



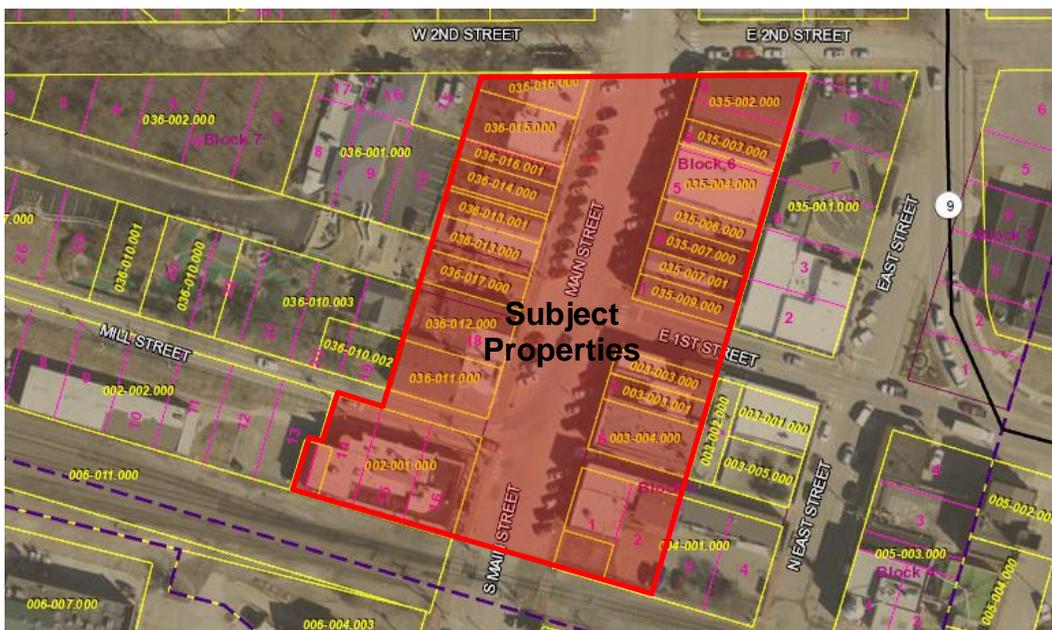
Public Hearing Summary For September 08, 2015 Hearing

(Last updated 8-26-15)

Proposed text amendment to Parkville Municipal Code, Chapter 442, “OTD” *Old Town District*, Sections 442.015, *Permitted Uses*, and 442.020, *Prohibited Uses*, and Chapter 440, *General Provisions*, Section 440.030, *Definitions*.

The Parkville Planning and Zoning Commission will hold a public hearing on Tuesday, September 08, 2015 at 5:30 pm in the Boardroom at Parkville City Hall, 8880 Clark Ave., Parkville, MO to consider a text amendment to Parkville Municipal Code, Chapter 442, “OTD” *Old Town District*, Sections 442.015, *Permitted Uses*, and 442.020, *Prohibited Uses*. The amendment proposes to restrict ground floor businesses to retail uses for that section of Main Street between the railroad tracks to the south and 2nd Street to the north. The application also includes amendments to Chapter 440, *General Provisions*, Section 440.030, *Definitions*, to define retail uses and related terms.

The properties that would be affected are shown below in red. These properties are further identified by the following Platte County parcel numbers: 20-7.0-35-100-035-002.000, 20-7.0-35-100-035-003.000, 20-7.0-35-100-035-004.000, 20-7.0-35-100-035-006.000, 20-7.0-35-100-035-007.000, 20-7.0-35-100-035-007.001, 20-7.0-35-100-035-009.000, 20-7.0-35-100-036-011.000, 20-7.0-35-100-036-012.000, 20-7.0-35-100-036-013.000, 20-7.0-35-100-036-013.001, 20-7.0-35-100-036-014.000, 20-7.0-35-100-036-015.000, 20-7.0-35-100-036-016.000, 20-7.0-35-100-036-016.001, 20-7.0-35-100-036-017.000, 20-7.0-35-400-002-001.000, 20-7.0-35-400-003-003.000, 20-7.0-35-400-003-003.001, 20-7.0-35-400-003-004.000, 20-7.0-35-400-004-001.000, and 20-7.0-35-400-004-002.000.



The properties may also be viewed online using the Platte County GIS map viewer at <http://maps.co.platte.mo.us/>. Enter the parcel numbers in the address field or zoom to the proposed area using the location description above.

The amendment is proposed at the request of petitioning property owners and representatives of the Main Street Parkville Association (MSPA). The petition and supporting information was presented to the Board of Aldermen at their July 21, 2015 meeting. Following consideration, the Board directed staff to pursue a text amendment. A subsequent meeting was held with Main Street property owners and representatives from the MSPA to confirm objectives and refine the requested amendment. Those in attendance concluded that the amendment should limit the use of ground-floor spaces on Main Street between the railroad tracks to the south and 2nd Street to the north to retail only uses, disallowing non-retail and services uses. It was concluded that any existing business that does not meet this requirement should be allowed to continue to operate (if adopted, the amendment would not be retroactive and all existing businesses not in compliance would be considered pre-existing, legally non-conforming uses and allowed to continue to operate). The request was also discussed with the Planning and Zoning Commission on August 11, 2015.

Following consideration of input from the petitioners, Board of Aldermen and Planning and Zoning Commission, and research of other communities that have similarly restricted uses, staff prepared a draft text amendment. An additional meeting was held with property owners and MSPA representatives on Monday, August 24, 2015 to discuss the draft text amendment. As a result of the meeting, revisions to the draft amendment were proposed and are now incorporated. Additional changes were made at the direction of the City's legal counsel.

The public hearing is open to the public and all interested parties are welcome to attend and express opinions before the Planning and Zoning Commission during the public hearings. Written comments received by the Community Development Department on or before 5:00 p.m. Wednesday, September 02, 2015 will be distributed to the Planning and Zoning Commission prior to the meeting. Comments may be mailed to 8880 Clark Avenue, Parkville, MO, 64152, faxed to 816-741-0013 or emailed to ztusinger@parkvillemo.gov. Comments received after that date will be handed out the night of the meeting.

Following consideration of the proposed rezoning, the Planning and Zoning Commission will recommend action to the Board of Aldermen or postpone the application for further consideration. Unless postponed or withdrawn by the applicant, the Board of Aldermen will consider final action on these applications at their regularly scheduled meeting on Tuesday, September 15, 2015 at 7:00 p.m.

For questions, please call the Parkville Community Development Department at 816-741-7676.

Attachments:

1. Draft Text Amendment*
2. Petition requesting amendment submitted 6-10-15
3. Minutes of the 8-6-15 meeting with property owners and MSPA representatives

Additional online resources:

1. "OTD" Old Town District - <http://www.ecode360.com/27901759>
2. Parkville zoning code in its entirety - <http://www.ecode360.com/PA3395-DIV-05>
3. Platte County GIS map viewer - <http://maps.co.platte.mo.us/>

- * The draft amendment is subject to change. If there are any revisions, this notice will be updated with a revised draft showing the proposed changes.

Following are excerpts from the Parkville Municipal Code. Text in red (**example**) is proposed to be added. Text that is struck through (~~example~~) is to be removed.

400.030 Definitions

Retail Use. Any establishment where the primary use is the selling of goods and/or food and beverages directly to the consumer, where those goods are available for immediate purchase or order, and where the goods can be immediately removed from the premises, or immediately consumed on the premises, by the purchaser. A retail use includes, but is not limited to the following: bookstore, clothing store, florist, hardware store, antique store, art gallery, craft store, furniture store, bakery, restaurant, ice cream parlor, coffee shop and similar uses that sell goods directly to the consumer.

442.010. Purpose.

- A. The regulations set forth in this Chapter, or set forth elsewhere in this Title, when referring to in this Chapter, are the regulations in the "OTD" Old Town District.
- B. Based on an evaluation of the community, it has been determined that a new district is needed to help preserve, maintain and enhance the character of the commercial portion of the urban core while also providing for new development within the immediate area. This new designation, entitled the Old Town District, has been created out of a necessity to satisfy these two (2) conditions within one (1) zoning district. Differing levels of maintenance and adaptive uses have gradually altered the occupancies of the area.
- C. Land in this district shall be used primarily for light retail ~~business uses~~ **uses** with accessory office and residential uses. **Uses along the Main Street portion of this district shall have additional use restrictions to foster an active retail destination.** Areas designated within this district should abut upon residential, "B-4", "I-1" or abut upon an intersection of streets upon which one (1) of such districts also may abut.

442.015. Permitted Uses.

- A. The following retail uses shall be permitted for ground-floor, street-level storefronts, suites and spaces fronting Main Street between the railroad right-of-way south of Mill Street on the south and Second Street on the north. Non-retail uses shall only be permitted on the ground-floor or street-level in accordance with Section 2 herein.
 - 1. Retail uses as defined in Section 400.030, including, but is not limited to the following: bookstore, clothing store, florist, hardware store, antique store, art gallery, craft store, furniture store, clothing store, bakery, restaurant, ice cream parlor, coffee shop and similar uses that sell goods directly to the consumer and subject to the following:
 - a. Restaurants shall not include drive-thru or drive up service.

- b. Grocery stores, markets and specialty foods shall not include slaughtering of animals on the premises.
- c. With the exception of buildings existing prior to effective date of these regulations, buildings for free-standing uses shall not exceed 2,500 square feet.
- d. Crafting, creation, assembly and light manufacturing of arts, crafts, retail goods and similar items as an accessory use to and for sale from a primary retail use subject to the same additional use limitations delineated in 442.015.B.14.

2. Non-retail uses.

a. Non-retail uses are permitted only under the following conditions:

- i. The street-level, ground-floor storefront, suite or space has been vacant for a minimum of three (3) months; and
- ii. Community Development Director approval of an application for an administrative exception permit, demonstrating that the building owner has actively advertised the space for lease or sale for uses permitted under 442.015.A, as evidenced by newspaper clippings of advertisements, copies of online advertising, evidence that signs advertising the lease or sale were posted on the site, and other relevant evidence that the space was actually advertised for lease or sale at least three (3) consecutive months prior to the application for the administrative extension use permit. The Community Development Director shall approve an administrative exception permit when it is determined that a good faith effort has been made to lease the tenant space for a retail use for at least three (3) months; or
- iii. Any denial of an application for an administrative exception permit by the Community Development Director may be appealed by the building owner to the Board of Zoning Adjustment for a final determination.

- b. When permitted, an approved administrative exception permit shall be conditioned on the non-retail use incorporating accessory retail sales, window displays, or similar activities that create street-level interest and support an active retail environment. These conditions shall be approved by the Community Development Director, or on appeal, by the Board of Zoning Adjustment.

B. The following uses shall be permitted in the "OTD" Old Town District generally, excepts as provided in 442.015.A:

- 1. Display room for merchandise to be sold on order where merchandise sold is stored elsewhere.

2. Dressmaking, tailoring, shoe repairing, repair of household appliances, watches and bicycles, dry cleaning and pressing and bakery, with sale of bakery products on the premises, and other uses of a similar character; provided that no use permitted in this item may occupy more than two thousand five hundred (2,500) square feet of floor area.
3. Offices and office buildings, including medical or dental clinics.
4. Personal service uses including barber shops, banks, beauty parlors, photographic or artists' studios, messengers, taxicabs, newspaper or telecommunication services, dry cleaning receiving station, restaurants, (but not drive-in restaurants), undertaking establishments, and other personal service uses of a similar character.
5. Retail stores, including florist shops and meat markets, but there may be no slaughtering of animals or poultry on the premises.
6. Specialty food shops not exceeding five thousand (5,000) square feet.
7. Hardware or craft stores not exceeding five thousand (5,000) square feet.
8. Antique stores, bookstores or art galleries.
9. Bed and breakfast.
10. Churches and parish halls, temples, convents and monasteries.
11. Colleges and schools, public or private, having a curriculum and conditions under which teaching is conducted equivalent to a public school and institutions of higher learning.
12. Miniature golf courses.
13. Residential dwelling units, when located within a structure that contains retail space on the street level.
14. Crafting, creation, assembly and light manufacturing of arts, crafts, retail goods and similar items as an accessory use to and for sale from a primary retail or service use permitted in the Old Town District and subject to the following additional use limitations:
 - a. Accessory crafting, creation, assembly and light manufacturing uses shall be subject to approval of a development plan by the Board of Aldermen following recommendation by the Planning Commission in accordance with Section **442.025**.
 - b. No accessory crafting, creation, assembly and light manufacturing use shall be approved unless it is found that said accessory use will not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, traffic or other objectionable influences than the minimum amount normally resulting from retail commercial, personal service or office uses in the Old Town District.
 - c. Accessory crafting, creation, assembly and light manufacturing uses shall be secondary and complementary to the primary retail commercial, personal service and office uses of the Old Town District.

- d. In order to preserve the street level attraction and activity of the Old Town District, accessory crafting, creation, assembly and light manufacturing uses shall be restricted from the front half of street level building floors, except as permitted through a conditional use permit. In no case shall an accessory crafting, creation, assembly and light manufacturing use occupy a street level storefront unless it is found that said use is visible to the public and creates an attraction equal or greater to that of a retail use.
- e. Accessory crafting, creation, assembly and light manufacturing uses shall not occupy more than fifty percent (50%) of the gross square footage of the combined area of the primary and accessory use.
- f. Accessory crafting, creation, assembly and light manufacturing uses shall not restrict or limit hours of operation, parking, loading, unloading, trash disposal or other activities associated with the primary retail commercial, personal service and office uses in the Old Town District.
- g. New construction, renovation or other improvements required to accommodate accessory crafting, creation, assembly and light manufacturing uses shall be visually secondary to the primary use, complementary and compatible with the architecture of the rest of the building and complementary to the established character of the Old Town District.

15. Accessory buildings and uses.

~~16. Other uses deemed appropriate to the character of the "OTD-B" District and as recommended by the Planning Commission and approved by the Board of Aldermen.~~

- C. All of the foregoing uses are permitted in existing structures, **except where the use would substantially increase the need for parking.** New construction, ~~or~~ exterior alterations **and uses that would substantially increase the need for parking** are permitted only upon the review of the Planning Commission and approval of the Board of Aldermen in each specific instance, after consideration of the location of such use with relation to the adjacent residential area, traffic burden, noise, lights and other factors in keeping with Chapter **442**.

D. Legal, Non-Conforming Uses.

- 1. **Authority to Continue.** The lawful use of a building or space therein existing prior to effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become a legal, non-conforming use) may be continued although that use does not conform to the provisions of Section 442.015; provided, however, this authority to continue shall not apply to any use approved by administrative exception permit. Whenever a legal, non-conforming use has been changed to a more-compatible, legal, non-conforming use or to a conforming use, that use shall not thereafter be changed to a less-compatible, legal, non-conforming use, except in accordance with the regulations of this Chapter.
 - a. **Use hierarchy.** For the purpose of this Section, uses are ranked from least compatible to most compatible in the following order. For the purpose of this section,

any interpretation regarding rank or hierarchy shall be made by the Community Development Director.

- i. Industrial or prohibited use
- ii. Residential uses
- iii. Institutional uses including but not limited to auditoriums, churches, parish halls, temples, convents, monasteries, colleges, schools (public or private), daycare, or places of assembly
- iv. Administrative or professional office use, including general and professional offices, insurance and real estate offices, medical or dental clinics
- v. Personal service use, other than listed above
- vi. Retail uses as defined in Section 400.030

2. Ordinary Repair and Maintenance.

- a. Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a legal, non-conforming use.
- b. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of the Building Official, Fire Marshal or other public official who is charged with protecting the public safety and who declares that structure to be unsafe and orders its restoration to a safe condition.

3. Extension. A legal, non-conforming use shall not be extended, expanded, enlarged, or increased in intensity. These prohibited activities shall include, without being limited to:

- a. Extension of a use of any structure or land area, other than that occupied by a legal, non-conforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause that use to become legal, non-conforming).
- b. Extension of a use within a structure to any portion of the floor area that was not occupied by that legal, non-conforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become legal, non-conforming); provided, however, that the use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for that use on the effective date.

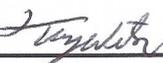
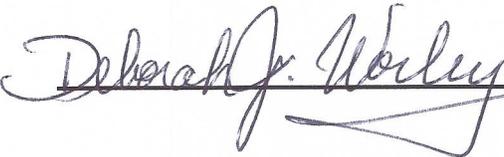
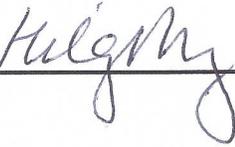
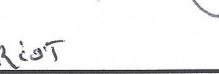
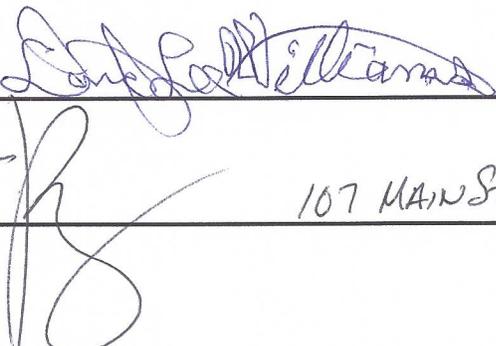
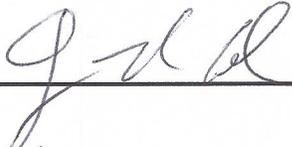
4. Enlargement. No structure that is devoted in whole or in part to a legal, non-conforming use shall be enlarged or added to in any manner unless that structure and the use thereof shall thereafter conform to the requirements of this Chapter.

5. Abandonment or Discontinuance. A legal, non-conforming use shall be allowed to continue so long as the use is continuously operated and is not discontinued or abandoned for a period of twelve (12) months or more. Whenever a legal, non-conforming use has been changed to a more-compatible, legal, non-conforming use or

to a conforming use, that use shall not thereafter be changed to a less-compatible, legal, non-conforming use.

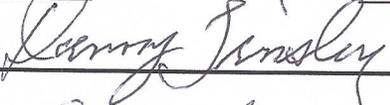
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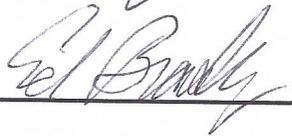
As a property owner and/or Main Street Association delegate in the downtown Parkville district, I am in support of the City passing an ordinance whereby future businesses planning on opening in street level space on Main Street between the south boundary of the railroad track to the north boundary of 2nd Street shall be limited to businesses with a customer service component offering the sale of retail products and/or merchandise.

Name	Signature	Address	Phone
Troy Wilson MSPA Chair		106 1/2 main ST	816-587-2701
		16 Main	816-741-2151
Hilary Murray		109 Main	816 225-0636
Guillaume F. Hauriot		112 MAIN	816 587 6267
David Williams GREGG HEJKA		107 MAIN ST.	816-868-7988
Susan Shih	SUSAN Smith		816-716-6580
	CHRIS COLLINS	MSPA STEERING COMMITTEE	816-584-4161
	ART BROWN	MSPA Secretary	785 - 816-249-0306

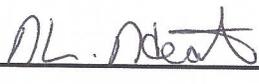
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Name	Signature	Address	Phone
DANNY TINSLEY		6004 W. Hwy 9	816-741-1891

ED BRADLEY		12 E FIRST	816-746-7817
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Michael Emmick		101 Main St.	
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Kevin Heaton		13-15 MAIN ST	816-505-0389
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Tom Hutsler		15 MAIN STREET	8/918-0057
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Meeting Summary

August 6, 2015

Main Street Property Owners,

On Thursday August 6th, City staff met with representatives from the Main Street Parkville Association (MSPA) and owners of five Main Street properties. This meeting was arranged in response to a petition received by the city advocating the restriction of first floor storefronts on Main Street between the railroad tracks and Second Street to retail uses and subsequent direction from the Board of Aldermen making this a priority for City staff.

City staff presented their research regarding other municipalities which had implemented office usage restrictions in their downtown areas. Staff stated that discussions with those municipalities indicated that there had not been any significant issues or problems with those restrictions. Staff, also, stated that other cities that we contacted generally let the market take care of this issue.

City staff listened to feedback from the meeting attendees. Attendees expressed their concerns and visions for Downtown, particularly the subject stretch of Main Street. Discussion centered upon what uses most contributed to a thriving and vibrant Main Street. There was a general consensus that retail uses (uses with active storefronts that sell a physical product that is either consumed on- or carried off-site) were the preferred usage of Main Street storefronts. City staff raised examples of other commercial uses (yoga studios, hair salons, financial services firms, and others) that were not retail. The group came to a general consensus that while these were indeed active uses, they were not of the character needed to make Main Street Parkville a retail destination and, thus, not desired uses. The group indicated its preference for these uses to be located in either second floor spaces on Main Street or off of the subject stretch of Main Street all together. Attendees indicated their preference for retail to be the primary usage on this stretch of Main Street.

MSPA representatives and property owners supported the inclusion of an escape hatch provision similar to those in existence in Mission and Overland Park, Kansas where storefronts could be leased for nonconforming office and service uses, if property owners could demonstrate in good faith that adequate efforts had been made to market the space for retail uses, but were ultimately unsuccessful. City staff also emphasized that any changes or amendments to the zoning on Main Street would not affect any businesses currently in operation, and that all existing businesses of a non-retail nature would become legally non-conforming pre-existing uses.

Peripheral discussions included parking issues, particularly the possible need for time limitations for on-street parking and the possible addition of more ADA parking spaces north of the railroad tracks. Property owners, also, indicated their general preference for retail-oriented breweries and brewpubs to be allowed in the downtown area. Attendees indicated they had received inquiries from people interested in opening these types of business downtown and, as such, they would favor code updates to allow these in the future. Also discussed was the possible need for regulations allowing pop-up stores.

The MSPA and property owners also discussed with City staff the need to promote visually appealing and engaging storefronts in vacant spaces and businesses without window displays. Representatives of the MSPA and property owners both indicated they would be in favor of some sort of mandate or program that required visually attractive displays in all downtown storefronts including the

times when those spaces are vacant. Potential solutions discussed included permitting displays from other retail stores, historical materials, or other displays that eliminate visual gaps in activity.

Next steps include the City drafting a proposed text amendment based on the direction received. Once drafted, the amendment will be forwarded to MSPA representatives and property owners within the subject stretch of Main Street for review and confirmation. Those present agreed to distribute the proposed amendment to owners that did not attend the meeting. After general consensus is reached on the amendment, it will proceed to the Planning and Zoning Commission for consideration. The target date for consideration is September 8, 2015 with adoption by the Board of Aldermen on September 15, 2015.

Zach Tusinger, Planning Intern
City of Parkville