the *Manufacturing & Production, Limited* use (woodworking shop) or the *Duplex* use. Concurrent with the SUP request, the Planning Commission is also considering a text amendment to permit nonresidential uses in the Tertiary Development Zone of the MU District, and a request to rezone the property to the MU District. This staff report assumes approval of the text amendment and the rezoning request.

With approval of the text amendment, the *Manufacturing & Production, Limited*, and *Retail, General* uses require approval of a SUP in the Tertiary Development Zone of the MU District. The SUP request includes the 1,628 square foot woodworking shop (*Manufacturing & Production, Limited*) located in the rear, and an 800 square foot retail use located in the front of the building on the first floor. The existing *Non-Ground Floor Dwelling* use is permitted in the MU District without approval of a SUP.

### Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))

#### 1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Applicant's Response: *"All of the proposed uses would be allowed, contingent upon approval of a text amendment allowing Special Use Permits in a Mixed Use Tertiary Development Zone. This text amendment is being proposed concurrent with this application."*

With the approval of the text amendment, the proposed *Manufacturing & Production, Limited*, and *Retail, General* uses are allowed in the Tertiary Development Zone of the MU District with approval of a Special Use Permit. The following is a review of the change proposed with this project for compliance with the Development Code.

#### A. Site Summary

Site Summary:		
	Existing	Proposed
Lot Size:	2,750 sq ft	2,750 sq ft
Building:	2,625 sq ft	2,625 sq ft
Impervious Cover: %	2,715 sq ft 99%	2,715 sq ft 99%
Pervious Cover: %	35 sq ft 1%	35 sq ft 1%

Density and Dimensional Standards: (MU DISTRICT)		
	Required	Provided
Min. Site Area:	20,000 sq ft	2,750 sq ft
Min. Lot Area:	3,000 sq ft	2,750 sq ft
Min. Lot Width:	25 ft	25 ft
Front Setback:	0-25 ft	0 ft

Side (exterior) Setback:	0-25 ft	0 ft
Side (interior) Setback:	5 ft	0 ft
Rear Setback:	10-30 ft	8 ft
Max. Building Coverage	75%	95%
Max. Impervious Coverage	85%	99%

The original structure was constructed in 1872. Sanborn maps indicate that the 1,500 square foot addition (the area that contains the woodworking shop) was constructed between 1918 and 1920. The existing structure was built prior to the City's adoption of zoning regulations. Section 20-1108(d) states that structures that existed prior to being rezoned to the MU District are considered nonconforming with regard to the MU development standards. The Density and Dimensional Standards of Article 6 are referenced in Section 20-1108(o) of the MU standards. Staff's interpretation of the Code is that the structure comes in as a nonconforming structure and the Density and Dimensional Standards are not applicable.

### B. Access and Parking

Access to the site is provided by N 4<sup>th</sup> Street and Elm Street. The property does not contain off-street parking. Section 20-1108(k)(1)(i) dictates that adjacent, perimeter on-street parking shall be counted toward the minimum off-street parking requirement. The required parking calculation is provided in the parking table below:

Use	Vehicle Parking Requirements	Vehicle Spaces Required		On-Street Spaces Provided
<i>Manufacturing &amp; Production, Limited</i>	1 per 1,000 sq ft	1,625 sq ft/1,000 =	2	
<i>Retail, General</i>	1 per 300 sq ft	800 sq ft/300	3	
<i>Non-Ground Floor Dwelling</i>	1 per bedroom	2 bedrooms	2	
<b>TOTAL</b>			<b>7</b>	<b>5</b>

The site plan shows there are 5 on-street parking spaces available on the east side of N 4<sup>th</sup> Street. Vehicles are not permitted to park on the north side of Elm Street. The intent of the retail use is to serve the surrounding community, and lends itself to nonmotorized transportation. Given the small deviation in parking provided, staff recommends waiving the parking requirement applying Section 1305(b)(3)(v), with the provision that bicycle parking is provided when the retail use is established (the amount of vehicle parking required does not trigger the requirement for bicycle parking). A condition of approval is submittal of a revised SUP that shows where the bicycle parking will be located and notes that it will be provided with the development of the retail use.

The vehicle parking requirement will be evaluated again with any future change of use proposed for the subject property. If a more intense use is proposed, more parking may be required to be provided, or a variance from the parking requirements may be required from the Board of Zoning Appeals.

### C. Design Standards

There are no changes proposed to the building exterior of the physical site.

### D. Landscaping and Screening

The SUP does not propose changes to the existing landscaping and screening.

### **E. Lighting**

A photometric plan is not required for this special use as no changes are proposed to the existing site or lighting.

### **F. Floodplain**

The subject property is located within 1000' of the levee. This property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.

**Staff Finding** – This use complies with the applicable provisions of the Development Code.

## **2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS**

Applicant's Response: *"Allowing the building to continue being used as it always has been, on a site that has not changed since the workshop was added almost 100 years ago, is consistent with the mixed use characteristics of its North Lawrence neighborhood. The proposed uses would be small scale, run by only a few people with standard hours of operation. The artisan woodworking shop has no (and does not need) exterior lighting, and contains a fully functional dust collection system. Machines and power tools used in the workshop generate some noise, but it is minimal compared to the noise of the nearby BNSF trains (around the clock) and trucks along the Locust Street truck route."*

The SUP approval process provides an opportunity to mitigate potential negative impacts on the surrounding area.

Staff's recommendation contains conditions that pertain to the hours of operation, noise, and external impacts *Manufacturing & Production, Limited* use. The permitted hours of operation for the woodworking shop is proposed by staff to be between 7 a.m. to 7 p.m. These hours are consistent with the Development Code Regulations for a Home Occupation Type B. A change in the hours of operation to the woodworking shop would be subject to a new public hearing by the Planning Commission and approval by the City Commission.

The SUP will address noise concerns through inclusion of a condition that the maximum noise level associated with the woodworking shop shall not exceed the City's noise ordinance, and that fabrication of products shall take place inside the building.

Staff recommends that traffic and noise be addressed through a condition that deliveries and pick-ups, associated with the nonresidential uses, are allowed from 7 a.m. to 9 p.m. and are limited to the types of vehicles that normally service residential neighborhoods. This condition is also consistent with regulations for a Home Occupation Type B.

Finally, staff recommends a condition be listed on the SUP to prohibit the exterior storage of materials.

A revised SUP must be submitted with the conditions listed prior to approval of the SUP.

**Staff Finding** – As conditioned, the proposed uses are compatible with the existing uses in the neighborhood.

**3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

Applicant's Response: *"Changing the zoning to match existing and historic uses of the building, built before the residences surrounding it, will have no negative impact to nearby properties, whereas retaining the existing zoning will result in loss of a useful space and/or services that would benefit the neighborhood. Rather than trying to 'convert' a business building to solely residential use per the current zoning, the Special Use Permit would help preserve a historical artifact of the neighborhood, i.e. the 'corner store' and an artisan woodworking shop."*

According to the Douglas County Appraiser's records, the building was constructed in 1872. The woodworking shop has been in existence on the property for over 40 years, either as a business or for accessory residential purposes. Approval of the SUP will also facilitate the redevelopment of the street level building front with a retail use. The purpose of the use is to allow a low impact neighborhood-oriented use to serve the surrounding area and could be a benefit to the neighborhood.

Staff received a few inquiries into the proposed development of the property. The comments received were mostly positive, although concerns were provided in regards to potential noise and parking issues. Those comments were not specifically related to the uses proposed with the current SUP application, but related to future concerns if/when the uses changed. MU zoning would permit a variety of other nonresidential uses that may have impacts to the surrounding property owners. The requirement of SUP approval for the nonresidential land uses permitted in the Tertiary Development Zone of the MU District will help to mitigate these potential impacts. Any new proposed nonresidential use would require approval of a SUP and public notice. The impacts of the proposed new use would be evaluated at that time, and conditions could be placed on the SUP to help alleviate the perceived impacts.

**Staff Finding** – As conditioned, substantial diminution of other property values in the area is not anticipated.

**4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT**

**Staff Finding** – This property will be served by existing municipal water and sanitary sewer. Adequate public facilities and transportation access exist for this development. This request is to bring an existing use into compliance and accommodate a change of use to an existing developed property. The uses do not preclude the ability to service the existing uses in respect to public safety, transportation, and utilities.

**5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to landscaping, exterior activity, hours of operation, and parking.

**Staff Finding** – Adequate assurances of continued maintenance are inherent in the use and the Special Use Permit approval process.

**6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

Applicant's Response: *"There would be no adverse impacts on the natural environment, as the uses are contained within an existing structure already on the site. That building is maintained to be as energy efficient as possible considering its age. The proposed uses would not require an additional exterior lighting beyond what already exists. The dust collection system prevents sawdust emissions from the premise and reduces fire hazard. Future improvements to the building will further reduce its environmental impact, such as upgrades to all major mechanical systems (plumbing, heating and cooling, stormwater runoff, etc); these will only be possible if the building itself generates a steady income.*

The property is located within an existing urban area. The site is developed with a nonconforming building that encompasses the majority of the parcel. Only a small area of the property is pervious. There are no existing natural elements such as mature trees or floodplain that are affected by the change of use represented in this application.

**Staff Finding** – The proposed use will not cause significant adverse impacts on the natural environment.

**7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO,**

The Development Code, Section 20-1305 (I), includes a process to revoke an approved Special Use Permit. Other than non-compliance with the scope or conditions of approval, reasons for revocation could include nuisance complaints from adjacent property owners or some future incompatibility with the neighborhood. This provision provides an opportunity to monitor the use as needed.

**Staff Finding** – Staff does not recommend a time limit on the Special Use Permit.

**CONCLUSION**

With approval of the related text amendment, Section 20-402 of the Land Development Code requires a Special Use Permit for the *Manufacturing & Production, Limited*, and the *Retail, General* use in the MU District, Tertiary Development Zone. The uses, as conditioned, are compatible with this location. Staff recommends approval of the Special Use Permit as conditioned.