

ORDINANCE NO. 3278

AN ORDINANCE APPROVING A TEXT AMENDMENT TO SECTION 15-201 OF THE ZONING REGULATIONS OF THE CITY OF ABILENE, KANSAS, RELATING TO PERMITTED AND CONDITIONAL USES OF THE "I-1, LIGHT INDUSTRIAL DISTRICT"

WHEREAS, the Great Plains Theatre has requested the City consider a Text Amendment to Section 15-201 of the Zoning Regulations to allow movie cinemas and live production theater as a conditional use in the "I-1, Light Industrial District;"

WHEREAS, the Planning Commission conducted a public hearing on August 3, 2015, and no comments were received from the public in opposition to the proposed text amendment;

WHEREAS, the Planning Commission recommended the Governing Body approve a Text Amendment allowing movie cinemas and live production theaters as a conditional use in the "I-1, Light Industrial District."

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

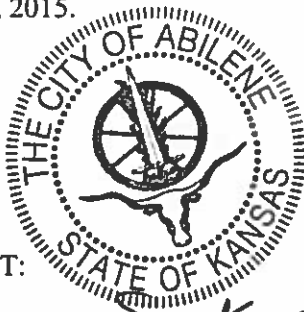
SECTION ONE. Findings of Fact. That the Findings of Fact, as provided in the Staff Report attached hereto, are hereby accepted and approved by the City Commission.

SECTION TWO. Amendment. That Table 15-1 of Section 15-201 of the Zoning Regulations of the City of Abilene, Kansas, is hereby amended to include the following:

33. Movie Cinema/Live Production Theatre as a Conditional Use in the "I-1, Light Industrial District"

SECTION THREE. Effective Date. This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

PASSED AND ADOPTED by the Governing Body of the City of Abilene, Kansas this 10th day of August, 2015.



CITY OF ABILENE, KANSAS

By: *Dennis P. Weishaar*
Dennis P. Weishaar, Mayor

ATTEST:

Penny Soukup, CMC
Penny Soukup CMC

EXHIBIT A

Staff Report

for

Text Amendment to Section 15-201

City of Abilene, Kansas

August 10, 2015

Staff Report for PC 15-7

Date: July 9, 2015

Agenda Item: PC 15-7

Subject: Request for Text Amendment to Section 15-201 of the Zoning Regulations relating permitted and conditional uses of the “I-1, Light Industrial District.”

Applicant: Great Plains Theatre

Location: Not Applicable

Background: The Great Plains Theatre has requested a text amendment to Section 15-201 of the Zoning Regulations to allow movie cinema/live production theaters in the “I-1, Light Industrial District.” The Theatre has identified vacant space at 401 Cottage Avenue in the old Alco corporate office building where they propose to operate a movie cinema/live production theater until such time as a new building may be constructed.

The historic Great Plains Theatre, previously located at 300 N. Mulberry Street, was destroyed by fire on July 23, 2014. Prior to the fire, the Great Plains Theatre provided live productions and cinematic movies for the enjoyment of the general public.

Proposed Amendment: The proposed amendment would add “movie cinema/live production theater” to Table 15-1 as a conditional use in the “I-1, Light Industrial District.” The use, however, would not be allowed in an “I-2, Heavy Industrial District.”

Rationale: The Zoning Regulations of the City of Abilene state that “it is the intent that these zoning regulations shall be consistent with the comprehensive plan and with supplemental land use and community development policies adopted by the Governing Body.”

Chapter VI of the Comprehensive Plan briefly discusses various tourism attractions found in Abilene. The Comprehensive Plan specifically mentions the Great Plains Theatre as an attraction, and briefly describes it as “a premier year-round professional stage production company.” The Comprehensive Plan further states that “these attractions along with special events, historic structures, seven antique stores, and unique dining provide a sound foundation upon which the local tourism industry is built.”

From this brief summary of the tourism industry in Abilene, one can conclude that the Great Plains Theatre has been an important asset to the community with respect to tourism and the local economy. It would stand to reason that the community would be supportive of efforts to preserve the heritage and tradition of the Great Plains Theatre. While the Comprehensive Plan does not envision a movie cinema/live production theater within an “I-1, Light Industrial District,” it does stand to reason that such a land use within the aforementioned district could be developed in such a manner as to meet the applicable goals and objectives of the Comprehensive Plan and any standards of the community, particularly since the proposed text amendment would

make such uses subject to appropriate conditions that could safeguard the interests of the public and adjacent properties and land uses.

In addition, the Comprehensive Plan contains several stated goals that may support theater space within the community, and that could reasonably support the proposed text amendment such as: 1) Preserve and recognize historic structures and other resources (Key Issue 5, Goal C); make downtown a regionally recognized shopping and cultural destination (Key Issue 5, Goal E); minimize the cost of providing public services (Key Issue 10, Goal A); and promote context-sensitive in-fill development (Key Issue 12, Goal D).

Further, the Zoning Regulations have been adopted with the purpose and intent of:

1. **Promoting and serving the public health, safety, morals, comfort, and general welfare of the citizens of the City of Abilene.** The proposed text amendment is not anticipated to detrimentally affect the public health, safety, morals, comfort, and general welfare of the citizens of Abilene. If anything, it will promote and serve the comfort and general welfare of the community by providing cultural amenities that add value to the community.
2. **Obtaining the objectives of the comprehensive plan, including the objectives of the future land use maps.** Several of the objectives of the comprehensive plan provide for cultural amenities and enhancing the quality of life for residents that would be enhanced as a result of the proposed text amendment. Future land use maps do not conflict with the proposed amendment.
3. **Preserving and protecting property values.** The proposed text amendment is not anticipated to negatively affect property values in the community. The use of movie cinema/live production theater is of a general commercial nature, and is not anticipated to greatly affect the property values of property zoned as “I-1, Light Industrial District,” especially in such areas of the community where such zoning districts already exist.
4. **Regulating and restricting location and use of buildings and land.** If anything, the proposed text amendment would reduce restrictions and regulations that would prevent the use of land in a context that may provide a good location for a movie cinema/live production theater.
5. **To create zoning districts sensitive to the peculiarities of the allowed uses and designed to protect and enhance the value inherent in each zone.** Because the proposed text amendment would provide for movie cinemas/live production theaters as a conditional use, any development of this land use within an “I-1, Light Industrial District” would be reviewed on a case-by-case basis to determine if it is an appropriate fit for the district in the proposed location, and if there should be conditions to mitigate the affect of the use on adjacent properties.

6. **Regulating and restricting the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; and the size of yards, and other open spaces.** Light industrial districts contain land uses that facilitate a wide variety of buildings. As a conditional use, proposed movie cinemas/live production theaters within the “I-1, Light Industrial District” would be reviewed in context with adjacent properties and zoning districts to determine if proposed building elements are appropriate for the location.
7. **Avoiding the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.** It is not envisioned that there would be a great demand for multiple movie cinemas/live production theaters within Abilene. Because of this fact, it is highly unlikely that approving the text amendment would encourage the development of an abundance of such facilities. In addition, it is unlikely that allowing movie cinemas/live production theaters in the “I-1, Light Industrial District” as a conditional use would create a catalyst for overcrowding. While there may be small crowds who would concentrate in the immediate area surrounding a movie cinemas/live production theaters prior to an following a show, it is unlikely that such concentration will be lengthy or create any hardship with adjacent properties within the zoning district.
8. **Providing adequate notice of amendments to these regulations and an opportunity for interested parties to be heard.** The public has had an opportunity to provide comments on the proposed text amendment, and will have an opportunity to voice concerns at an upcoming public hearing.
9. **Facilitating the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in the applicable law of the State of Kansas and the adopted comprehensive plan of the City of Abilene.** A movie cinemas/live production theater will not create a significant and lasting demand on public infrastructure within any “I-1, Light Industrial District.” In many cases, public infrastructure in these districts is often oversized to accommodate larger uses.
10. **Informing the public regarding future development in the City of Abilene thereby providing a basis for wise decisions with respect to such development.** Through the development review process, the public will have an opportunity to learn about movie cinemas/live production theater proposals that are requesting development within an “I-1, Light Industrial District.”

Staff is of the opinion that the proposed text amendment to allow movie cinema/live production theaters as a conditional use in the “I-1, Light Industrial District” meets the intent and purpose of the Zoning Regulations as provided in the aforementioned rationale.

Comments

Departmental Comments – None received as of July 9, 2015.

Citizen Comments – The City has not received any comments specific to the proposed text amendment, although the City has received a comment in support of the requested conditional use permit to allow the temporary use of a building in an “I-1, Light Industrial District” as a movie cinema/live production theater.

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the proposed amendment to Section 15-201 as proposed. This recommendation is made for the following reasons:

1. The text amendment may allow for more productive use of land resources and public infrastructure;
2. The intent and purpose of the Zoning Regulations will not be unduly infringed upon by the text amendment as the conditional use process will provide a case-by-case review of any movie cinema/live production theater within the “I-1, Light Industrial District,” and
3. The proposed text amendment will provide opportunities for a much needed and supported community amenity.

Options

The Planning Commission may:

1. Recommend approval of the proposed zoning text amendment based on staff’s recommendation;
2. Recommend approval of the proposed zoning text amendment with revisions and on staff’s recommendation;
3. Recommend denial of the proposed zoning text amendment;
4. Recommend partial or amendment proposed zoning text amendment; or
5. Table the request for additional information.

All recommendations require stated findings by the Planning Commission. Motions made by Commission members must include findings and conditions, when applicable, which may be referenced if located within the staff report. Motions may only pass in the affirmative.