

PLANNING COMMISSION REPORT

Regular Agenda -- Public Hearing Item

PC Staff Report
09/26/2016

ITEM NO. 4 TEXT AMENDMENT TO ZONING REGULATIONS; SMALL SCALE INDUSTRIAL USES (MKM)

TA-16-00323: Consider a Text Amendment to Section 20-319-4 Conditional Uses Enumerated of the Zoning Regulations to add small scale industrial uses, with standards, to the list of uses which are permitted when approved as Conditional Uses. *Initiated by County Commission on 8/24/2016.*

RECOMMENDATION: Staff recommends approval of the proposed amendment, TA-16-00323, to revise Section 12-319-4 in the Zoning Regulations to add Small Scale Industrial uses to the list of Conditional Uses and to establish standards for the use and that the Planning Commission forward a recommendation for approval to the Board of County Commissioners.

Reason for Request: Currently, small scale industrial uses are permitted in the Agricultural Zoning District as Home Occupations with an administrative approval process. Industrial uses which exceed the size or employee limit of the Home Occupation, or are not located on the same property as the business owner's residence, require rezoning to an Industrial Zoning District. This amendment would provide a transitional approval process, the Conditional Use Permit, for small scale industrial uses on properties that generally meet the criteria for approval of industrial zoning but may not be well suited to the range of uses which would be allowed with the I-1 (Limited Industrial) Zoning designation.

RELEVANT GOLDEN FACTOR:

- Conformance with the comprehensive plan.

ATTACHMENTS

- Attachment A – Draft language

OVERVIEW OF PROPOSED AMENDMENT

The amendment adds *Small Scale Industrial* uses to the list of uses which are allowed when approved as a Conditional Use. Planning and the Zoning and Codes Office have received several inquiries into the approval process for a small industrial use and have responded that it would be necessary to rezone the property to an Industrial or Business District.

In many cases, the property would be suitable for rezoning; however, the rezoning would permit not only the requested use but a range of uses. The-is amendment would allow small scale industrial uses in locations where they are appropriate without the range of other uses which would be permitted with the industrial zoning. Table 1 illustrates the range of uses which would be permitted on a property if rezoned to the IL District to accommodate a small scale industrial use.

In some instances, a Home Occupation grows to the point where it no longer meets the criteria for a Home Occupation, but it remains small enough that it would be compatible with the

surrounding land uses. In others, a project is proposed which would be low impact and could be appropriate on a property; while some of the other uses permitted in the industrial zoning district could have a negative impact on nearby properties.

One option is to use conditional zoning, where all uses but the proposed use are removed from the district. Conditional zoning is often used when a site is suitable for rezoning to a district, but some uses in the district are seen as problematic – based primarily on traffic generation, site characteristics, and potential negative impacts on surrounding land uses. Developing a Small Scale Industrial Conditional Use will allow the use in those locations where it would be appropriate, without allowing the other uses permitted in the I-1 District that may not be suitable for that area. This amendment would also provide an opportunity for existing small businesses to grow in their current location.

The CUP process has the same review and approval process as a rezoning request.

- Public hearing at a Planning Commission meeting. If the property is within 3 miles of an incorporated City, a public hearing at a Joint Planning Commission is held.
- Protest petition. If a valid protest petition is submitted, a super-majority (unanimous) vote of the Board of County Commissioners is required to approve the request.
- Consideration and action by the Board of County Commissioners.

The CUP has the following advantages over rezoning:

- Conditions to minimize any negative impacts may be developed and applied to each use, based on the specific use proposed and the site characteristics as well as the character of the area.
- The permitted use is limited to the specific use listed in the CUP.
- An approval time frame may be established. Prior to expiration, the business owner may request an extension. The extension request would be evaluated to see if it remains compatible with the character of the area as it has developed. The CUP could be approved if found to be compatible, it could be approved with revised conditions, or the extension request could be denied.
- There is an amendment and revocation process for Conditional Uses. If the use is found to be in violation of the conditions, it is possible to amend or revoke the Conditional Use.

The additional safeguards established with Conditional Uses and the ability to tailor and condition the permitted use would be preferable, in some cases, to rezoning the property to the Limited Industrial District.

Table 1. Permitted Uses in the I-1 (Limited Industrial) District
1) Laboratories, research, experimental, or testing.
2) Offices or office buildings.
3) Wholesale merchandising or storage warehouses with floor area devoted to warehousing and handling of merchandise
4) <i>Compounding of cosmetics, toiletries, drugs, and pharmaceutical products.</i>

5) <i>Photographic processing or blueprinting.</i>
6) <i>Printing and publishing.</i>
7) Manufacture or assembly of medical and dental equipment drafting, optical and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus.
8) Manufacture or assembly of boats, bolts, nuts, screws, and rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery, and hardware products, sheet metal products, and vitreous enameled metal products.
9) Manufacture of food products, including beverage blending or bottling, bakery products, candy manufacture, dairy products and ice cream, fruit and vegetable processing, and canning, packing and processing of meat and poultry products, but not distilling of beverages, slaughtering of poultry or animals, or processing of bulk storage of grain or feeds for animals or poultry.
10) Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, and printing and finishing of textiles and fibers into fabric goods.
11) Manufacture of boxes, crates, furniture, baskets, veneer, and other wood products of a similar nature.
12) Moving picture production.
13) Light manufacturing uses similar to those listed above, which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat, or glare that that which is generally associated with light industrial uses of the type specifically permitted.
14) Bank, drive-in or otherwise.
15) Restaurant, not drive-in
16) Filling station, if located in a district of 20 acres or more.
17) Hotel, motel, or motor lodge, if located in a district of 20 acres or more.
18) Hotel, motel, or motor lodge, if located in a district of 20 acres or more.
19) Dwellings for watchmen and caretakers employed on the premises.
20) Accessory farm dwellings on a farm of 10 acres or more
21) Railroad siding
22) Animal hospital or clinic.

TABLE LEGEND:

- Some uses permitted in the I-1 District are permitted in the A (Agricultural) District. These uses are highlighted in the table, and are not included in the list of uses which would be permitted with a CUP.
- Only industrial uses are being considered with this amendment. Non-industrial uses are shown as ~~struckthrough~~.
- Uses included in this text amendment as small scale industrial conditional uses are shown in **bold**.

The following industrial uses permitted in the I-1 District are not included in the Small Scale Industrial Conditional Uses: *Compounding of Cosmetics, Toiletries, Drugs, and Pharmaceutical Products, Photographic Processing or Blueprinting and Printing and Publishing*. In staff's opinion, these uses would be included in the category of uses which are similar to those listed uses, provided they do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat, or glare that that which is generally associated with light industrial uses of the type specifically permitted. These businesses would be evaluated on a case-by-case basis for hazardous impacts.

I-1 DEVELOPMENT

Per the information on file in Planning's GIS maps, there are 10 parcels that are currently zoned I-1. Of these, 6 are undeveloped and most of these have impediments to development such as the lack of road frontage. One developed parcel has a use that isn't permitted in the district, but that may predate the Zoning Regulations. The parcels that are developed with uses that are permitted in the I-1 District include the Hull Iron Works in Pleasant Grove and McFarlane Aviation near Vinland. McFarlane Aviation is a good example of a use that would require the IL Zoning as it isn't small scale and is industrial in nature. The Hull Iron Works shop would have been a good candidate for a CUP as the use is small scale, the property has a rural rather than industrial appearance, and there is no exterior storage. (Figures 1 and 2)



Figure 1. McFarlane Aviation located in the I-1 Zoning District. 24,000 sq ft building; has site plan approval for 48,000 total.



Figure 2. Hull Iron Works located in the I-1 Zoning District. Residence and iron shop. 2,080 sq ft shop building.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Horizon 2020 recommends that an industrial site should substantially meet the following general criteria:

- Have feasible access to Federal and State transportation networks
- Be of adequate parcel size, generally over forty acres
- Lie primarily outside of the regulatory floodplain
- Have minimal average slopes (Page 7-4 to 7-5)

It further recommends that the following specific criteria should be met:

- preserve environmentally sensitive areas, including vegetative cover and wildlife habitat, to act as buffers and site amenities;
- Encourage natural stormwater management, including locations that permit direct discharge to the floodplain;
- Have available and adequate utilities, infrastructure and services (i.e. police and fire protection) for the proposed use;
- Be compatible with existing and future zoning/land use patterns, including the use of appropriate buffers between land uses;
- Be annexed before development if adjacent to municipal boundaries.

These criteria should be applied to the Small Scale Industrial Use as it is intended as a transitional step between Home Occupation type businesses and businesses that are large enough to require rezoning.

CRITERIA FOR REVIEW AND DECISION-MAKING

Section 12-324 of the Zoning Regulations provides the process for proposed text amendments but does not include criteria for review and decision-making. The text amendment was reviewed with the following criteria which are similar to those in the City of Lawrence Development Code:

1) Whether the proposed text amendment corrects and error or inconsistency in the Zoning Regulations or meets the challenge of a changing condition

The proposed text amendment is in response to a changing condition as small businesses are becoming more prevalent. Many rezoning applications have met with opposition based on the wide range of uses that would be permitted in the proposed zoning district. Neighbors have indicated that they would not oppose the project, if they could be sure the use that is being proposed is the use that would be developed and that would be on the property in the future.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of the Zoning Regulations

The proposed amendment is consistent with the Comprehensive Plan and the purpose of the Zoning Regulations in that it includes standards and processes to insure the compatibility with nearby land uses. A Conditional Use Permit provides that assurance in that the permit is linked to the specific use. A change in the use would require submittal of an amended Conditional Use Permit application and a public hearing before the Planning Commission and approval by the Board of County Commissioners. The CUP process provides additional assurances to nearby

landowners through conditions that may be applied to the use to insure the use is compatible with nearby uses. In addition, the Zoning Regulations provides for the amendment or revocation of a Conditional Use Permit if there is non-compliance with the conditions. It is also possible to place an expiration date on a CUP so that an extension request must be made. This allows the use to be re-evaluated to determine if it remains compatible with the character of the area and the nearby land uses, as the area develops.

SECTION 1: NEW LANGUAGE PERTAINING TO SMALL SCALE INDUSTRIAL USES

12-319.4.36 Small Scale Industrial Uses

A small scale industrial use is an industrial use that is permitted in the I-1 (Limited Industrial) District that is of such a scale as to be compatible with nearby land uses, while maintaining the rural character of the area. Small Scale Industrial Uses which would be permitted as Conditional Uses include:

- a.** Establishments primarily engaged in on-site production or assembly of goods by hand manufacturing involving the use of hand tools and small-scale equipment. Typical uses include:
 - 1) On-site production of goods by hand or artistic endeavor;
 - 2) Placement of digital or analog information on a physical or electronic medium;
 - 3) Light manufacturing, predominately from previously prepared materials, of finished products or parts, provided the noise, light, smell, or vibration does not extend beyond the site;
 - 4) Research of an industrial or biotechnical nature;
 - 5) Moving picture production such as movies, videos, and television; and
 - 6) Similar small scale industrial uses which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat, or glare that that which is generally associated with light industrial uses of the type specifically permitted.
- b.** Standards to maintain consistency with the Comprehensive Plan recommendations for Industrial uses and to insure compatibility with nearby land uses and the character of the area are listed below:
 - 1) Small Scale Industrial uses are permitted as Conditional Uses only on properties that are zoned A (Agricultural) or V-C (Valley Channel).
 - 2) The proposed use shall be located primarily outside of the regulatory floodplain.
 - 3) Vegetative cover and wildlife habitat on the site shall be preserved, along with other environmentally sensitive areas to act as buffers and site amenities.
 - 4) The site shall have adequate utilities, infrastructure and services for the proposed use.
 - 5) The total square footage of all buildings used in the operation and storage shall not exceed 10,000 sq. ft. unless a larger area is approved by the Board of County Commissioners.
 - 6) The establishment may employ up to 15 full-time equivalent non-resident employees, as defined in Section 12-303-1.65.

- 7) All business activity shall be conducted within the structure with no outdoor storage of materials or product.
- 8) Parking spaces for all employees and loading areas must be provided on the site. No loading activity or parking is to occur on the adjacent roadway.
- 9) The use does not require Federal air quality discharge permits.
- 10) The use shall not generate offensive off-site external effects (such as noise, glare, vibrations, etc.).
- 11) The site shall be located on a full maintenance public road.
 - i. Traffic information shall be provided, as requested by the County Engineer, to insure the suitability of the adjacent roads to handle the anticipated traffic to be generated by the use.
 - ii. Improvements to the access point to meet current standards, or roadway improvements needed due to traffic generated by the use, or spacing of access drives, all as identified by the County Engineer, shall be required as part of the Conditional Use.
 - iii. The property must, at a minimum, meet the Access Management Standards for residential properties.
- 12) Exterior lighting associated with the use shall be limited. The Conditional Use site plan shall show the location of proposed exterior lighting with the height noted. Lighting spec sheets shall be provided with the plans to illustrate the means taken to eliminate glare. Full cut-off fixtures shall be provided; however, low level lighting (less than 2,600 lumens or 150 watt incandescent bulb) does not require full cut-off fixtures.
- 13) New structures for the use should be of a type that is common to the rural area, rather than industrial, to maintain the rural character of the area.
- 14) No shift work/24 hour a day businesses shall be permitted. Business shall operate with defined working hours.