

MEMORANDUM

TO: Prairie Village City Council
FROM: Ron Williamson, Lochner, Planning Consultant
SUBJECT: The Golden Factors
DATE: May 20, 2013

Project # 000005977

In 1978, the Supreme Court of Kansas handed down a decision in the Golden vs. City of Overland Park case that established the basis for considering and reaching a decision on zoning changes. The decision should be made based on the evidence submitted and the factors considered. The eight Golden Factors emerged from this case and have become institutionalized in the consideration of zoning changes in Kansas. A more recent court case determined that Special Use Permits were, in reality, a land use change and should be considered by the same factors.

The factors must be considered by the Planning Commission and Governing Body in order to determine whether granting or denying a zoning change, including a Special Use Permit, was reasonable. It is not necessary that findings on all the factors be favorable to approve or be unfavorable to deny the zoning change or Special Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case.

1. **The character of the neighborhood:** Factual description of the application area and surrounding property as to land uses, density, intensity, general condition, age of structure, etc.
2. **The zoning and uses of property nearby:** Factual listing of the zoning surrounding the property along with the specific abutting uses.
3. **The suitability of the property for the uses to which it has been restricted under its existing zoning:** How is the property currently zoned and what uses are allowed on the property? Are these uses suitable given surrounding zoning and site criteria? Are the current allowed uses the only ones which might be appropriate for this property?
4. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Can the uses allowed in the requested district be good neighbors to existing development? This is a subjective question. The focus should be on facts, not fears, and should be based on issues that zoning can address (e.g., allowed uses, minimum lot sizes, height, setbacks, traffic, etc.)
5. **Length of time of any vacancy of the property:** Factual information, but its importance can be somewhat subjective. A property might be vacant because the current zoning is unsuitable, but there may be other reasons not related to zoning. Some examples might be a glut of available property of the same zoning district, financing problems, speculation, lack of available services or other development problems.
6. **Relative gain to the public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners:** The protection of the public health, safety and welfare is the basis for zoning. The relationship between the property owner's right to use and obtain value from their property and the City's responsibility to its citizens should be weighed.
7. **Recommendation of professional staff:** Should be based on the evidence presented, the factors, adopted plans and policies, and other technical reports (e.g., Capital Improvement Programs, facility master plans, etc.) which speak to the topic and staff's best professional judgment.
8. **Conformance with the Comprehensive Plan:** Does the request agree with the adopted plan recommendations? If not, is the plan out-of-date or are there mitigating circumstances which speak to the nonconformity?

In addition to the Golden Factors, the City of Prairie Village Zoning Regulations also provides factors for consideration (19.28.035) when considering Special Use Permits. Several of these factors are similar to those found in the Golden Factors. The following is an excerpt of 19.28.035.

The Planning Commission and Governing Body shall make findings of fact to support their decision to approve or disapprove a Special Use Permit. (Ord. 1973, Sec. I, 1999; Ord. 2199, Sec. V, 2009)

- A. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;*
- B. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public;*
- C. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located*
- D. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood consideration shall be given to:
 - 1. The location, size, nature and height of buildings, structures, walls, and fences on the site;*
and
 - 2. The nature and extent of landscaping and screening on the site.**
- D. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.*
- E. Adequate utility, drainage, and other such necessary facilities have been or will be provided.*
- F. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.*
- G. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.*
- H. Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed building is to be built or located.*

It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. (Ord. 1973, Sec. I, 1999)
