

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller

CC: Scott McCullough, Planning and Development Services Director

Date: For October 21, 2013 meeting

RE: Item No. 2B: RS10 TO IL; 1.785 ACRES; 1146 HASKELL AVE

Uses permitted within the IL District are being reviewed in response to public communications from two members of the Brookcreek Neighborhood and the Brookcreek Neighborhood Association. These letters were included in the Planning Commission agenda packet. **The revised staff recommendation is included on Page 6 and 7 of this memo.**

Attachment A of the staff report listed the uses which are permitted within the IL District. Conditioned zoning was not recommended with the staff report because it is staff's opinion that the standards and requirements of the Development Code and the review process contain safeguards adequate to insure compatible development. However, based on the concerns which were raised staff agrees that conditional zoning might be appropriate. This memo reviews the uses permitted within the IL District in regard to compatibility with the nearby residential uses.

This memo includes a comparison of the uses which are permitted within the RS7, RSO, and CN1 Zoning Districts. These districts were chosen for the following reasons:

- The residences south of the subject property are zoned RS7. Uses which are permitted within the RS7 District should be permitted within the proposed IL District, as there is no need to make it less intensive than the adjacent residential zoning.
- The RSO (Single-Dwelling Residential-Office) District is intended to accommodate low to medium-intensity offices that are compatible with the character of low and medium-density residential neighborhoods. Uses permitted within this district should also be permitted within the IL District.
- The CN1 District is the Inner Neighborhood Commercial District and its uses are intended to be located within a developed neighborhood. Uses permitted within the CN1 District should also be permitted in this district.

The table below lists the uses which have been proposed for restriction in the public communications. The table notes if the uses are permitted in the RS7, RSO, or CN1 Districts (in red), and whether the use in the IL District requires approval of a SUP or has use specific standards. Use specific standards are summarized. Definitions are included where necessary for clarity.

Suggested Restricted Uses	Standards etc that apply in the IL District
<i>Mobile Home</i>	Permitted ; Per definition a mobile home is not considered a dwelling unit unless it is located within a mobile home park. A <i>Mobile Home Park</i> is not permitted in the IL District. The mobile home could be used as a modular unit similar to schools and the temporary library.
<i>Cemetery</i> (permitted in RS7, RSO, and CN1 Districts)	Permitted
<i>College/University</i> (Permitted within the RS7, RSO and CN1 Districts with SUP)	Permitted
<i>Detention Facilities</i>	Permitted /Requires Special Use Permit
<i>Lodge, Fraternal & Civic Assembly</i> (Permitted within the RS7, RSO and CN1 Districts with SUP)	Permitted , Definition: "Meetings and activities primarily conducted for members of these groups. Excludes 'Group Living' and 'Transient Habitation' use types. Typical uses include meeting places for civic clubs, lodges, or fraternal or veteran organizations. Lodge, Fraternal and Civic Assembly uses are small-scale, and shall not exceed a capacity of 500 people."
<i>Postal & Parcel Service</i>	Permitted
<i>Public Safety</i> (Permitted within the RS7, RSO and CN1 Districts with SUP)	Permitted
<i>Funeral & Interment</i> (Permitted in RSO District with standard in 20-505)	Permitted in IL Standard 20-505 <i>Interment use Must be surrounded with 6 ft high fence or wall.</i>
<i>Temporary Shelter</i> (Permitted as accessory use in RS7, RSO, CN1 Districts. Permitted as primary use with approval of SUP in RSO and CN1 Districts) standards	Permitted as Accessory Use or as Primary Use with SUP Accessory comply with provision of 20-504. Primary use comply with design standards of 20-544.
<i>Social Service Agency</i> (Permitted in RSO and CN1 Districts)	Permitted
<i>Active Recreation</i> (Permitted in RS7, RSO, CN1 Districts with SUP)	Permitted Definition:
<i>Kennel</i>	Permitted
<i>Livestock Sale</i>	Permitted
<i>Animal Sales & Grooming</i> (Permitted in CN1)	Permitted
<i>Veterinary</i> (Permitted in RSO)	Permitted
<i>Accessory Bar</i> (Permitted in CN1)	Permitted as Accessory Use —standards in 20-509
<i>Fast Order Food</i> (Permitted in RSO and CN1)	Permitted
<i>Fast Order Food, Drive-in</i>	Permitted
<i>Commercial Parking Facilities</i> (Permitted in RSO)	Permitted
<i>Personal Convenience Retail Sales</i> (Permitted in CN1)	Permitted
<i>Hotel, Motel, Extended Stay</i>	Permitted
<i>Car Wash</i>	Permitted
<i>Gas & Fuel Sales</i>	Permitted

<i>Heavy Equipment Repair</i>	Permitted
<i>Heavy Equipment Sales/Rental</i>	Permitted
<i>Inoperable Vehicles Storage</i>	Permitted
<i>Light Equipment Repair</i>	Permitted
<i>Light Equipment Sales/Rental</i>	Permitted
<i>RV & Boats Storage</i>	Permitted
<i>Laundry Service</i>	Permitted
<i>Manufacturing & Production</i>	Permitted
<i>Scrap & Salvage Operation</i>	Permitted with a SUP
<i>Amateur & Receive-Only Antennas</i> (Permitted in RS7, RSO, and CN1 as accessory use)	Permitted as an Accessory Use
<i>Broadcasting Tower</i>	Permitted
<i>Communications Service Establishment</i> (Permitted in RSO and CN1 Districts)	Permitted
<i>Telecommunications Antenna</i> (Permitted in RS7, RSO, and CN1 as accessory use)	Permitted as Accessory Use Standards in 20-529 apply
<i>Telecommunications Tower</i> (Permitted in RS7, RSO, and CN1 with SUP)	Permitted as Special Use Standards in 20-529 apply
<i>Large Collection Recycling Facilities</i>	Permitted standards in 20-540 apply
<i>Small Collection Recycling Facilities</i> (Permitted in CN1)	Permitted standards in 20-540 apply
<i>Recycling Processing Center</i>	Permitted with SUP
<i>Industrial, General</i> This use was not mentioned, but the use would be similar in impact to <i>Manufacturing and Production</i> so this use will also be reviewed.	Permitted

The proposed use, Construction Sales and Services is not permitted in the residential or CN1 Districts, but a review of the proposed uses with those that are permitted should help determine those which are compatible by virtue of being permitted in those districts. Other uses will be reviewed specifically to determine those which could be incompatible with the nearby residential uses.

Staff recommends that uses that are permitted in the IL District only as 'Special Uses' remain. Per Section 20-1306, the Special Use review and approval procedures provide a discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure entails public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at-large. These provisions should be adequate to insure compatibility of uses and design.

REVIEW OF PROPOSED RESTRICTED USES

Mobile Home. Staff does not recommend the restriction of this use. A *Mobile Home* can be used for a dwelling only when located in a mobile home park. *Mobile Home Parks* are not permitted in the IL District; therefore, the mobile home might serve as a temporary storage or office area. Mobile homes have been used in this fashion with several schools in the area and with the temporary public library.

Cemetery. Staff does not recommend a prohibition on cemeteries as this use is permitted in the RS7, RSO, and CN1 District. Activities associated with a cemetery should not negatively impact the adjacent properties.

College/University. While the site is not large enough for a major university or college, it could contain a satellite location or virtual school. This use is permitted in the RS7, RSO, and CN1 Districts as a Special Use. Given the size of the site, in staff's opinion, there would be no negative impacts associated with a small college/university use.

Lodge, Fraternal & Civic Assembly. This use includes uses such as 4-H clubs, bridge clubs, as well as veteran organizations. This use is permitted in the RS7, RSO, and CN1 Districts as a Special Use. It may be appropriate to require a SUP with this use as the types of assembly could vary and have differing characteristics and impacts on the neighborhood.

Postal and Parcel Service. This use category includes mailing and processing services. A mailing service or a satellite Postal or UPS facility are examples of this use. In staff's opinion, this use would be compatible.

Public Safety. Fire stations, ambulance services and police stations fall within this category. These uses could have negative impacts; however, they could also provide a valuable service to the area. This use is permitted in the RS7, RSO, and CN1 Districts as a Special Use. Rather than restricting this use, it may be more appropriate to allow it as a Special Use so the proposed use and its impacts could be adequately reviewed.

Funeral & Interment. This use is permitted in the RSO District. The use specific standard requires a 6 ft high fence or wall surround the use. In staff's opinion, there would be no negative impacts from this use.

Social Service Agency. This use is permitted in the RSO and CN1 District. In staff's opinion, this use would be compatible with nearby residences.

Active Recreation. *Active Recreation* refers to the areas and facilities used or designed for active or group sports and recreational activities, including spectator areas associated with such facilities. Such areas include athletic fields and courts, playgrounds and play apparatus, skating rinks, swimming pools, and community buildings. The use is permitted in the RS7, RSO, and CN1 Districts with a SUP. As the use could be an outdoor use, a Special Use Permit may be appropriate to insure the character of the use is appropriate and does not negatively impact the nearby residential properties.

Kennel and Livestock Sales. These uses typically include outdoor areas for animals which could create a noise issue for neighboring properties. Odor could also be associated with Livestock Sales. These uses would be appropriate for restriction given the proximity of the adjacent residences.

Animal Sales & Grooming. This use is permitted in the CN1 District. This use typically occurs inside and should have no external features which would negatively impact nearby residential uses.

Veterinary. A veterinary office does not typically include outdoor areas for animals. This use is permitted in the RSO District. The standards and requirements of the Development Code which will be implemented through the site planning process should result in compatible development.

Accessory Bar. This use is permitted in the CN1 District. An accessory bar would have to be accessory to a restaurant and the sale of food must constitute at least 55% of the total sales. This use would be very similar to a quality restaurant. In staff's opinion, it is not necessary to restrict this use.

Fast Order Food. This use is permitted in the RSO and CN1 Districts. A fast order food establishment is one where food is available within a short waiting time and is packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold. A coffee shop or bakery would be an example of this use. A sandwich shop without a drive-through would be another example. The provisions

of the Development Code which would be implemented through the site planning process should insure compatible development.

Fast Order Food, Drive-in. Fast order food with a drive-in (drive-through) would probably not meet the requirements for access. A coffee shop with a drive-through window is one example of this type of use which might be compatible with the surrounding area; however, a fast food franchise would also be an example of this use. Depending on the nature and intensity of the drive-through use, this use could be incompatible with the nearby residential uses; therefore, restricting this use would be appropriate.

Commercial Parking Facility. A *Commercial Parking Facility* is defined as a parking facility that provides parking that is not accessory to a specific use. A parking lot on this location may be unlikely, but it would be a low impact use. In staff's opinion, restricting this use is not necessary.

Personal Convenience. This use is permitted in the RSO District. *Personal Convenience* uses are defined as "Provisions of small personal items or consumer-oriented, personal services. These include various general retail sales and personal services of a small, neighborhood-scale. Typical uses include neighborhood grocery stores, drugstores, Laundromats/dry cleaners and barbershops." In staff's opinion, this corner lot in close proximity to the Burrough's Creek Trail would be a suitable location for these uses. As these uses are meant to be of a small, neighborhood-scale they should be compatible with the nearby residential uses. In staff's opinion, restricting this use is not necessary.

Hotel, Motel, Extended Stay. The size of a facility would be limited by the site's size and the ability to provide the required off-street parking while maintaining the required bufferyards. In staff's opinion, the provisions of the Development Code should be adequate to minimize any negative impacts; however, it may be appropriate to limit this use as a Special Use to insure compatibility.

Car Wash, Gas & Fuel Sales, Heavy Equipment Repair, Heavy Equipment Sales/Rental, Light Equipment Repair, Inoperable Vehicles Storage, Light Equipment Sales/Rental, RV & Boats Storage. While the property has historically been used for vehicle related activities, the most recent use was not compatible with the surrounding properties. Restricting these uses may be appropriate to reassure the neighbors that a use similar to the recent recycling facility would not be possible.

Laundry Service. Typical uses include laundering, dry-cleaning, or dyeing services other than those classified as 'Personal Convenience Services'. Typical uses include laundry or dry cleaning agencies, diaper services and linen supply services. Staff has not identified any features of this use which would be incompatible with the nearby residences. In staff's opinion, restricting this use is not necessary.

Manufacturing and Production uses permitted in the IL District include both Limited and Technical uses. *General Industrial Uses* are also permitted. These uses are defined as:

Manufacturing and Production, Limited: This use is defined as establishments generally employing fewer than 20 persons that do not involve outside storage of materials, do not require Federal air quality discharge permits, and are compatible with nearby residential uses because there are few or no offensive external effects. This use is restricted by its definition to uses which are compatible with residential uses. In staff's opinion, restricting this use is not necessary.

Manufacturing and Production, Technological "Production, processing, assembling, or packaging of products that rely upon research and technological innovation. Typical uses include manufacturing research instruments, electronic products, and surgical and medical instruments. This use type does not include uses that require Federal air quality discharge permits."

This use is similar to *Manufacturing and Production, Lmt'd* without the restriction on exterior storage or the number of employees. The Code contains provisions related to the screening and location of exterior

storage. This use could be compatible with the nearby residences with measures taken through the site planning process.

General Industrial. Although this use was not mentioned in the public comment, it is similar to the *Manufacturing and Production* uses so it is included in this review. *General Industrial* is defined as: *"Production, processing, assembling, packaging or treatment of food and non-food products; or manufacturing and/or assembly of electronic instruments and equipment and electrical devices. General Industrial uses may require Federal air quality discharge permits, but do not have nuisance conditions that are detectable from the boundaries of the subject property."*

As uses permitted within this district may not have nuisance conditions such as noise, odors, noxious fumes, electrical disturbances or night illumination into residential areas this use should be compatible with nearby residential uses with the standards and requirements of the Development Code which will be implemented through the site planning process.

Broadcasting Tower. The tower and equipment necessary for broadcasting are usually fairly large scale. This use may not be compatible with the nearby residential uses.

Communications Service Establishment. Recording studios, television and radio studios, and telecommunication service centers are examples of this use. The use is permitted in the RSO and CN1 Districts and in staff's opinion could be compatible.

Telecommunications Antenna. This use is permitted as an accessory use to an existing tower in the RS7, RSO, and CN1 District. It would be appropriate in this district as well.

Collection Recycling Facilities are defined as:

"A center or facility for the acceptance by donation, redemption, or purchase of recyclable materials from the public. A small collection facility may occupy a maximum area of 500 sq ft. Large collection facilities may occupy greater land area."

In staff's opinion a collection facility would not be incompatible with the nearby residential uses as processing is not permitted within a collection facility. Processing includes the preparation of materials for efficient shipment, or to an end-user's specifications by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. In staff's opinion, restricting this use is not necessary; however, given the nature of the most recent use on this site restricting a large collection facility may help assure neighbors that a use similar to the previous will not be reinstated on the property.

Staff's Recommendation (revised)

Staff does not propose the restriction of uses which are permitted within the RS7, RSO, or CN1 Districts as these districts were specifically developed for residential uses or uses which are compatible with residential uses. Uses which require approval of a Special Use Permit will require a public hearing process where the compatibility of the specific use can be determined; therefore, staff does not recommend restricting any uses which are permitted in the IL District only with a SUP.

Staff recommends approval of the rezoning request for approximately 1.785 acres from RS10 (Single-Dwelling Residential) District to IL (Limited Industrial) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following condition:

The following uses are permitted only upon approval of a Special Use Permit:

- *Lodge, Fraternal & Civic Assembly*

- *Active Recreation*
- *Hotel, Motel, Extended Stay*
- *Public Safety*

The following uses are not permitted within the district:

- *Kenel*
- *Livestock Sales*
- *Fast Order Food, Drive-in*
- *Car Wash*
- *Gas & Fuel Sales*
- *Heavy Equipment Sales/Rental*
- *Heavy Equipment Repair*
- *Light Equipment Sales/Rental*
- *Light Equipment Repair*
- *RM & Boats Storage*
- *Scrap and Salvage Operation*
- *Broadcasting Tower*
- *Large Collection Recycling Facilities*
- *Recycling Processing Center*
- *Participation Sports and Recreation, Outdoor*