



## Memorandum

**To:** Sean Ackerson, Assistant City Administrator / Community Development Director

**From:** Zach Tusinger, Community Development Intern

**Date:** Thursday, July 16, 2015

**RE:** Restrictions on Non-Retail and Residential Uses in Downtown

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### **Issue: Non-Retail Uses on Main Street**

The Main Street Parkville Association (MSPA) has lobbied the City of Parkville (the City) to create a zoning text amendment to limit uses for first floor storefronts on Main Street to retail and service uses. Recently a few office spaces have moved into store fronts on Main Street and property and business owners have expressed concerns that these uses take up parking spaces that would otherwise be available to retail customers while at the same time creating 'dead spaces' that do not attract customers, and not contributing to a vibrant and thriving commercial district that attracts people to downtown Parkville.

Any amendments to current downtown zoning regulations must be careful to not accidentally be too broad and exclude non-retail uses that would normally be favorable to downtown districts like Parkville's. Since an amendment would limit potential leases, widespread support from property owners and businesses is desired. Indeed, much support already exists as evidenced by a petition presented to the City by the MSPA.

A widespread zoning code update for the entire City of Parkville is in its beginning stages and this issue would naturally be addressed there. However, there is concern that in the interim more office uses may relocate to downtown thus grandfathering those properties and businesses in as preexisting nonconforming uses. To that extent, many of the property owners have identified this as a top priority for the City to address and, in the interim, are voluntarily restricting leases to uses other than offices.

### **Current Downtown Zoning**

Before discussing possible changes to downtown's zoning regulations, a thorough review of current zoning use regulations for downtown Parkville is necessary. Currently, zoning downtown is regulated by Chapter 442 "OTD" Old Town District. The purpose of the OTD is twofold: to maintain and enhance the character of the commercial portion of the urban core while also providing for new development within the immediate OTD area. Additionally, it is stated that the district "shall be used primarily for light retail business with accessory office and residential uses."

Under Permitted Uses in §442.015.A, a variety of retail and service uses are specifically allowed. Examples specifically listed include dress shops, watch and bicycle shops, bakeries, photo studios, banks, beauty parlors, dry cleaners, restaurants, hardware stores, florists,

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antique stores, art galleries, churches, bed and breakfasts, and miniature golf courses. These would seem to be the types of uses that the OTD was specifically set up to protect and promote.

Currently §442.015.A.3 also allows for office uses in the OTD. Specifically, it permits “offices and office buildings, including medical and dental clinics.” Whether medical and dental clinics, and other offices of this type, are of the nature being considered for exclusion from Main Street in the OTD is unknown at this time. It is presumed that offices that are of a more administrative nature that do not generate significant foot traffic in the OTD are what is being considered for exclusion or limitation by the MSPA. Modifying the language of §442.015.A.3 might be the simplest way to address the concerns. The question then becomes how to modify it and whether any other sections need to be modified.

It should be noted that there is currently a zoning provision allowing for residential dwelling units in the OTD (§442.015.A.13) “when located within a structure that contains retail space on the street level.” This provision may be a model for limiting office space to upper levels or rear portions of structures.

The OTD also places restrictions on uses for the crafting, assembly, and light manufacturing of goods (§442.015.A.14). These uses are allowed as an accessory use, secondary and complementary to primary retail commercial, personal service, or office use allowed in the OTD. The purpose of these provisions is to preserve the street level attraction and activity of the OTD. Like the provisions placing limitations on the street level, this may also serve as a framework for limitations on street level front office uses.

### **Other Cities and Their Solutions**

A variety of cities, both locally and across the country, have addressed similar concerns to varying degrees and for varying reasons. Some local cities have introduced and refined their zoning provisions calling for retail sales of goods and services, specifically excluding other uses that are found in other commercial districts, namely offices. Other cities, in states such as Colorado or California, have implemented emergency ordinances that have had the effect of limiting offices in downtown commercial districts. Following are summaries of other downtown districts that have been identified as comparable to downtown Parkville or which have implemented limitations on non-retail uses.

#### *Overland Park, KS*

Overland Park has a relatively small downtown area. It has implemented “MSD-1” Main Street District 1 zoning in a small section of its downtown, comparable with Parkville’s Main Street. The purpose of MSD-1 is to provide for the majority of retail uses, while encouraging an active streetscape with a pedestrian-friendly shopping environment. The language of the MSD-1 specifically allows banks and other service-oriented uses as well as the usual shops, restaurants, and other active uses. MSD-1 specifically bars first floor offices from the district, prohibiting them unless they were already in continuous use as an office. Language from the MSD-1 zoning provisions could be incorporated into any amendment that Parkville makes to its OTD zoning district.

#### *Mission, KS*

Mission uses very similar language and structure to Overland Park’s with perhaps more detail and examples of what is specifically allowed and not allowed. Mission’s version, “MS1” Main Street District 1, specifically prohibits medical offices, law firms, architects, photographers, travel agencies, and the like. Any revisions or additions to Parkville’s code could diverge from Mission’s specifically prohibited or allowed uses. If applied in Parkville, these restrictions would

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disallow some uses currently existing in Downtown Parkville, including the photographer, investment services, counseling, consultants, and other office uses.

#### *Weston, MO*

It appears that the majority of Weston's downtown area is zoned as "H-1" Historic District or "C-1" Commercial District, both of which allow office uses. As Weston has a significant amount of tourism in its historic downtown, it would seem that the 'non-retail downtown concern' either isn't an issue in Weston or has largely been resolved by the market.

Weston also has a zoning district in its code designated as the "C-2-A" Local Retail Business District. This district seems to be intended more for small, neighborhood-level retail uses, but it could possibly be used as an example for any updates or modifications of Parkville's zoning code. The C-2-A district allows general retail businesses, churches, and bed and breakfasts (as well as single-family dwellings, hence the local/neighborhood intent).

#### *Smithville, MO*

Similar to Weston, Smithville has several different types of commercial districts that allow for various uses and restrictions pertaining to offices and other uses. Smithville has a "B-4" Central Business District that includes retail and service uses and certain office uses, such as doctors, accountants, lawyers, travel agencies, and the like. Unlike the B-4 district, the "B-1" Neighborhood Business District (similar to Weston's C-2-A) prohibits office uses but specifically allows retail and service uses.

#### *Independence, MO*

While Independence has multiple types of commercial districts, according to Independence's use table, all the commercial district types allow office uses. This may partially be because Independence is a traditional center of Jackson County government and has a long history with governmental and legal offices in its central business district. A drive around downtown Independence will readily present numerous office examples, particularly law offices.

#### *Aspen, CO*

Looking outside the Kansas City Metro, Aspen, Colorado approved an ordinance in November 2012 providing that retail and restaurants should only be allowed on the ground floors while office, lodging, and housing are allowed on upper floors. Office uses are also allowed on first floors so long as they are located in spaces set back a certain amount from the street and located behind the front-most facing facades. As Aspen is decidedly a high-end tourist destination, with limited space to expand in its mountainous setting, the comparisons between Aspen and Parkville can only go so far. But the goals of creating a more lively and vibrant street space for locals, and for tourists, are the same.

#### *Saint Charles, MO*

St. Charles is known for its quaint downtown area filled with shops and restaurants. The St. Charles code uses a district known as "HCD" Historic Commercial District. The focus here is on a low intensity mixture of retail shopping, personal service, residential, and lodging uses. While the focus of the district is on retail, it allows for the types of offices that generate some degree of foot traffic or that would normally be found in historic downtown areas: accountants, engineers, architects, lawyers, investment agencies, and insurance agencies. This on the whole may be a bit broader than what Parkville is considering, but it is another option.

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### *Lawrence, KS*

Lawrence has a thriving downtown filled with shops and restaurants oriented along a single primary street, Massachusetts. Lawrence has a variety of commercial district types in its zoning code including: "CN1" Inner Neighborhood Commercial, "CN2" Neighborhood Commercial, "CO" Office Commercial, "CD" Downtown Commercial, "CC" Community Commercial, and "CR" Regional Commercial. According to the commercial use table, office uses are allowed in most of these districts. In Lawrence, the CD is the most comparable to the OTD zoning in downtown Parkville. Financial, insurance & real estate offices are prohibited in CD, CC, and CR. Administrative, professional, financial, insurance, real estate, payday advance, and title loans are specifically allowed in all the others.

### *Other Regional Cities*

Other regional cities that were looked at included: Olathe, Lee's Summit, Liberty, Columbia, Lenexa, Kirkwood, Blue Springs, Belton, and Grandview. None of these cities appeared to address the issue of limiting non-retail uses in their downtown areas in their city's codes.

### **Conclusion**

Moving forward, Parkville and the MSPA could either modify the OTD uses, which would apply to the entire OTD, or create a new district type just for the two blocks or so of Main Street that would be largely identical to the OTD except incorporating some further use restrictions similar to those in some of the cities above. The example zoning district from St. Charles, while broad, probably provides the greatest flexibility. More specifically delineated and more rigid are the examples from Overland Park and Mission. Before any official measures are taken, additional feedback is needed from downtown property owners and tenants.

The next steps would include gathering more information from the MSPA. Determining what Main Street's specific concerns are is the first priority. Broader concerns may include parking, an active and engaging pedestrian experience, and/or other possible considerations. Once the concerns have been narrowed down, identifying the specific uses that Main Street would like to see disallowed would be the following step. As part of defining the specific uses to be disallowed or allowed downtown, clarifying phrases like "customer service component" is necessary to allow the regulations to be clearly understood and applied uniformly. Specificity in what this means and, in turn, what uses should ultimately be allowed in this part of downtown must ensure consistency and clear guidelines and expectations for Parkville landowners and proprietors, current or future.

Should Parkville decide to pursue a solution to this issue by amending the zoning codes, it has a variety of options. For one, it could closely follow one of the examples mentioned above. But Parkville could also chart its own course by borrowing pieces of these different codes to craft a solution that fits the specific needs of downtown.

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