

REVISED PROFFER OF CONDITIONS

[4.0]

The undersigned applicant has applied for a rezoning of Lot 40 of Wellington Subdivision from R-3 to B-2. Under the authority of section 10-3-123 of the City Code, the applicant voluntarily attaches the following conditions to the rezoning application:

If the rezoning request is granted, *only* the following uses specified in the following paragraphs of section 10-3-90 will be allowed as a matter of right:

- a. 10-3-90(1), but no outside storage of goods will be permitted. No restaurant on the premises will be open between the hours of midnight and 6:00 a.m.;
- b. 10-3-90(2);
- c. 10-3-90(4); go-cart tracks are not permitted, and no outdoor activities are permitted after 11:00 p.m.;
- d. 10-3-90(5);
- e. 10-3-90(7), but vehicle service will be allowed only on vehicles which are to be sold and in which the dealer owns an interest. No outside storage of inoperable vehicles or parts will be allowed. No automobile salvage or junk operations will be permitted;
- f. 10-3-90(8), but there shall be no external indicia of the activities conducted on the premises (other than lawful signage);
- g. 10-3-90(9), but all animals shall be kept inside;
- h. 10-3-90(10); related towers and antennas are addressed under paragraph (c) of the "special use" section below;
- i. 10-3-90(11);
- j. 10-3-90(12), except the maximum size of any such facility shall be 10,000 square feet;
- k. 10-3-90(15), except any accessory structures shall be permanent structures, not readily capable of being moved from place to place; for example, sheds and tents are designed to be moveable, so they would not qualify under this section;
- l. 10-3-90(16);
- m. 10-3-90(17), and
- n. 10-3-90(18).

If the rezoning request is granted, *only* the following uses specified in the following paragraphs of section 10-3-91 will be allowed as by special use permit:

- a. 10-3-91(6), but any such facility may be used only for storage, not for sales,
- b. 10-3-91(8), and
- c. Towers and antennas of up to 75 feet for radio and television stations.

Only the uses listed in the identified paragraphs of those sections—as they exist now—will be permitted. For reference, sections 10-3-90 and 10-3-91 are attached as Exhibit A.

Further, if the rezoning is granted,

- a. No alcohol sales will take place on the property;
- b. No lewd, lascivious, or pornographic business will be conducted on the property. Without limiting this general restriction, the property will not be used for the sale or rental of pornographic materials. No tattoo or piercing parlors shall be operated on the property.

I hereby proffer that the development of the subject property on this application shall be in strict accordance with the conditions set forth in this submission.

8-7-03  
Date

  
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Timothy J. Lacey

ARTICLE Q. B-2 GENERAL BUSINESS  
DISTRICT

**Sec. 10-3-88. General.**

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the "B-2" General Business District regulations.

(Ord. of 4-23-96)

**Sec. 10-3-89. Purpose of district.**

This district is intended to provide a sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, and miscellaneous recreational and service activities generally serving the city, a wide area of the region, and the traveling public, and generally located along major thoroughfares or near development centers where a general mixture of commercial and service activity now exists or is planned, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, or the nuisance factors of dust, or odor and noise associated with manufacturing.

(Ord. of 4-23-96)

**Sec. 10-3-90. Uses permitted by right.**

[The following uses are permitted by right:]

- (1) Mercantile establishments which promote the show, sale and rental of goods, personal service establishments, restaurants and other shops and stores customary to shopping centers and convenience outlets.
- (2) Governmental, business and professional offices and financial institutions.
- (3) Hotels, motels and similar types of transient accommodations. Nontransient housing facilities are not permitted nor may existing housing facilities be expanded.
- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational

and leisure-time activities which are compatible with surrounding uses are permitted.

- (5) Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
- (6) Service stations, bus terminals and other facilities designed for vehicular convenience or service, automobile, manufactured home and customary agricultural sales and service. In addition, designated lots for the purpose of display and sales of merchandise and equipment are permitted but such lots must be served by a permanent building facility unless clearly incidental to an existing building.
- (7) Automobile or truck sales, service and repair but not auto salvage, storage or sale of junk.
- (8) General service or repair shops permitted by right in the B-1 Central Business district but without the limitation as to the number of employees.
- (9) Pet shop or pet grooming establishment and animal hospitals.
- (10) Radio and television stations and studios or recording studios.
- (11) Public utilities, public service or public transportation uses or buildings, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange and transformer or substations.
- (12) Warehousing and other storage facilities with floor area limited to twenty thousand (20,000) square feet, which are contiguous to permitted uses in this district.
- (13) Funeral homes.
- (14) Public and privately owned parking lots and parking garages.
- (15) Accessory buildings and uses customarily incidental to any of the above listed uses.
- (16) Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion

than other uses permitted in this district and which involve no more than fifteen (15) percent of the gross floor area in the assembling or processing of products. Any assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.

- (17) Plant nurseries and greenhouses provided any outside storage of materials, other than plants, must be screened.
- (18) Public uses.  
(Ord. of 4-23-96)

**Sec. 10-3-91. Uses permitted only by special use permit.**

[The following uses are permitted by special use permit only:]

- (1) Processing and assembly operations when not employing more than ten persons on the premises in a single shift and provided that all storage and activities are conducted within a building.
- (2) Warehousing and other storage facilities, greater than twenty thousand (20,000) square feet, continuous to permitted uses.
- (3) Automobile or truck body or fender repair.
- (4) Communications tower no more than one hundred twenty-five (125) feet in height.
- (5) Inside kennels for boarding,
- (6) Building material sales and storage yards, contractors equipment sales and storage yards and other similar uses, provided they are served by a permanent building facility unless clearly incidental to an existing building.
- (7) College or university buildings which are either owned or leased by such institutions and are adjacent or contiguous to the primary campus of the college or university.
- (8) Reducing required parking areas to permit fewer than the required number of parking spaces for any use, provided that

an amount of open space equal to the amount of space that would have been used for the required number of parking spaces is left available for parking in the event that it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the Zoning Ordinance.

- (9) Reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1.  
(Ord. of 4-23-96; Ord. of 11-12-96; Ord. of 6-24-97; Ord. of 9-21-99)

*Editor's note*—An ordinance enacted June 24, 1997, amended § 10-3-91 by enacting provisions numbered § 10-3-91(7). Inasmuch as § 10-3-91 already contained provisions designated as (7), the editor has redesignated these new provisions as (8).

**Sec. 10-3-92. Area and dimensional regulations.**

Except as provided in article S, the following area and dimensional regulations shall apply:

*Minimum Setback:*

Front—Thirty (30) feet.

Side—Ten (10) feet, except on the side of a lot abutting a residential district, then thirty (30) feet; provided that for any building greater than thirty-five (35) feet in height which abuts a residential district, then one additional foot of setback is required for each foot above thirty-five (35) feet.

Rear—Ten (10) feet, except on the side of a lot abutting a residential district, then thirty (30) feet; provided that for any building greater than thirty-five (35) feet in height which abuts a residential district, then one additional foot of setback is required for each foot above thirty-five (35) feet.

*Maximum Building Height:*

Stories—Six (6), not to exceed seventy-five (75) feet for structures designed for human occupancy in all or in part of said structure.