

**ITEM NO. 1A      TEXT AMENDMENT TO LAND DEVELOPMENT CODE (BJP)**

**TA-17-00495:** Consider 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.*

**STAFF PRESENTATION**

Ms. Becky Pepper presented Item 1A.

**APPLICANT PRESENTATION**

Ms. Margretta de Vries felt the text amendment would allow more flexibility for property owners.

**PUBLIC HEARING**

Mr. Ted Boyle, North Lawrence Improvement Association, spoke in favor of the text amendment.

**COMMISSION DISCUSSION**

Commissioner Culver asked if RS zoning would trigger a tertiary zoning.

Mr. McCullough said yes. He said development would designate the zone for uses they were trying to get to. He said if it was surrounded with Single-Dwelling it would be tertiary. He said the HERE project had Mixed Use zoning and no tertiary because it was all Multi-Dwelling zoning.

Commissioner Kelly asked for an example of tertiary MU zoning in Lawrence.

Mr. McCullough said there were no examples. He said Mixed Use was a new district and that it had been employed mostly in the Oread Neighborhood along 14<sup>th</sup> Street to help with existing development. He said the HERE development project employed Mixed Use zoning as a new development proposal. He said McClain's at 1420 Crescent had secondary zoning with it. He stated this was the first time they had the opportunity to apply the tertiary zone.

Commissioner Carpenter said tertiary only allowed single-family which is why it had not been seen yet. He inquired about research services.

Mr. McCullough said research services was fully enclosed office use with research components, such as lab space or research and development. He said there was no limitation on size or employees.

Commissioner Willey inquired about the industrial manufacturing and production technological from the use table.

Mr. McCullough said when Mixed Use District was originally built they steered away from some of the industrial uses but as uses were added to the Code, such as makerspace, they were added to the Mixed Use District.

Commissioner Kelly felt it was interesting they were creating a column for tertiary but that there was none of it in use. He did not want to create an entire new column for one property.

Mr. McCullough said the distinctions between primary, secondary, and tertiary are not in the table but in the Mixed Use narrative. He said because there had not been a request or need for tertiary it had not been added. The Comprehensive Plan update identified a desire to have more mixing of uses and include commercial uses convenient to the neighborhood and this would lend itself toward those policies. He felt it was addressing a need in existing areas. He stated they had only used it in areas/properties that were Mixed Use that needed a

zoning tool to help redevelop or change the use. He said it was built with greenfield in mind but an unintended result was that existing development was finding a use for it.

Commissioner Willey said although this was new it harkened back to how historical neighborhoods worked and occupied in the first place.

Commissioner Kelly wondered if corner stores would be considered tertiary or secondary. He wondered if they were pushing too hard to get Mixed Use into residential neighborhoods.

Mr. McCullough said it would require rezoning to Mixed Use with a Special Use Permit in most cases so the community would have the opportunity to participate.

Commissioner Kelly said the bar may be set so high that this may not exist.

Mr. McCullough said it would be the only tool to get to at a certain outcome in some instances and that it would expand the options that an owner could have at their disposal.

Commissioner Carpenter said someone would have to want to rezone an individual property in a residential neighborhood to Mixed Use. He stated the devil was in the details. He said the Comprehensive Plan was pushing Mixed Use in neighborhoods. He liked the idea but could see the pitfalls.

Commissioner Struckhoff said limited manufacturing production was allowed by right in the Mixed Use zoning district.

Commissioner Culver said that was where the Special Use Permit would come into play for a formal process to look at the rezoning and Special Use Permit for a compatible use with the neighborhood.

Commissioner Kelly said Special Use Permits were challenging for Planning Commission and he did not want to set them up for approving every single use happening in the future.

Commissioner Carpenter inquired about Research Services.

Mr. McCullough said it could be compatible in some situations. He said it could be struck from the text amendment if they wished. He said it made sense in primary and secondary because those were the higher intensity uses. He said the Code was developed in 2006 and there had been hundreds of text amendments since then but that sometimes it takes specific projects to look at uses narrowly and how they relate to each other and compatibility. He said this would give staff the ability and opportunity to analyze those uses.

Commissioner Willey said she was in favor of expanding the Mixed Use in general. She felt they should put it out there and test the waters of what was possible but that they may find they missed the mark. She wanted to adopt it and try it on for size to allow for options. She was in favor of the text amendment.

Commissioner Carpenter asked if the text amendment could be pulled back after the fact.

Mr. McCullough said yes.

Commissioner Kelly said he would support the text amendment but wanted Planning Commission to think about what it would mean beyond 401 Elm Street. He felt the text amendment carried weight in providing guidance to developers and residents on how property could be used.

Commissioner Struckhoff said he met with the applicant before the August meeting and explained to her that the City and Comprehensive Plan were generally favorable to Mixed Use but that the site and project were not

what Planning Commission would solely consider. He said the text amendment would be for the entire community not just this specific project. He said he would support the text amendment and felt it provided a good balance of protection and control.

### **ACTION TAKEN ON ITEM 1A**

Motioned by Commissioner Willey, seconded by Commissioner Carpenter, to approve the proposed amendment, TA-17-00495, amending sections of Article 4 and Article 11 of the Lawrence Land Development Code to permit nonresidential uses and vertical mixed-use structures in the Tertiary Zone of the MU (Mixed Use) District and forwarding to the City Commission with a recommendation for approval.

Unanimously approved 7-0.

### **ITEM NO. 1B      REZONING FROM RS5 TO MU; 401 ELM ST (BJP)**

**Z-17-00322:** Consider a request to rezone approximately 2500 sq ft from RS5 (Single-Dwelling Residential) District to MU (Mixed Use) District, located at 401 Elm St. Submitted by Margretta O. Farrar-de Vries, property owner of record. *Deferred by Planning Commission on 8/23/17.*

### **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 PRESENTATION**

Ms. Becky Pepper presented items 1B and 1C.

### **APPLICANT PRESENTATION**

Ms. Margretta de Vries said she was trying to bring the building into compliance. She said the lack of climate control in the shop would mean hours would have to be limited to early morning or evening during the summer months. She played an audio clip from her brother.

### **PUBLIC HEARING**

Ms. Pricilla Howe spoke in favor of the rezoning and Special Use Permit.

Mr. Ted Boyle, North Lawrence Improvement Association, spoke in favor of the rezoning and Special Use Permit. He said there were a few parking issues when the site was used as a residence. He felt the Special Use Permit should be reviewed every 2-5 years to make sure the neighbors were happy.

### **COMMISSION DISCUSSION**

Commissioner Sinclair asked if the owner could change the use after the rezoning and Special Use Permit were approved.

Ms. Pepper said the Special Use Permit was for manufacturing and production limited and retail general. She said if they wanted another use permitted in tertiary with a Special Use Permit it would be heard by Planning Commission and City Commission.

Mr. McCullough said permitted uses would need at least site plan administrative approval with notice to neighbors.

Commissioner Kelly expressed concern about parking and asked if there was still a trailer on the property and if parking could be used in that space.

Ms. de Vries said the trailer was gone but that she was considering different options for parking.

Mr. McCullough said there were two ways parking could be waived; either with a variance through the Board of Zoning Appeals or waived through the site planning process. He said staff used judgement when waiving parking. He said this was a pretty low intensity use.

Commissioner Carpenter inquired about the hours of operation.

Ms. Pepper said the hours were taken from the Home Occupation Type B use.

Mr. McCullough said the tertiary zone should be compatible with residential uses.

Commissioner Kelly said Franks North Star had loud bands in the evening.

Ms. de Vries said it was zoned commercial.

Commissioner Culver said he would support Mr. Boyle's suggestion of a review period of 2 years.

Commissioner Carpenter agreed with Commissioner Culver.

Commissioner Paden inquired about the review process.

Mr. McCullough said review periods were rarely set on Special Use Permits because it would be hard to review without conditions. He said staff would support looking at the impacts of the use and setting conditions to mitigate issues and monitor the site. He said time limits on any development could impact financing for the applicant. He said if conditions were set and not being met then there was a revocation process to potentially revoke a Special Use Permit.

Commissioner Willey said she was not in favor of a review period because it would be problematic for business owners. She felt that the hours of operation should be known upfront for anyone renting the space.

Commissioner Paden asked if the hours could be extended.

Mr. McCullough said yes, that was correct.

Commissioner Struckhoff wondered if they should discuss the restriction of power tools after hours.

Ms. de Vries said the City noise ordinance was 7:00am-10:00pm and she felt that was enough. She said she would write the hours into the lease of the tenant.

Mr. McCullough said the City did not rely on the noise ordinance for land use. He said there was a difference between a homeowner who occasionally uses power tools and a business that operates 7 days a week. He said they did not want to put more strain on police resources.

Commissioner Kelly said this was an industrial use and he was fine with 7:00pm.

Commissioner Struckhoff said he was okay with 9:00pm to match truck deliveries.

## **ACTION TAKEN ON ITEM 1B**

Motioned by Commissioner Kelly, seconded by Commissioner Culver, to approve the request to rezone approximately 2500 sq ft from RS5 (Single-Dwelling Residential) District to MU (Mixed Use) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 7-0.

Commissioner Culver said the hours of operation could be changed by the applicant in the future.

Commissioner Carpenter said Planning Commission made a recommendation to City Commission and that they could change the hours. He said he would rather have trucks and operation end at the same time.

Commissioner Struckhoff said he would appreciate the consistency in hours.

### **ACTION TAKEN ON ITEM 1C**

Motioned by Commissioner Kelly, seconded by Commissioner Willey, to approve the 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 9 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"

Unanimously approved 7-0.