

FRANKLIN COUNTY

To:	Franklin County	Reviewed:	
	Board Of County Commissioners		
From:	Larry D. Walrod <i>LW</i>	Extension:	3571
	Planning & Building Dept.		
Date:	February 4 th , 2009	No.	

ITEM:

Amendment to the County Zoning Regulations, Article 11 (C-2 Highway Commercial), Section 11-3 (Special Uses).

BACKGROUND:

At their meeting of January 15th, 2009 the Planning Commission considered an amendment to the County Zoning Regulations which would include provisions for the County to approve government buildings and uses in the C-2 Zoning District. Earlier in 2008 it was discovered that other than office uses, the current Zoning Regulations did not address permitting government buildings or uses in the Commercial Zoning District.

The following are the permitted uses in the current County C-2 (Highway Commercial) Zoning Regulations and also uses which may be approved subject to a Special Use Permit:

Section 11-2. Permitted Uses

11-2.01 No building, structure, land or premises located in the Highway Commercial District shall be used and no building or structure shall be hereafter erected or altered, except for the following uses:

1. Any use permitted in the C-1 Zone.
 - a. *Accessory structures.*
 - b. *Appliance sales and repair.*
 - c. *Bakeries*
 - d. *Banks, Savings and Loan, including ATMs and drive-up/drive-through facilities.*
 - e. *Barber and beauty shops.*
 - f. *Churches and similar places of worship.*
 - g. *Convenience markets, including sale of gasoline.*
 - h. *Day care centers.*
 - i. *Drug Stores and prescription shops/pharmacies.*
 - j. *Dry cleaning and laundry establishments.*
 - k. *Laundromats.*
 - l. *Package liquor stores.*
 - m. *Parks and play fields.*
 - n. *Professional offices including doctor, lawyer and similar activities.*
2. Agricultural equipment sales and service, primarily of new equipment.
3. Amusement places (indoors), including video game arcades, game machines and other similar establishments.

4. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
5. Animal clinics and hospitals with no outdoor facilities.
6. Apartments on a floor other than the ground floor.
7. Automobile and truck service stations, including minor repair services and the sale of petroleum fuels, automotive accessories and convenience foods and related items.
8. Automobile and truck sales, sales lots and repair garage, when part of a dealership.
9. Bowling alleys, skating rinks, miniature golf.
10. Car washes
11. Farmers co-operatives.
12. Fraternal and service clubs.
13. Gift shops and furniture stores selling new merchandise only.
14. Liquor stores, retail only, taverns and private clubs.
15. Livestock sale, yard and barns.
16. Manufactured/mobile home and recreation vehicle sales and service when part of a dealership.
17. Motels, including dining and meeting rooms and small shops, such as: drug stores; gift shops; newsstands; barber and beauty shops and similar service related activities.
18. Restaurants, including private clubs, and drive-in and carryout food service.

Section 11-3. Special Uses

11-3.01 The following uses may be permitted by approval of a Special Use Permit as provided in Article 17 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Any use permitted by Special Use Permit in the C-1 Zoning District.
2. Anhydrous ammonia, propane and butane bulk storage and distribution.
3. Communication structures, antennas and towers.
4. Crematories, funeral homes and mortuaries.
5. Public utility and service facilities as follows:
 - a. Substations.
 - b. Outdoor storage yards.
6. Truck and freight terminals.
7. Used auto and truck repair shops and garages.
8. Used auto, truck/trailer, manufactured home, mobile home and recreational vehicle sales.
9. Utility substations, pumping stations and water towers.
10. Oil and gas well supply sales, service and office facilities, including storage and repair of exploration equipment and the outside storage of pipe and related materials, providing storage of outside materials is completely enclosed with a six foot high enclosure or is screened from view of adjoining properties.
11. Sexually Oriented Business as defined in Article 2, Section 2-1-01 as follows:
 - a. adult arcade
 - b. adult bookstore or adult video store
 - c. adult cabaret
 - d. adult motel
 - e. adult motion picture theater
 - f. semi-nude model studio
 - g. sexual device shop
 - h. sexual encounter center
 - i. Such sexually oriented businesses allowed to operate in the unincorporated areas of Franklin County shall meet the following criteria:

1. that the structure occupied by the sexually oriented business is at least 1000 feet from any structures occupied by another sexually oriented business or by a business licensed by the State of Kansas to sell alcohol on the premises.
2. that the structure occupied by the sexually oriented business is at least 1000 feet from any structure used as a residence.

For purposes of this section, measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest portion of the structure occupied by the sexually oriented business to the nearest portion of the structure occupied or used for any of the land use/s identified in subsection 11-2.1, 2 or 3 above.

Since most of the C-2 Zoning District is located in very close proximity to the various cities (in fact, policies of the County Comprehensive Plan encourage commercial uses be within or near Cities) it was determined that we should be encouraging Government uses and buildings to generally follow this same policy.

This was particularly the case in the rural areas near the City of Ottawa. Although most of the Commercial Zoning surrounding the Ottawa vicinity is located within the Urban Growth Area wherein the County has granted zoning and building permitting authority to the City, the City enforces the County Regulations unless there is a request to rezone or the County Regulations don't provide for the use or building being requested.

The City of Ottawa would allow government (City, County, State or Federal) buildings and uses in their C-2 Zoning District subject to the approval of a Conditional Use Permit. Since the County Regulations do not address such uses in the County C-2 Zoning District, this would create a potential need for the City to rezone the property first to their C-2 Zoning District and then consider the Conditional Use Permit. Therefore, in order to avoid this conflict, Staff feels that it would be appropriate for the County to amend the County Zoning Regulations to include similar provisions related to Government buildings and uses.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners accept the recommendation by the Planning Commission and approve the amendments to the County Zoning Regulations, Article 11 (C-2 Highway Commercial), Section 11-3 (Special Uses) to include provisions for Government Buildings and Uses.

ATTACHMENTS:

Memorandum
Resolution

**FRANKLIN COUNTY
PLANNING AND BUILDING DEPARTMENT**

LARRY D. WALROD, PLANNING DIRECTOR

1428 S. MAIN, SUITE #5

OTTAWA, KANSAS 66067-3547

Office: (785) 229-3570 Fax: (785) 229-3504

BOARD OF COUNTY COMMISSIONERS

Karen S. Farrell, District 1

John E. Taylor, District 2

David J. Hood, District 3

Donald C. Hay, District 4

Donald R. Stottlemire, District 5

MEMORANDUM

TO: Franklin County
Board of County Commissioners

DATE: January 27, 2009

FROM: Larry D. Walrod *LDW*
Planning Director

DEPT: Franklin County
Planning Department

RE: Amendment to
County Zoning Regulations
Article 11 (C-2 Highway Commercial)
Section 11-3 (Special Uses)

CC:

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RECOMMENDATION:

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**BOARD OF COUNTY COMMISSIONERS
OF
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 09- _____

A RESOLUTION OF THE FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS
APPROVING AMENDMENTS TO ARTICLE 11 (C-2 HIGHWAY COMMERCIAL),
SECTION 11-3 (SPECIAL USES) OF THE FRANKLIN COUNTY ZONING REGULATIONS
FOR THE UNINCORPORATED AREAS OF THE COUNTY IN ACCORDANCE WITH THE
PROVISIONS OF K.S.A. 12-757

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to Kansas Statutes K.S.A. 19-101; and

WHEREAS, the Franklin County Board of County Commissioners did by Resolution #23-91 create the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Board of County Commissioners did adopt the Zoning Regulations of Franklin County, Kansas on August 4, 2002 as provided in K.S.A. 12-757; and

WHEREAS, the Franklin County Planning Commission published a notice on December 23rd, 2008, that a public hearing would be held to consider amending the Franklin County Zoning Regulations, as required by K.S.A. 12-757; and

WHEREAS, the Franklin County Planning Commission did, on January 15th, 2009, hold a Public Hearing for the consideration of adopting an amendment to the County Zoning Regulations as prescribed by K.S.A. 12-757; and

WHEREAS, the Franklin County Planning Commission has reviewed in detail the Amendment to Article 11 (C-2 Highway Commercial), Section 11-3 (Special Uses); and

WHEREAS, after due consideration of all written reports and testimony, the Planning Commission, by unanimous vote of its membership, finds such Amendment to the County Zoning Regulations to be in the public interest and necessary to promote the health, safety, convenience, prosperity and general welfare of the citizens of Franklin County, Kansas; and

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of County Commissioners does hereby approve the adoption of an Amendment to the County Zoning Regulations to include an additional Section 11-3.01.12 adding "government buildings and uses" to the list of uses permitted subject to the approval of a Special Use Permit.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 4th day of February 2009. This action shall become effective upon publication in the official county newspaper.

John E. Taylor
Chairman

Received and recorded this the 4th day of February 2009.

Shari Perry
County Clerk