



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 25, 2019

Department Administration

Director Approval Kelly Passauer

AGENDA ITEM Consider text amendments to Appendix B-Zoning of the City Code relating to:

1. Article VIII. Sign Regulations;
2. Appendix A. "Listing of Permitted and Conditional Uses" relating to "Bus garaging and equipment maintenance",
3. Article X. Special provisions applying to miscellaneous conditional uses; and
4. Article IV. Rules and Definitions.

SUMMARY RECOMMENDATION Modify the permitted and conditional use table to allow "bus garaging and equipment maintenance" in the C-2 and C-4 zones with a conditional use permit.

BACKGROUND The Planning Commission/Board of Zoning Appeals held public hearings on April 2, 2019 at 5:30 PM in the Veterans Room of Memorial Hall to consider text amendments to Appendix B-Zoning of the City Code relating to:

- Article VIII. Sign Regulations;
 - On March 5, 2019 Norman Chambers, representing Gran Villas Assisted Living Facility, requested a text amendment to the sign ordinance that would add the following text under 803.2 Project announcement and promotional signs:
 - "Directional signs: A limited number of private businesses are located in completely residential neighborhoods and on streets that are not highly traveled. Those businesses could make application for a directional sign to be placed on a main thoroughfare with their name and an arrow indicating direction to the business. All applications for this category of sign will require individual approval."
 - Planning Commissioners were concerned about the proliferation of this type of signage for private businesses in the rights-of-way if this text amendment was approved. The item died with a lack of a motion.
- Appendix A. "Listing of Permitted and Conditional Uses" relating to "Bus garaging and equipment maintenance",
 - Rusty Arnold, representing USD 446, appeared at the Planning Commission and requested a text amendment that would allow "Bus garaging and equipment maintenance" as a conditional use in an R-4, medium density multifamily dwelling district. The purpose of the school district's request is so that the bus barn facility could be constructed at the 2200 block of North 21st with a conditional use permit, since the rezoning attempt failed.

- A motion was approved on a 5-1 vote to recommend a text amendment that would allow “Bus garaging and equipment maintenance” as a conditional use in an R-4, medium density multifamily dwelling district.
- A motion was approved on a 6-0 vote to recommend a text amendment that would allow “Bus garaging and equipment maintenance” as a conditional use in the C-2, commercial services district and the C-4, highway commercial district.
- Article X. Special provisions applying to miscellaneous conditional uses; and
 - No action taken.
- Article IV. Rules and Definitions.
 - No action taken.

Changes in the conditional and permitted use table do not relate to just a specific location, but rather relate to all zones that are included or excluded for specific uses. Staff recommends a text amendment modifying the permitted and conditional use table to allow “bus garaging and equipment maintenance” in the C-2 and C-4 zones with a conditional use permit. Staff recommends this use as a conditional use, rather than a permitted use so that the same due process would be followed as a rezoning which includes notifying the property owners within 200’ in the City and 1,000’ in the County. A public hearing would then be held before the Planning Commission, and their recommendation would be forwarded to the City Commission for final consideration. The recommendation from the Planning Commission could include additional conditions; such as requiring drainage studies, traffic studies, ensure lighting does not shine onto nearby residential properties, that the area is kept clean of trash, etc. If the City Commission approved the conditional use permit, they could also modify the conditions recommended.

BUDGET IMPACT No direct budget impact.

SUGGESTED MOTION I move to modify the permitted and conditional use table to allow “bus garaging and equipment maintenance” in the C-2 and C-4 zones with a conditional use permit.

SUPPORTING DOCUMENTS

1. Staff Report to the Planning Commission
2. Ordinance

c. **Public hearings to consider text amendments to Appendix B-Zoning of the City Code relating to:**

1. **Article VIII. Sign Regulations;**
2. **Appendix A. “Listing of Permitted and Conditional Uses” relating to “Bus garaging and equipment maintenance”,**
3. **Article X. Special provisions applying to miscellaneous conditional uses; and**
4. **Article IV. Rules and Definitions.**

Request from Norman Chambers

On March 5, 2019 Norman Chambers, representing Gran Villas Assisted Living Facility, appeared at the Planning Commission and requested that a public hearing be initiated to consider a text amendment to the sign ordinance. On March 27, 2019 City staff received the attached email from Mr. Chambers requesting the following modifications to the code shown in yellow:

803.2. Project announcement and promotional signs:

- a. *Undeveloped project identification signs:* One nonilluminated or illuminated sign displaying information pertinent to an undeveloped subdivision, apartment project, office building complex, shopping center or industrial district shall be permitted within that ownership, provided that no such sign shall be closer than 200 feet to an occupied dwelling. Such signs shall be permitted on undeveloped tracts of at least ten acres in area and shall not exceed 300 square feet for ten acres plus 150 square feet for each additional ten acres in the development site.
- b. *Bulletin boards:* Outdoor bulletin boards not over six square feet in area for the promotion of a civic, welfare or charitable purpose, when the same are located on the premises of said institutions, will be permitted when specifically authorized by the governing body. They shall not be erected for more than a period of seven days, and shall be the responsibility of the organization for the removal of the sign, and shall have no commercial advertising on the sign.
- c. *Monument signs:* Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material, will be permitted in any zoning district.
- d. *Directional signs:* A limited number of private businesses are located in completely residential neighborhoods and on streets that are not highly traveled. Those businesses could make application for a directional sign to be placed on a main thoroughfare with their name and an arrow indicating direction to the business. All applications for this category of sign will require individual approval.

Mr. Chambers further recommended that a definition for “Directional sign” be added to the Section 403.0 Definitions.

City code 1604.2 provides the following regarding text amendments:

1604.1. Recommendations: Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. Whether such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

It should be noted that text amendments must be approved by the City Commission.

Request from Rusty Arnold representing USD 446

On November 6, 2018 the Planning Commission held a public hearing to consider rezoning the east side of the 2200 block of North 21st Street from R-4, medium density multifamily dwelling district to M-1, light industrial district for the purpose of constructing a bus barn at this location to serve the school district. The Planning Commission unanimously recommended approval. On November 29, 2018 the recommendation from the Planning Commission was considered by the City Commission, who ultimately tabled the matter until their December 13, 2018 meeting. At the December 13, 2018 meeting a motion was made to approve the recommendation of the Planning Commission to rezone this tract which died due to a lack of a second.

Since that time the school district located another tract and attempted to rezone the tract for this use through Montgomery County, however, this rezoning effort failed.

On March 5, 2019 Rusty Arnold, representing USD 446, appeared at the Planning Commission and requested that a public hearing be initiated to consider a text amendment that would allow “Bus garaging and equipment maintenance” as a conditional use in an R-4, medium density multifamily dwelling district. The City Commission or Planning Commission may initiate text amendments to the zoning code. The purpose of the school district’s request is so that the bus barn facility could be constructed at the 2200 block of North 21st with a conditional use permit, since the rezoning attempt failed.

Specifically, the recommended modification is:

1. Modify “Bus garaging and equipment maintenance” in the permitted and conditional use table to add R-4 as a permitted zoning district for this use with a conditional use permit.

Currently the permitted and conditional use table only allows “Bus garaging and equipment maintenance” as a permitted use in the M-1 and M-2 zones. It does not allow this use as a conditional use in any zone. See table below:

Legend:

P = Permitted Use

C = Conditional Use

Land Use Category	Code	Permitted Zoning District													
		A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2	
Bus garaging and equipment maintenance	4214													P	P

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1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- d. Whether such change is consistent with the intent and purpose of these regulations;
- e. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- f. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

It should be noted that if this text amendment is ultimately approved by the Commission, it would still require the school district to go through the conditional use permit process, which is similar to the rezoning process. A public hearing would need to be held before the Planning Commission, and their recommendation would be forwarded to the City Commission for final consideration. The recommendation from the Planning Commission could include additional conditions; such as requiring drainage studies, traffic studies, ensure lighting does not shine onto nearby residential properties, that the area is kept clean of trash, etc. If the City Commission approved the conditional use permit, they could also modify the conditions recommended.

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct public hearings on:

Tuesday, April 2, 2019, at 5:30 p.m.

To receive comments to consider text amendments to Appendix B-Zoning of the City code relating to:

1. Article VIII. Sign Regulations;
2. Appendix A. "Listing of Permitted and Conditional Uses" relating to "Bus garaging and equipment maintenance",
3. Article X. Special provisions applying to miscellaneous conditional uses; and
4. Article IV. Rules and Definitions.

Case Number:

2019/ZA/01

The hearing will be conducted in the Veterans Room, Memorial Hall, 410 North Pennsylvania Avenue, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend and they will be heard. Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

From: [Norman Chambers](#)
To: [Kelly Passauer](#)
Subject: Fwd: Re: Gran Villas Sign
Date: Wednesday, March 27, 2019 9:24:03 PM

Kelly, lets try this again. I will call you tomorrow and make sure you received it.

Norman

----- Forwarded Message -----

From: Norman Chambers
To: Norman Chambers
Sent: Wed, 27 Mar 2019 15:50:32 -0400 (EDT)
Subject: Re: Gran Villas Sign

Kelly, here is my recommendation for the text amendment to the sign ordinance regarding private business signage.

I recommend placing this text amendment as "d" under 803.2, "Project announcement and promotional signs:"

"Direction Signs: A limited number of private businesses are located in completely residential neighborhoods and on streets that are not highly traveled. Those businesses could make application for a directional sign to be placed on a main thoroughfare with their name and an arrow indicating direction to the business. All applications for this category of sign will require individual approval."

Supporting comments: (Emphasis are mine.)

The current sign ordinance contains language in support of community businesses. 801.2, "Intent and purpose", says "Regulation of the location, size, placement, and certain features of signs is necessary to **enable the public to locate goods, services, and facilities** in the City of Independence without difficulty and confusion, to encourage the general attractiveness of the community, and to protect values therein."

In addition paragraph b under 801.2 says, "**Enhance the economy and the business and industry** of the city by promoting the reasonable,

orderly, and effective display of signs, and thereby encourage increased communication with the public."

These comments are suggesting signage beyond City owned and emergency facilities and services.

If this amendment is accepted I would suggest adding "Directional Signs" to the glossary section of the ordinance.

If there are additional things you need from me prior to the Public Hearing, let me know.

Norman Chambers

ORDINANCE NO. _____

An Ordinance Amending the Zoning Code

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. The Zoning Code, Appendix A. – Listing of Permitted and Conditional Uses, is hereby amended as follows:

a. Under the land use category “bus garaging and equipment maintenance”, add that this land use shall be a conditional use under both the C-2 and C-4 zoning districts.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 25th day of April, 2019.

LOUIS YSUSI, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk