

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
10/19/15

ITEM NO. 1: RS7 TO IL; 2.96 ACRES; 1501 LEARNARD AVE (MKM)

Z-15-00427: Consider a request to rezone approximately 2.96 acres located at 1501 Learnard Avenue from RS7 (Single-Dwelling Residential) District to IL (Limited Industrial) District. Submitted by Sunrise Green LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 2.96 acres from RS7 (Single-Dwelling Residential) District to IL (Limited Industrial) District, with use restrictions 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:

1. Permitted uses are limited to those listed below:

- a. *Crop Agriculture*
- b. *Social Service Agency*
- c. *Health Care Office/Health Care Clinic*, provided that the gross floor area shall not exceed 3,000 sq ft
- d. *Administrative and Professional Office*
- e. *Personal Improvement*, provided that the gross floor area shall not exceed 3,000 sq ft
- f. *General Retail Sales*, provided that the gross floor area shall not exceed 3,000 sq ft
- g. *Fast Order Food*, provided that the gross floor area shall not exceed 3,000 sq ft
- h. *Limited Manufacturing and Production* when approved with a Special Use Permit
- i. *Light Wholesale Storage and Distribution* when approved with a Special Use Permit
- j. *Agricultural Sales*
- k. *Neighborhood Religious Institution*
- l. *Telecommunication Tower* when approved with a Special Use Permit
- m. *Telecommunication Antennae*, accessory
- n. *Satellite Dish*, accessory

REASON FOR REQUEST

Applicant's Response:

"Vacant for 6 months."

KEY POINTS

- The Douglas County Appraiser's records note that the retail store and greenhouses were built in 1926. The property was annexed into the City of Lawrence in 1956.
- Per Section 20-1502 of the Development Code, a use that was installed in compliance with the regulations at the time but no longer conforms due to a change in zoning or the regulations is considered a nonconforming use. Nonconforming uses are permitted to

remain in accordance with the provisions in this section of the Code. The nursery operation was established in the unincorporated portion of the County prior to the adoption of Zoning Regulations and was, therefore, a nonconforming use. The nonconforming status was lost when the greenhouse/retail use was determined to have been abandoned in 2014. As the nonconforming use status has expired, rezoning to an appropriate zoning district would be necessary for the continued use of the Garden Center and for the additional uses which are being proposed.

- The Sunrise Garden Center would have required IL (Limited Industrial) Zoning. The garden center is classified as *Agricultural Sales* in Section 20-1705 of the Development Code. *Agricultural Sales* are permitted in the following zoning districts:

CC (Community Commercial),
CR (Regional Commercial),
CS (Strip Commercial),
IL (Limited Industrial) or
IG (General Industrial).

The Commercial zoning districts listed above would not be feasible in this location as the Comprehensive Plan and Development Code contain specific locational and size criteria for these districts which this location would not meet. The IG District would not be appropriate as intense industrial activity could be allowed that would not be suitable in a residential neighborhood. The IL would have been the appropriate zoning district; however, the zoning would have been conditioned to restrict uses which were seen as inappropriate for the residential area.

- The property is located within the boundaries of the Barker Neighborhood.
- The recommendation for approval of the IL District is based on the unique characteristics and historic use of the subject property and is not an indication that the IL District would be appropriate for other properties in the area.

ASSOCIATED CASES

- SP-01-06-01; Site plan for 4,200 sq ft of building addition. 2,200 sq ft was to be reconstruction following fire damage and the additional 2,000 sq ft was second floor offices above the reconstructed area. The site plan was administratively approved on June 1, 2001; however, building permits were not issued for the addition within the required time frame and the site plan approval expired.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Platting of the property through the Major Subdivision process: submittal and approval of a Preliminary and Final Plat and Public Improvement Plans.
- Submittal and approval of a site plan and Special Use Permit application for the proposed site improvements and change of use.
- Planning Commission recommendation on Special Use Permit application following public hearing.
- City Commission approval of Special Use Permit and adoption/publication of ordinance.

- Submittal of construction plans to Development Services for processing of building permits. Building permits required prior to construction activity.

ATTACHMENTS

Attachment A: Use Group Table

Attachment B: Concept Plan

Attachment C: Public Communications received prior to the printing of this report

PUBLIC COMMENT

Staff received several inquiries and comments from the public about the proposed uses. The comments were primarily supportive of the project but concerned with the impact that IL Zoning might have on the neighborhood. A neighbor provided a letter of support for the project. The letter is included with this report as Attachment C.

Project Summary

The property at 1501 Learnard Avenue was developed with greenhouses and a retail store in 1926, while located in the unincorporated portion of the County. Zoning Regulations in the County were not adopted until 1966. The property was annexed into the City of Lawrence in 1956 and the 1966 zoning map shows the zoning as RS-2 (Single Family Residence). This zoning converted to RS7 (Single-Dwelling Residential) with the adoption of the Development Code in 2006.

The garden center/retail use was not a permitted use in the residential districts but was allowed to remain per the provisions in Article 20-1502 of the Development Code as a 'nonconforming use'. The garden center ceased operation on December 24, 2013 and the property was offered for sale. The Planning Office requested information from the property owner regarding their future plans for the property and the measures that were being taken to continue the use. These were not provided and the use was considered abandoned and the nonconforming use status expired after the use had been discontinued for over 12 months. It would be necessary to rezone the property if the nursery/garden center use was to be restored. As noted earlier in the report, the garden center/retail sales use would be classified as *Agricultural Sales* in the Development Code and the zoning required would be IL (Limited Industrial).

The garden center was an established feature in the area and many residents have expressed interest in seeing the use continued and the buildings maintained. Rezoning is being requested to allow the use of the greenhouse and property in a different manner than the retail garden center. The applicant provided the following information about the plans for the property:

“Sunrise Green LLC was organized to purchase, rehabilitate, develop, lease, manage and maintain what was formerly Sunrise Garden Center located at 1501 Learnard.

The LLC intends to partner with various other entities to accomplish our stated organizational goals. The following potential lessees include: The Sunrise project, a nonprofit whose general mission is to integrate food, the environment and social justice into an educationally oriented, culturally aware organization. The nonprofit is spearheaded by the Lawrence Community Food Alliance; Emily Hampton is the executive director, Melissa Freiburger is the program manager. One of their programs is the Lawrence Fruit Tree Project which would also have a footprint in this development.

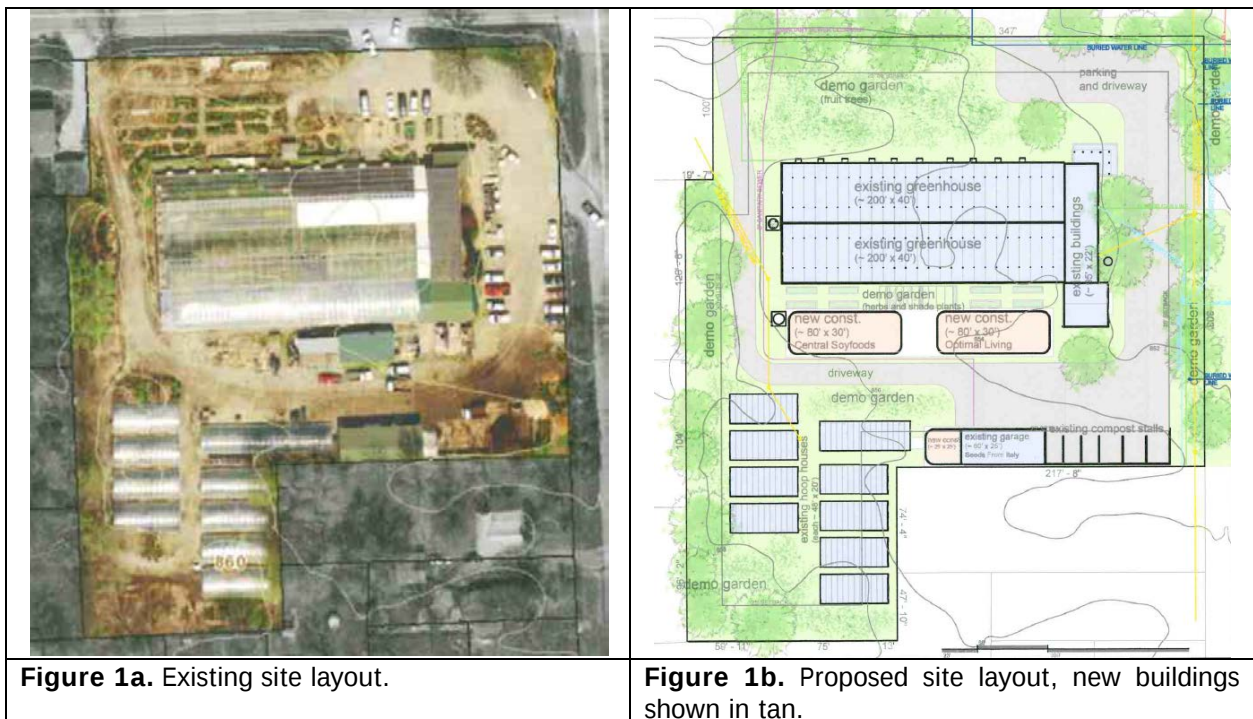
There are 2 proposed food production facilities included in the preliminary site plan that would occupy two structures of 2400 square ft. each adjacent to the 2 gabled greenhouses on the south. Optimal Living, a boutique production kitchen, specializing in 'convenience food without the sacrifice of health', Jeremy Rodrock D.C., owner and founder and Central Soyfoods LLC, a Lawrence based soyfoods processor. Central Soyfoods currently employs 5 part time people and Optimal Living, 4.

The central greenhouses would ideally be used by producers for growing micro greens, seasonal greens and organic seedlings. We are in discussions with several interested parties at this time. As much of the remaining grounds as possible will be converted to gardens, their exact nature has not been formalized.

A tenant for the masonry building attached to the east side of the greenhouses has not been identified. Ideas abound but no decisions have been made.

We have an interested party inquiring about the possibility of building a free standing seed house of 2000 square feet. This would be another low impact addition to this project and one that would benefit from and gain by being part of this mix.

Many of our decisions will turn on neighborhood needs, desires, and restrictions and, of course, zoning possibilities."



Minor physical changes are proposed to the site, as shown in the concept plan provided with the rezoning application. (Figure 1) The southern greenhouse and accessory building to the south of the greenhouse would be demolished and two new structures would be constructed in that location. The structure along the south property line would be expanded and the access drive and parking area would be improved.

The proposed uses are the focus of this rezoning request. The following list includes the proposed uses with their classification in the Development Code shown in italics:

- Greenhouses for growing of greens, micro-greens / *Crop Agriculture*
- Gardens / *Crop Agriculture*
- Education component / *Personal Improvement*
- Seed house (wholesale importer and seller of garden seed) / *Agricultural Sales/Light Wholesale, Storage and Distribution*
- Production uses: tofu production and boutique kitchen / *Limited Manufacturing and Production*

The following are uses that may be proposed in the future but are not part of the current concept plan:

- Garden related retail / *General Retail Sales*
- Coffee shop / *Fast Order Food*
- Holistic health center / *Health Care Office/Clinic*
- Non-profit counseling or life skills training, food bank / *Social Service Agency*

The following review is based on the assumption that all the uses listed above may be included in the project.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The general plan overview supports infill development and redevelopment in neighborhoods and also protection of historic buildings."

Recommendations in *Horizon 2020* are discussed below, with staff comments in red.

General Plan Overview (Page 3-1, *Horizon 2020*)

"The Plan encourages the identification, protection and adaptive reuse of the wide diversity of historic buildings, structures, sites and archeological sites that can be found in Lawrence and Douglas County."

The Sunrise Garden greenhouses were built in 1927 and are a historical component of the area. The zoning request is intended to accommodate uses that would allow the reuse of the Sunrise Garden structures and maintain the crop agriculture use.

The property is located in an existing residential neighborhood and the garden center/nursery has been a feature of this area since the 1920s. For this reason, many of the locational recommendations for industrial districts in the Comprehensive Plan are not met.

The recommendation to rezone the property to IL is based on the unique nature of the property/project and the conditions which have been crafted to insure compatibility with the surrounding uses and does not indicate that other properties in the area may be suitable for the IL Zoning or for similar uses.

Policy 3.2 Consideration of Transitional Uses

"Consider low-intensity commercial or office development as a transition between industrial and employment-related development and low-density residential neighborhoods. The low-intensity commercial or office development should include:

1. *Design elements such as: height, massing, and scale compatible with the surrounding low-density residential uses;*” The only change being proposed along the exterior of the site is the expansion of the existing accessory structure along the south property line. Two new buildings are proposed in the interior of the site and these are planned to be approximately 2,400 sq ft in area and 11 ft tall. (Figure 1) The height, massing, and scale of the project will be compatible with the surrounding low-density residential uses. The *Limited Manufacturing and Production* use and the *Light Warehouse Storage and Distribution* use will occur in structures designed as recommended for transitional uses between industrial and residential uses.
2. *“Site design compatible with surrounding residential neighborhoods with consideration given to extensive screening, building and parking orientation, and preservation of natural site amenities.”* The site is currently designed with green space around the perimeter which will be enhanced with demonstration gardens. The current site design is compatible with the surrounding neighborhood. The proposed site design will be evaluated in closer detail with the future reviews of the site plan and Special Use Permit application to insure that buffer yards, exterior lighting, off-street parking and other measures are compliant with the Development Code and are compatible with the nearby land uses.
3. *“Site access provided from arterial, collector, or access/frontage streets and traffic directed away from surrounding residential uses.”* No changes are being proposed to the access points. There are two access points on E 15th Street, a major collector, and one access point on Learnard Avenue, a local street. The access points will be reviewed by the City Engineer as part of the site plan review based on information provided with the Traffic Impact Analysis.



Figure 2. Concept plan overlay on aerial photo of area. New structures are shown in tan.

Staff Finding – Rezoning to allow the reuse of the structures on the subject site is consistent with *Horizon 2020* goals and policies related to preservation and reuse of historic buildings and aesthetic transitions between uses of differing intensities. The rezoning request does not comply with the locational criteria for industrial uses as this is an attempt to re-use an existing facility rather than new, greenfield development. With the restrictions and standards on permitted uses, the proposed rezoning will accommodate the project in general conformance with the recommendations in the Comprehensive Plan.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING

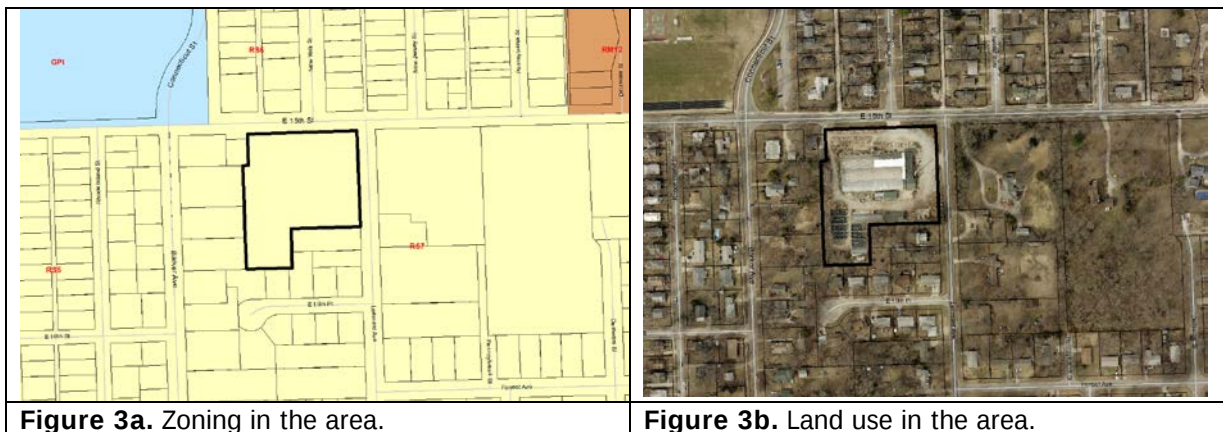
Current Zoning and Land Use: RS7 (Single-Dwelling Residential) District; *Agricultural Sales, General Retail Sales, Crop Agriculture*; former Sunrise Garden Center

Surrounding Zoning and Land Use: To the north:
RS5 (Single-Dwelling Residential) District; *Detached Dwellings*

To the east, west, and south:
RS7 (Single-Dwelling Residential) District; *Detached Dwellings*

To the northwest:
GPI (General Public and Institutional Use) District;
School, Liberty Memorial Central Middle School

(Figure 3.)



Staff Finding – The surrounding properties are zoned for residential uses and have been developed with detached dwellings. An institutional use, *School*, is in the immediate area. Most uses categorized as Industrial uses in the Development Code would not be suitable for this area; however, the limited uses and standards proposed in this report for the IL District, would be compatible with the existing zoning and land uses in the area, while allowing for the re-use of the Sunrise Garden Center facilities.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

“The Barker neighborhood is diverse, well maintained and interested in this project as the greenhouse has been a fixture in the community for 88 years.”

The subject property is located in a single family neighborhood with uses that are typically associated with neighborhoods, a school and religious institutions. The nursery/garden center was a defining element in this area and it provided visual variety in the area as well as a variety of uses. There are registered historic properties in the nearby area, with the Samuel A. Riggs House to the east and the Edward House House to the southwest. The nursery/garden center is outside of the environs for these registered properties, and is not a registered historic property itself, but is an important factor in the character of the area.

Staff Finding – The neighborhood contains residential land uses and uses typically associated with residential neighborhoods, such as schools and churches. The garden center is an important element in the character of the area. The limited uses proposed in the IL District would result in a project that allows the reuse of the garden center facility and is compatible with the character of the area.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

Staff Finding – The subject property is located within the boundaries of the Barker Neighborhood. Barker Neighborhood does not have any adopted area or sector plans at this time.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response:

“Cannot be used under a residential zoning.”

The property is currently zoned RS7 which permits residential uses and uses which are typically associated with residential uses. Given that the property is developed with greenhouses and garden structures, residential development on the property would require the demolition of the existing structures.

The property is suitable for converting to the residential uses permitted under the RS7 Zoning, but is also suitable for the nursery/garden center use which has historically been on the property and the uses which were included with it: *Crop Agriculture, General Retail Sales* and *Agricultural Sales*. Because of its size and the limited scope of the proposed project, it is also suitable for the *Limited Manufacturing and Production* and *Light Wholesale Storage and Distribution* uses that are being proposed.

The Development Code (Section 20-1739) defines *Limited Manufacturing and Production* as:

“Establishments generally employing fewer than 20 persons, do not involve outside storage of materials, do not require Federal air quality discharge permits, are compatible with nearby residential uses because there are few or no offensive external effects, and are involved in one of the following...” The list of uses includes: *“manufacturing, processing, or packaging of small-scale food production operations with limited on-site retail sales.”*

The use is intended to be compatible with nearby residential uses. Additional standards can be placed on the use, if necessary, through the Special Use Permit process to insure compatibility with nearby properties.

The proposed *Light Wholesale, Storage and Distribution* use is of such small scale, 3 employees and 2,000 sq ft, that it should be compatible with the nearby residential uses; however, *Light Wholesale, Storage and Distribution* uses as a whole may not be compatible with nearby residences. To insure the compatibility of the proposed uses, or of uses proposed in the future, staff recommends that these two uses be permitted only when approved with a Special Use Permit. This will allow a public hearing process and it will be possible to establish specific standards on the proposed uses to minimize any negative impacts.

Staff Finding – The property is suited for residential development, but has been developed with a nursery/garden center in a fashion compatible with the area. Redevelopment with residential uses would require the demolition of the garden center structures. The property is well suited to the restricted uses which are proposed in this report for the IL District.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"18 months."

Staff Finding – The building was vacated in December 2013 and the property was advertised for sale.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

"It will enhance nearby properties."

The removal of restrictions will allow the greenhouse structures to be re-used for the former uses on the site and the new uses proposed with this project. The facility will have an educational component and is intended to be part of the local food production system. Two small manufacturing businesses, a tofu production facility and a boutique kitchen, and a small wholesale, storage and distribution business, a seed house, would be located on the property. These would all be small scale agriculturally based businesses and would complement the other uses on the property. Limited retail sales are also planned with the project. The applicant indicated that future uses could include a holistic health center with 3 or 4 practitioners, a coffee shop, and perhaps a counseling service or other use which would be considered a *Social Service Agency*.

USE RESTRICTIONS

All uses permitted in the RS7 District should be compatible with the area as the subject property is surrounded by RS7 zoned property; however, the goal of this rezoning request is to allow the retention and reuse of the existing garden center facility and some of the uses permitted in RS7 would not be conducive to that reuse. The permitted use table in Attachment A compares uses that are permitted in the RS7 District with uses that are permitted in other low-intensity zoning districts that have been designed to be compatible with residential uses: the RSO (Single-Dwelling Residential-Office) District and the CN1

(Inner Neighborhood Commercial Center) District and also with the uses permitted in the proposed IL (Limited Industrial) District.

To facilitate the re-use of the garden center facilities, only those uses that would accommodate the reuse and retention of the existing Sunrise Garden facility will be included. (Religious Institutions and Telecommunication uses are required by law to be included in most zoning districts so these uses will be included in the list of permitted uses.) These include the following uses which are permitted in the RS7 District:

- *Religious Institution, Neighborhood*
- *Crop Agriculture*
- *Telecommunication Tower, w/SUP*
- *Telecommunication Antennae; accessory use*
- *Satellite Dish; accessory use*

The RSO and CN1 Districts were reviewed as these districts are designed to be compatible with nearby residential uses. Per Section 20-203 of the Development Code, the purpose of the RSO District is: “..to accommodate low to medium-intensity administrative and professional offices that are compatible with the character of low and medium-density residential neighborhoods.” The CN1 District’s purpose is defined as: “*The CN1, Inner Neighborhood Commercial District is primarily intended to accommodate pedestrian-oriented, small-scale retail and service businesses that serve nearby residential areas, typically within a developed neighborhood.*” (Section 20-207, Development Code)

Uses which are not allowed in the RS7 District but are permitted in the RSO or CN1 Districts and that would be conducive to the reuse of the Sunrise Garden facility include:

- *Social Service Agency*
- *Health Care Office/Health Care Clinic*
- *Administrative and Professional Office*
- *Personal Improvement*
- *Retail Sales, General*
- *Fast Order Food*

The CN1 District permits *General Retail Sales, Fast Order Food* and *Personal Improvement* uses subject to the standard that the establishments be no larger than 3,000 sq ft. As the subject property is located in an existing single-dwelling neighborhood, the CN1 (Inner Neighborhood) District standards should be applied to uses at this location to insure compatibility with surrounding area. A similar standard should also be set on the *Health Care Office/Health Care Clinic* use to insure it remains an accessory component of the project.

The proposed use of the facility includes crop agriculture and educational programs of a non-profit nature and also includes some production activities. These uses would be classified as *Limited Manufacturing and Production* and *Light Wholesale, Storage and Distribution*; two uses that are not permitted in the RS7, RSO, or CN1 Districts. Staff recommends that these uses be permitted when approved with Special Use Permits to allow a public hearing process for the use and the site plan. Standards can be established with a Special Use Permit to minimize negative impacts that may be associated with the use. In addition, the *Agricultural Sales* use may be continued on the property. As this is the historical use, staff does not recommend any additional standards.

Limited Manufacturing and Production allow with SUP

Limited Manufacturing and Production is defined as:

“establishments generally employing fewer than 20 person, do not involve outside storage of materials, do not require Federal air quality discharge permits, ***are compatible with nearby residential uses because there are few or no offensive external effects,***” (Section 20-1739, Development Code/ emphasis added).

The definition includes activities that are considered *Limited Manufacturing and Production* and the following is included “*Manufacturing, processing, or packaging of small-scale food production operations with limited on-site retail sales. Typical uses include caterers, bakeries, bottling and beverage manufacturing operations.*” The tofu facility and the boutique kitchen would fit into this type of use.

Staff recommends that the *Limited Manufacturing and Production* use be permitted in this zoning district with approval of a Special Use Permit. The Special Use Permit process includes a public hearing at the Planning Commission and approval by the City Commission. Site specific standards will be developed based on the characteristics of the proposed use and surrounding area to insure compatibility with the established neighborhood. Standards assigned with the SUP could include a limitation on the number of employees, maximum size of the establishment, limit on size of delivery vehicles, or other standards that would be developed through the review of the specific application and the public hearing process to minimize any negative impacts.

Light Wholesale, Storage and Distribution

This use is defined in the Code as:

“*Wholesaling, storage, distribution, and handling of materials and equipment other than live animals and plants.*” (Section 20-1767, Development Code)

The definition lists several types of uses and in Staff’s opinion, the proposed use fits into the following category: “*Light wholesaling, storage, and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses and moving and storage firms.*”

In Staff’s opinion, the *Light Wholesale, Storage and Distribution* use would be appropriate in this area with approval of a Special Use Permit. This will allow site specific standards to be developed to insure compatibility with surrounding properties.

Fast Order Food

The applicant noted that a future use for the site might be a coffee shop or similar use. As noted earlier, the CN1 District permits the *Fast Order Food* use with a limited area of 3,000 sq ft. Two fast food uses are permitted in the Development Code, with the difference being that one permits a drive-through, *Fast Order Food with Drive-in*, and the other, *Fast Order Food*, does not. Without a drive-through, the traffic associated with the use is less and the use can be compatible in neighborhood locations. In staff’s opinion, the *Fast Order Food* use, with the same size limitation as in the CN1 District, would be appropriate for this property.

Agricultural Sales

In addition, the *Agricultural Sales* use may be continued on the property; however, as it is the historical use of the property it is considered to be compatible with the surrounding area and no additional standards or restrictions are proposed.

Following the review of the various low-intensity zoning districts based on the goal of retaining and re-using the Sunrise Garden greenhouse facility, Staff recommends the following uses be permitted in the IL District: (those that are in blue are permitted in the current zoning district)

- *Crop Agriculture*
- *Social Service Agency*
- *Health Care Office/Health Care Clinic*, provided the building or business size limited to no more than 3,000 sq ft
- *Administrative and Professional Office*
- *Personal Improvement*, provided that the gross floor area shall not exceed 3,000 sq ft
- *General Retail Sales*, provided that the gross floor area shall not exceed 3,000 sq ft
- *Fast Order Food*, provided that the gross floor area shall not exceed 3,000 sq ft
- *Limited Manufacturing and Production* when approved with a Special Use Permit
- *Light Wholesale, Storage and Distribution* when approved with a Special Use Permit
- *Agricultural Sales*
- *Neighborhood Religious Institution*
- *Telecommunication Tower* when approved with a Special Use Permit
- *Telecommunication Antennae*, accessory
- *Satellite Dish*, accessory

Staff Finding – The IL Zoning District is being restricted to allow only those uses which were included with the Sunrise Garden Center or are a part of the proposed re-use of the Sunrise Garden Facility. The recommended standards and conditions set on these uses should minimize negative impacts to nearby properties. The rezoning, with the proposed restrictions on permitted uses, should have a positive impact on the nearby properties as it would allow the continued use of the garden center facility, increase access to locally grown food, and provide educational and other activities in the neighborhood.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicants Response:

"A piece of their history will be maintained and added to, hopefully improved upon. If denied, the property will revert back to residential."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

Denial of the rezoning would limit the area to uses which are permitted in the RS7 District and would prevent the re-use of the site with a similar use to the Sunrise Garden Center. The property could be developed with detached dwellings, which would be compatible with the

surrounding area; however, the Sunrise Garden Center has been a principal feature in this neighborhood and the removal of the facility would change the character of the area.

Approval of the rezoning would allow the Sunrise Garden Facility to be reused with a limited range of uses. The standards and conditions placed on the uses, as well as the measures taken during the site planning and Special Use Permit processes would insure compatibility with the neighborhood.

Staff Finding – Approval of the rezoning request would benefit the public health, safety, and welfare by allowing the reuse of the Sunrise Garden Center as part of the local food network and providing educational opportunities. Denial would require that the property be redeveloped with uses that are permitted in the RS7 District. While the reuse of the Sunrise Garden Center would not be possible with RS7 Zoning, single-dwelling residential redevelopment would be compatible with the area.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development. The rezoning request is unique in that it seeks to bring a nonconforming use which had been in existence since 1926 into compliance with the Development Code. The proposed zoning district, IL, would be required if the Sunrise Garden Center were to continue as it had operated or with the new uses that are proposed. The rezoning complies with several recommendations in *Horizon 2020*, but due to the fact that the use was established in 1926, the property does not comply with locational recommendations for industrial uses.

Staff recommends approval of the rezoning request for approximately 2.96 acres from RS7 (Single-Dwelling Residential) District to IL (Limited Industrial) District, with use restrictions 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:

1. Uses permitted in the IL District shall be limited to only those uses listed below:
 1. *Crop Agriculture*
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 3. *Health Care Office/Health Care Clinic*, provided the gross floor area shall not exceed 3,000 sq ft
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 5. *Personal Improvement*, provided that the gross floor area shall not exceed 3,000 sq ft
 6. *General Retail Sales*, provided that the gross floor area shall not exceed 3,000 sq ft
 7. *Fast Order Food*, provided that the gross floor area shall not exceed 3,000 sq ft
 8. *Limited Manufacturing and Production* when approved with a Special Use Permit
 9. *Light Wholesale, Storage and Distribution* when approved with a Special Use Permit
 10. *Agricultural Sales*

11. *Neighborhood Religious Institution*
12. *Telecommunication Tower* when approved with a Special Use Permit
13. *Telecommunication Antennae*, accessory
14. *Satellite Dish*, accessory

TABLE 1. COMPARISON OF PERMITTED USES: RS7, RSO, CN1, and IL

Uses identified for this project (current or future) are shown in bold blue print.
Uses permitted in the IL District and in less intense districts (RS7, RSO, and CN1) are highlighted.

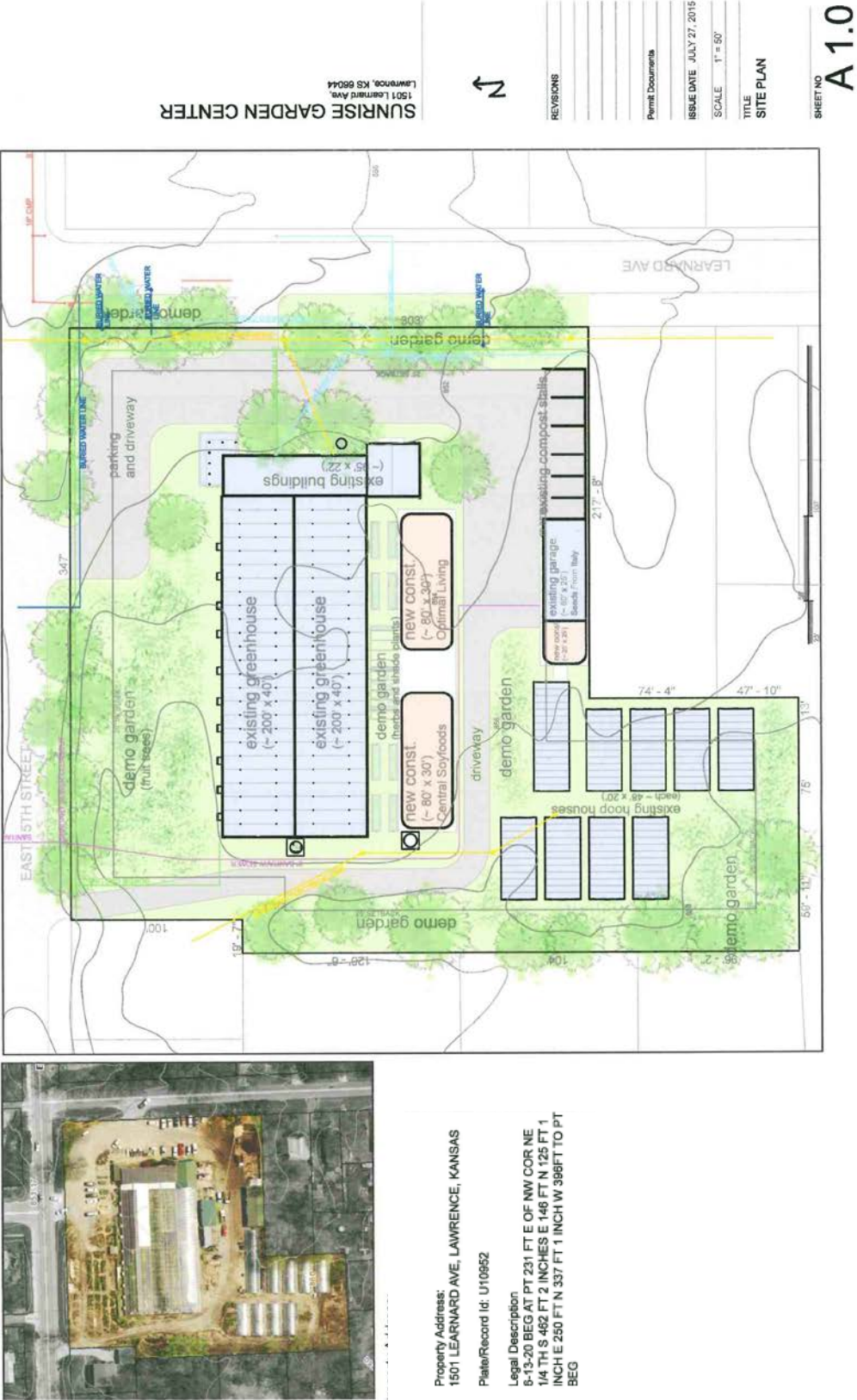
A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed	RS7	RSO	CN1	IL	STDS
Household Living					
Accessory Dwelling Unit	A*	–	P*	–	534
Attached Dwelling	S*	S*	P*	–	503
Cluster Dwelling	P*	P*	–	–	702
Detached Dwelling	P*	P*	P*	–	508
Duplex	–	P*	P*	–	503
Manufactured Home	–	–	–	–	
Manufactured Home, Residential-Design	P*	P*	P*	–	513
Mobile Home	–	–	–	P	
Mobile Home Park	–	–	–	–	514
Multi-Dwelling Structure	–	–	–	–	517
Non-Ground Floor Dwelling	--	P*	P*	–	517/542
Work/Live Unit	--	P*	P*	P*	517/542
Zero Lot Line Dwelling	P*	P*	P*	–	531
Home Occupation, Type A or B	A*	A*	–	–	537
Group Living					
Assisted Living	S	P	–	–	
Congregate Living	–	–	–	–	546
Dormitory	–	–	–	–	
Fraternity or Sorority House	–	–	–	–	
Group Home, General [11 or more]	S	S	S	–	
Group Home, Limited [10 or fewer]	P	P	P	–	
Community Facilities					
Adult Day Care Home	S	P	n/a	n/a	
Cemeteries	P*	P*	P*	P*	505
College/University	S	S	S	P	
School	S	S	P	–	
Cultural Center/ Library	S	S	S*	–	
Day Care Center	S*	S*	S*	P*	507
Day Care Home, Class A	A*	A*	P	–	507
Day Care Home, Class B	S*	S*	S*/A*	–	507
Detention Facilities	–	–	–	S	
Lodge, Fraternal & Civic Assembly	S*	S*	S*	P*	512
Postal Service	–	–	–	P	
Public Safety	S	S	S	P	
Funeral and Interment	–	P*	-	P*	505
Temporary Shelter	A*	S*/A*	S*/A*	S*/A*	544/522
Social Service Agency	--	P	P	P	
Community Meal Program	A*	S/A*	S/A*	S/A*	522
Utilities, Minor	P*/S*	P*/S*	P*/S*	P*/S*	530
Utilities and Service, Major	S	S	S	S	

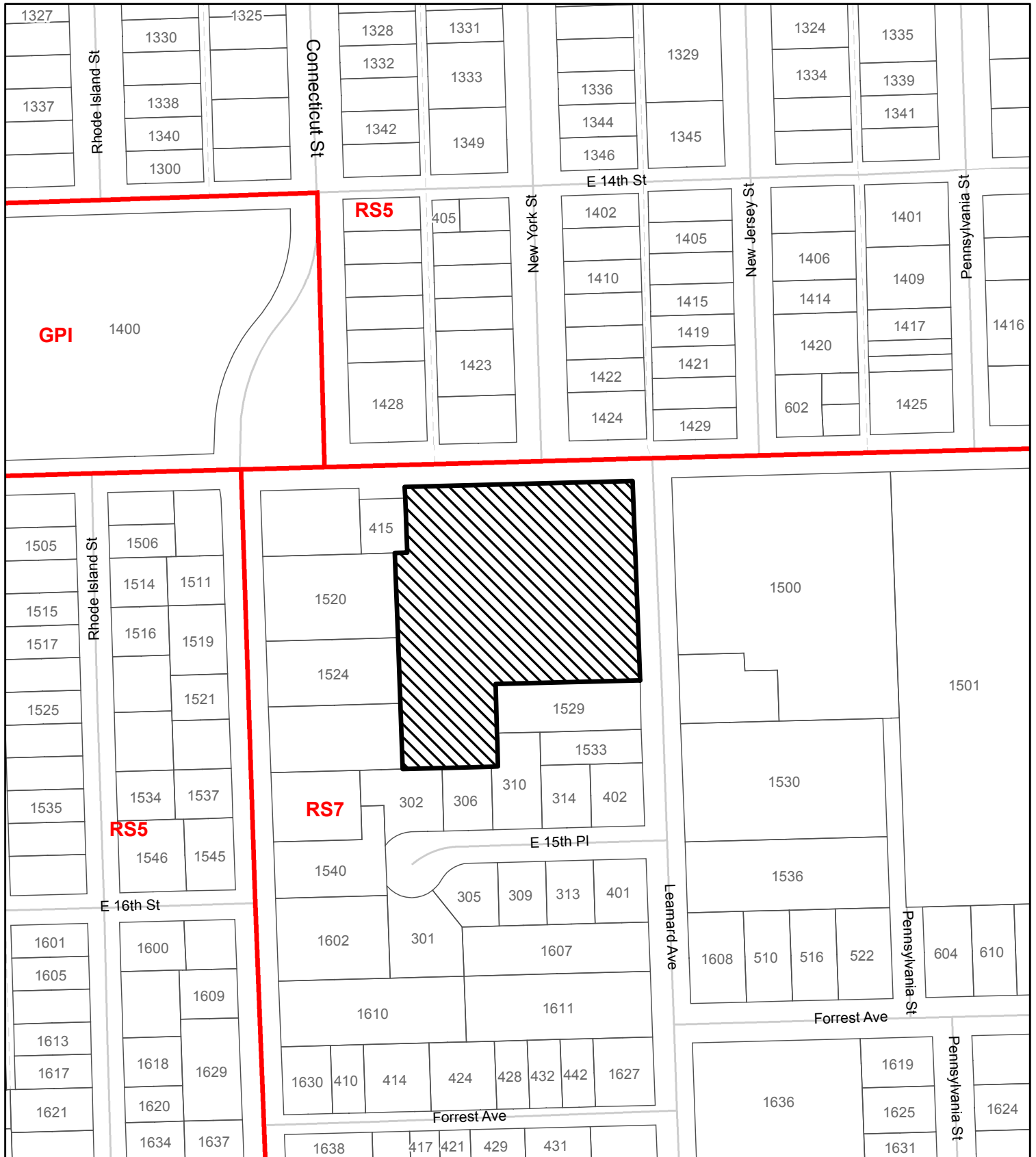
Medical Facilities					
Community Mental Health Facility	--	--	--	--	
Extended Care Facility, General	–	S	–	–	
Extended Care Facility, Limited	P	P	P	–	
Health Care Office, Health Care Clinic	–	P	P	P	
Hospital	–	–	–	–	
Outpatient Care Facility	–	P*	P*	-	519
Recreational Facilities					
Active Recreation	S	S	S	P	
Entertainment & Spectator Sports, General	–	–	-	–	
Entertainment & Spectator Sports, Limited	–	–	-	–	
Passive Recreation	P	P	P	P	
Nature Preserve/Undeveloped	P	P	P	P	
Private Recreation	P	P	P	–	
Participant Sports & Recreation, Indoor	–	–	-	P	
Participant Sports & Recreation, Outdoor	–	–	-	P	
Religious Assembly					
Campus or Community Institution	–	–	P*	P*	522
Neighborhood Institution	P*	P*	P*	P*	522
Animal Services					
Kennel	–	–	–	P	
Livestock Sale	–	–	–	P	
Sales and Grooming	–	–	P	P	
Veterinary	–	P	–	P	
Eating & Drinking Establishment					
Accessory Bar	–	–	A*	A*	
Bar or Lounge	–	–	–	–	
Brewpub	–	–	–	–	
Fast Order Food	–	–	P*	P	511/509
Fast Order Food, Drive-in	–	–	–	P*	
Nightclub	–	–	–	–	
Private Dining Establishments	S*	S*	P*	–	539
Restaurant, Quality	–	–	P*	P*	
Office					
Administrative and Professional	–	P*	P*	P	518
Financial, Insurance & Real Estate	–	P*	P*	P	510
Payday Advance, Car Title Loan Business		P*	P*	P	510
Other	–	P	P	P	543
Parking Facilities					
Accessory	–	A*	A*	A*	535
Commercial	–	S	–	P	
Retail Sales & Services					
Building Maintenance	–	–	–	P	
Business Equipment	–	–	–	P	
Business Support	–	–	–	P	
Construction Sales and Service	–	–	–	P	
Food and Beverage	–	–	P*	P*	
Mixed Media Store	–	–	P*	P*	
Personal Convenience	–	–	P*	P*	

Personal Improvement	-	P*	P*	P*	521
Repair Service, Consumer	-	-	P*	P*	
Retail Sales, General	-	-	P*	P*	525
Retail Establishment, Large	-	-	-	-	
Retail Establishment, Medium	-	-	-	-	
Retail Establishment, Specialty	-	-	-	-	
Sexually Oriented Businesses					
Sexually Oriented Media Store	-	-	-	-	
Physical Sexually Oriented Business	-	-	-	-	
Sex Shop	-	-	-	-	
Sexually Oriented Theater	-	-	-	-	
Transient Accommodations					
Bed and Breakfast	S*	S*	P*	-	504
Campground	-	-	-	-	
Hotel, Motel, Extended Stay	-	-	-	P	
Vehicle Sales & Services					
Cleaning (e.g., car wash)	-	-	-	P	
Fleet Storage	-	-	-	P	
Gas and Fuel Sales	-	-	-	P	
Heavy Equipment Repair	-	-	-	P	
Heavy Equipment Sales	-	-	-	P	
Inoperable Vehicles Storage	-	-	-	P	
Light Equipment Repair	-	-	-	P	
Light Equipment Sales/Rental	-	-	-	P	
RV and Boats Storage	-	-	-	P	
Truck Stop	-	-	-	-	
Industrial Facilities					
Explosive Storage	-	-	-	-	
Industrial, General	-	-	-	P	
Industrial, Intensive	-	-	-	-	
Maker Space, Limited	--	--	P	P	
Maker Space, Intensive	--	--	--	P	
Laundry Service	-	-	--	P	
Manufacturing & Production, Limited	-	-	-	P	
Manufacturing & Production, Tech	-	-	-	P	
Research Service	-	-	-	P	
Salvage Operation	-	-	-	S*	
Exterior Storage	n/a	n/a	-	A*	
Wholesale Storage & Distribution					
Heavy	-	-	-	S	
Light	-	-	-	P	
Mini-Warehouse	-	-	-	P	
Adaptive Reuse					
Designated Historic Property	S*	S*	S*	S*	501
Greek Housing Unit	-	-	-	-	501
Agriculture					
Agricultural Sales	-	-	-	P	
Agriculture, Animal	-	-	-	-	502
Agriculture, Crop	P	P	P	P	
Communication Facilities					

Amateur and Receive-Only Antennas	A*	A*	A*	A*	536
Broadcasting Tower	–	–	–	P	
Communications Service Establishment	–	P	P	P	
Telecommunications Antenna	A*	A*	A*	A*	529
Telecommunications Tower	S*	S*	S*	S*	529
Satellite Dish	A*	A*	A*	A*	536
Mining					
Mining	–	–	–	–	
Recycling					
Large Collection	–	–	–	P	540
Small Collection	–	–	P	P	540
Processing Center	–	–	–	S	

CONCEPT PLAN





**Z-15-00427: Rezone 2.96 acres from RS7 District to IL District
Located at 1501 Learnard Avenue**



City Planning Commission
September 30, 2015
R.E. Rezoning Sunrise Garden Center lots

To Whom It Concerns:

My name is Laurel Sears. I live at 1428 Connecticut Street with my family. We have owned our house since 1978 and are very familiar with the Barker/ Connecticut neighborhood, as well as the property in question for rezoning. We firmly support the rezoning of the former Sunrise Garden Center to light industrial or urban agriculture designation.

We have spent many hours and money at Pence's and then Sunrise Garden Center. It saddened us to watch our beloved garden center close up. But it has been even more distressing to watch this valuable and historically meaningful site degrade through vacancy. We are excited to welcome the Sunrise Project, LLC to the neighborhood. With their investment in small, local business partners like Central Soyfoods and focus on urban agricultural outreach/ education, they fit with the neighborhood character and intentions.

They have worked hard to inform neighbors and build consensus about their upcoming projects and plans. We are well acquainted with Central Soyfoods, who may occupy a small part of the site and produce local tofu. We believe that this designation will not stress the neighborhood infrastructure, nor will it create noise or air pollution. Overall, the occupancy of this site by a neighborhood-based organization, intent on making urban agriculture and UA education available for participants, will benefit our neighborhood.

Please accept our letter of support for the rezoning of the Sunrise Garden Center property to light industrial or urban agriculture.

Sincerely,

Laurel Sears and the Sears-Reese family

From: [Cindi Kroll Hauptli](#)
To: [Mary Miller](#)
Subject: Sunrise project
Date: Thursday, October 08, 2015 3:08:40 PM

Hi. I live at 1530 Barker Ave. my backyard runs up to the sunrise garden center. My family would be happy to have the Sunrise project in our neighborhood. We do not see a problem with the tofu factory. I would like to see a clause that it would go back to residential/not factory if the businesses were to close. I wanted to voice my support. We would be excited to see the greenhouses up and running again. I think it would be Great for our neighborhood. Thank you, Cindi Kroll Hauptli

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From: [Will Nagengast](#)
To: [Mary Miller](#)
Subject: Sunrise Rezoning project
Date: Thursday, October 08, 2015 11:15:53 PM

Dear Ms. Miller,

I am writing in support of the rezoning request for the Sunrise Garden Center. My wife and I recently moved into a house directly across the street, and we are excited about the proposed project. I work for Seeds from Italy, and hope our business might be able to relocate there. Our business is a very small, quiet business with virtually no traffic other than the postal service once a day.

But even apart from my personal interest, I think the project would benefit the neighborhood by bringing Sunrise back to life. It promises to bring people together in positive, interesting activities. I hope it will provide jobs for neighborhood kids, and I think it will make the area feel safer to have more people present on the site, rather than just a large, dark, abandoned building and lot. Based on what I know of the project, I don't think it will cause much of an increase in traffic or noise, certainly not more so than when it was a retail garden center. As one of the nearest neighbors, we welcome the new energy it will bring.

Thank you,
Will Nagengast
1429 New Jersey

From: [Pat Kehde](#)
To: [Mary Miller](#)
Cc: [Emily Hampton](#)
Subject: Sunrise site plan and zoning for Central Food facility
Date: Thursday, October 08, 2015 5:45:33 PM

Dear Ms. Miller:

I live at 1636 Learnard, half a block south of the Sunrise site. Our family has lived at this address since 1981.

We support the use of the corner of Learnard and 15th St. site for the Sunrise Garden Project and we support the limited conditional zoning for Central Tofu on that site.

I have talked with several others in our neighborhood and they all are relieved and happy that the site will retain its agricultural/horticultural character and not become an apartment complex with lots of student car traffic. They too support this Project.

In addition, I know David and Susan Millstein because when I owned the Raven Bookstore we rented the space on 7th Street from them.

They are very reliable and responsible people who have done wonderful things for the city of Lawrence e.g. Liberty Hall renovation, which included the space now occupied by the video store, The Raven and Prima Tazz. The whole area of Liberty Hall (then the Opera House) was derelict in 1986 when they bought it with Charles Oldfather. They also renovated the Casbah space in the 800 block of Mass, and of course started and operated Sunflower Surplus, which is now Sunflower Bike shop. The Millsteins have a long and illustrious track record and can be relied on to do the best for the neighborhood and to abide by the zoning restrictions.

I hope that the Planning Commission will support this request for the Sunrise Project and for limited industrial zoning for the corner of 15th and Learnard.

Thank you,

Pat Kehde
1636 Learnard
Lawrence, KS 66044
785.841.8296

From: [Holly Krebs](#)
To: [Mary Miller](#)
Subject: Feedback from Planning and Development Services contact page
Date: Saturday, October 10, 2015 9:56:44 PM

Hi Mary,

I'd like to express my support for the rezoning of the old Sunrise Garden Center to the light industrial classification.

It is a wonderful opportunity for the City to have this land revitalized in such a way that maintains some of the gardening space and brings in local businesses to create a mixed-use location in the heart of a neighborhood. If this rezoning is not allowed to go forward, I think it unlikely that the neighborhood would receive a comparable improvement of the land that would also support the community.

I'm sure that stipulations can be clearly written to guarantee that this zoning is only allowed for the current entities that will inhabit the land.

I hope the City and Planning Commissions will support this great community-based, healthy-food-oriented venture. I think it would only strengthen the neighborhood.

Thank you,
Holly Krebs

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From: judamama@iuno.com
To: [Mary Miller](#)
Subject: zoning for the sunrise project
Date: Monday, October 12, 2015 10:51:38 AM

I am writing to support the proposed rezoning for the Sunrise Project at 15th and Learnard. I live three blocks from the site, at the corner of Johnson and Learnard, and I believe the project will be a wonderful addition to the neighborhood. I have been a longtime customer of Central Soy and have visited their operation at two different locations, and from what I observed at those locations I believe that there will be very little disturbance caused by their presence as part of the sunrise project. I think the overall benefits of the proposed project would make it a great asset for the neighborhood and the city. Thanks for your consideration, Juda Lewis
342 Johnson Ave.

From: [Chris Taylor](#)
To: [Mary Miller](#)
Subject: 1501 Learnard Rezoning
Date: Tuesday, October 13, 2015 11:27:05 AM

Dear Ms. Miller,

I was encouraged by the Barker Neighborhood Association to send concerns regarding the rezoning of 1501 Learnard your way for consideration by the planning commission. As a homeowner in the Barker neighborhood, I do have concerns, but not regarding Central Soy. I love the idea of locating Central Soy in the neighborhood and support Mr. Millstein's efforts. My concerns are around the plans of the Sunrise Project. I have written and asked them on more than one occasion if they plan to promote urban animal agriculture and/or backyard slaughter and have not received a straight answer. I fear they may be planning for some kind of small animal slaughter facility at the 1501 Learnard site or the promotion of backyard slaughter in the neighborhood. I do not support urban animal agriculture. I do not support urban animal slaughter. The research simply does not support animal agriculture in any form as sustainable. The encouragement of such is misleading and dangerous, so I cannot support the rezoning of 1501 Learnard for this purpose. I would like to encourage all involved to focus their efforts on truly sustainable plant-based practices.

Warm regards,
Chris Taylor

Mike and Carrie Wendel-Hummell
314 E 15th Place
Lawrence, KS 66044

October 15, 2015

Lawrence-Douglas County Metropolitan Planning Commission
6 East 6th Street
Lawrence, KS 66044

RE: Z-15-00427; rezoning at 1501 Learnard Ave.

To Whom it May Concern,

We are writing in support of rezoning the property located at 1501 Learnard Avenue to limited industrial for the Sunrise project. I live at 314 E 15th Place, which is in very close proximity to this location. I appreciate the efforts of Sunrise Green leadership and new property owners in reaching out to the neighboring community in detailing their plans and addressing our concerns. I look forward to the possibility of this property serving as community cooperative and educational gardens. I understand that Central Soy Foods will also produce at this location, and have been assured that these operations will be light-traffic, minimal-noise, and low-odor. I am confident that the proposed operations can coincide with a quality living environment in the surrounding neighborhood, and further, that the property owners will be responsive to any concerns that may emerge. In rezoning the property, it is important to us that limits specify that any future operations/uses would also be low traffic, noise, and odor.

We will not be able to attend the upcoming public hearing due to a schedule conflict. Please contact us with any questions regarding our support for associated rezoning needed to help bring the sunrise project to fruition.

Sincerely,


Mike Hummel
Mike and Carrie Wendel-Hummell
(785) 393-6366



From: [Kelly Jones](#)
To: [Mary Miller](#)
Cc: kellyjones@ku.edu; willnagengast@gmail.com; [Pat Kehde](#); laurelb@gmail.com; cjjhop@att.net; [Holly Krebs](#)
Subject: Re: staff report and materials for Sunrise Garden Rezoning
Date: Friday, October 16, 2015 10:11:55 AM

Thank you, Mary, for forwarding the staff report.

I own property that abuts the former Sunrise Garden Center, 415 E 15th. My family & I have reviewed the attached document & support the proposed project, which focuses on 1) small scale growth & production of primarily local food & 2) health & environmental education. We therefore support the rezoning as its stated in your report.

If the proposed project is not successful, we ask that City be sensitive to approving future uses that are equally reflective of the character & culture of the Barker & East Lawrence neighborhoods.

Best. -Kelly Jones

On Oct 16, 2015, at 8:13 AM, Mary Miller <mmiller@lawrenceks.org> wrote:

Hello,

The staff report for the Sunrise Garden rezoning is available on the Planning website www.lawrenceks.org/pds I've also attached a copy for your convenience.

This item will be considered by the Planning Commission at their October 19th meeting.

The meeting begins at 6:30 PM in the Commission Room, City Hall (6 East 6th Street).

This is the first item on the agenda. This is a public hearing item.

Please let me know if you have any questions.

Thanks,

Mary

Mary K Miller, AICP, City/County Planner- mmiller@lawrenceks.org

Planning Division | www.lawrenceks.org/pds

P.O. Box 708, Lawrence, KS 66044

Office (785) 832-3147 | Fax (785) 832-3160

"Your opinion counts! Customer feedback helps us serve you better. Please tell us how we're doing by completing this short online Customer Satisfaction Survey:

<http://lawrenceks.org/pds/survey/satisfaction>."

<pl_z-15-00427_sr.pdf>

From: [Matthew Stephens](#)
To: [Mary Miller](#)
Subject: rezoning request for 1501 Learnard Ave
Date: Monday, October 19, 2015 9:00:08 AM

Hello Mary,

I wanted to voice my support for the rezoning of the old sunrise garden center at 1501 Learnard Ave. I live 3 houses south at 1536 Learnard and I have zero concerns about the plans for the site that the Millsteins are proposing. I think that preserving the greenhouses and bringing together local businesses will turn that property into a wonderful resource for both the neighborhood and the city. As a resident who lives next to this property, I hope that the planning commission will approve this rezoning request.

Thank you,

Matthew Stephens

From: [John Thompson](#)
To: [Mary Miller](#)
Subject: Sunrise Project
Date: Friday, October 16, 2015 2:32:56 PM

Hi Mary!

I just want to send you a quick note stating our support for the Sunrise Project in our neighborhood. We look forward to the activity at that site, and are glad to have small business and community activities represented so near to our home. We believe that the project will have a positive impact on our area and the entire community, and are excited to see it up and running and to be involved in the project.

Yours,

John and Corrie Thompson
1607 Larnard Ave.
Lawrence, Ks 66044