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April 18, 2023

The Honorable Daryl Hendricks
President, Allentown City Council
435 Hamilton Street
Allentown, PA 18101

THRU: Michael Hanlon (michael.hanlon@allentownpa.gov)
Clerk of City Council

RE: Text Amendment to the Zoning Code (Elementary and Secondary Schools in Industrial Zoning Districts) -- Bill #23 - Amending the Zoning Ordinance of the City of Allentown by allowing Elementary or Secondary School in the I2 and I3 zoning districts as a special exception use if the subject lot is immediately adjacent to or directly across the street from a residential zoning district and another institutional use, and providing for a repealer clause, a severability clause, and an effective date.

Dear Mr. Hendricks:

At the monthly meeting of the Allentown City Planning Commission held on April 11, 2023, the Commission after a lengthy deliberation decided to send the proposed action – without a recommendation -- to City Council for further consideration, with a request for City Council to take into account the deliberations that transpired at said ACPC meeting (attached excerpts from the ACPC Minutes of Apr 11/23).

As well, I have attached herewith a copy of the Planning Staff report on the matter.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Jennifer Gomez".

Jennifer Gomez
/jfs

ec: Charlie Schmehl – csmehl@urdc.com
Gene Berg – gberg@gouckarchitects.com
City of Allentown (Mark Hartney, Melissa Velez)
ACPC (cbrown@browndesigncorp.com)

**Excerpt from the DRAFT minutes
Allentown City Planning Commission
April 11, 2023**

ZONING TEXT AMENDMENT

The vicinity of 2268 South 12th Street

Jennifer Gomez introduced the agenda item with a summarization of the staff report, which is incorporated by reference.

Charlie Schmehl-Urban Research Design- Represented the applicant. Chris Brown noted that while he would like to discuss the site plans, they would be done as part of the Special Exception process.

Tony Toth asked what will be the path moving forward. Charlie Schmehl said that the next step would be the Special Exception. It looks like the school will not be able to open in August. He stated the interim use is truck parking, so they would have to decide on a different use that would be allowable.

Hannah Clark asked about the timeline for the zoning code. Ms. Gomez replied that we would have to return with a schedule. We would also have to analyze all of the changes that have taken place in the last few years to ensure we don't create nonconformities.

Ms. Gomez recommended an additional text amendment to require the Planning Commission review in any Special Exception request for a school.

Chris Brown opened the public comment period.

The Allentown School District solicitor, Mark Davis stated that the issue discussed regarding Mr. Toth and Mr. Brown about how the process should proceed. He advised that the text amendment should not be crafted for a particular applicant. The solicitor stated concerns that this was spot zoning. He said this is clearly crafted for one particular uses. HE stated how many other sites it would affect. They are considering engaging their own planning consultant. He does not feel an industrial zone is an appropriate location for a school. He feels and is concerned that this is spot zoning.

Thomas Smith, Executive Director of facility services for the Allentown School District. He read into the record his comments. I offer the following. "The city of Allentown wisely established zoning laws and zoning permits in order to regulate the use of land. As such the city wanted to limit the amount of land used for industrial zones and it did so to protect residential and commercial neighborhoods from factories and industrial manufacturing power plants and their inherent risk for spills, waste, and accidents accompanied with smoke emissions, noise, traffic and other pollutions. As such, primary and secondary schools are not permitted uses in the I 3 district, not by right, via conditional use or via special exception. The zoning districts stated purpose is to provide areas suitable for a wide variety of industrial and related uses with consoles necessary to provide sound industrial development. Permitted uses in the I 3 district include chemical mixing, storage of hazardous materials, ammunition, fireworks, explosives, pharmaceuticals, trucking terminals warehousing etc.. As a representative and a major stakeholder in the city of Allentown I personally attended and participated in the development and review of the Allentown Vision 2030 Comprehensive Plan and nowhere in that plan doesn't suggest a zoning change to permit primary and secondary schools in an I 3 district. The plan does however acknowledge sidewalk and bus route gaps making South out Allentown largely automobile dependent it does highlight the fact that South Allentown provides living wage manufacturing jobs and space for business growth it does highlight creating economic opportunity and increasing tax list as key to the plan 's success it highlights South Allentown is an important employment hub and high tax contributor per square foot so I ask why would the city of Allentown want to allow children to be located in an

industrial environment, increase already heavy and lose potential manufacturing employment space by allowing the school as such? I ask that you provide Allentown City Council with an unfavorable recommendation regarding this petition.”

Anthony Toth stated that he agrees with the comments made by the School Boards.

Charlie Schmehl said that if this proposal was in the middle of an industrial area, then he would agree. He stated that one of the alternatives was to look at a rezoning. If the application is not approved, there is no market for the office space, then the truck parking will likely remain. He further noted, that a school was previously proposed in an industrial area, and gave the proposed Harrison Morton middle school as an example.

Chris Brown stated that upon hearing all input, he agrees with the transitional nature of the proposal. He also noted that they are advisory. Ms. Gomez clarified the next step would be the community and economic development committee and then City Council.

Ms. Clark stated that she doesn't have concern with the actual text. She is concerned that this could shift in the future due to the unknown status of the full zoning code update. Jeff Glazier echoed these concerns. Chris Brown noted that the industrial zone is more fluid, but it will always be residential adjacent to it. Jeff Glazier asked if truck idling was allowed. Melissa Velez stated there has been resident concerns.

Tony Toth asked why they did not submit for a variance. The applicant stated that they would have a difficult time proving hardship.

Jesus Sadiua mentioned the concern about spot zoning. He explained that rezoning one parcel to spot zoning would be spot zoning.

Jeff suggested we send the discussion to the next body without a recommendation.

Kelli Holzman stated that she feels the very prescriptive standards complicates things. Charlies Schmehl spoke to industrial transitions to residential properties. Chris Brown stated that there were a number of footnotes for all uses. Tony Toth asked if there are any active schools in a similar location in Lehigh Valley. It was discussed that many communities have transitional regulations at the industrial and residential districts.

Comments will be transmitted to City Council.



**City of Allentown
Staff Report**

To: Allentown City Planning Commission
From: Bureau of Planning & Zoning
Meeting Date: April 11, 2023
Staff Contacts: Jennifer Gomez, Planning Director, jennifer.gomez@allentownpa.gov
 Melissa Velez, Zoning Supervisor, melissa.velez@allentownpa.gov
 Jesus Sadiua, Planner, jesus.sadiua@allentownpa.gov

Locations: Industrial-2 and Industrial-3 Zoning Districts
Proposal: Amend the Zoning Text to Allow Primary and Secondary Schools in I-2 and I-3 Districts on Special Exception.
Case Number: (Z) 23-02
Petitioners:

- Exchange 32, LLC – **Landowner** of 2236 South 12th Street
- Lehigh Valley Steam Academy Charter School, Inc – **Tenant** at 2236 S. 12th St.

Description

- The petitioners seek to amend Sec. 660.49 of the Zoning Ordinance, specifically the table of permitted Institutional Uses to allow – on special exception – elementary and secondary schools in Industrial 2 and Industrial 3 districts, and to prescribe buffering standards.
- The amendment would appear as follows (*in blue texts*). For full details of the amendment, please refer to the proposed Bill #23.

Figure 1. Modified Table of Permitted Uses from Chap. 660.49 showing proposed changes in I-2 and I-3 Districts with accompanying

INSTITUTIONAL USES (See definitions in Article II)	REFER- ENCES	R-H	R-MH	R-M	R-MP	R-ML	R-L	R-LC	B1/R	B2	B3	B4	B5	B/IWD	B/LI	I2	I3	P	I-G
Elementary or Secondary School	Article XV	SE	SE	SE	SE	SE	N	N	P	P	P	P	P	P	P	SE (OO)	SE (OO)	N	P

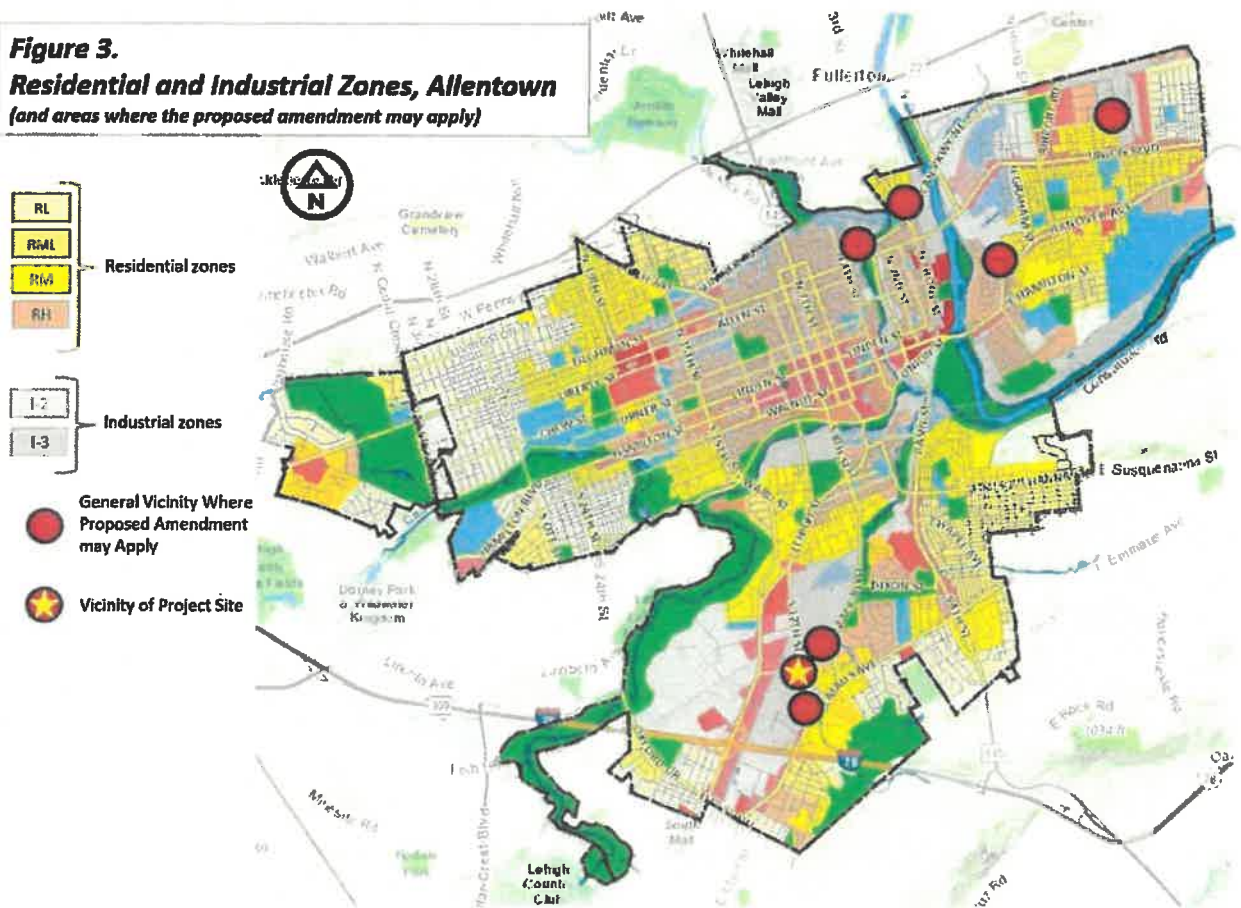
Note OO = All of the following shall apply:

- An elementary or secondary school shall only be allowed in the I2 and I3 districts if the subject lot is immediately adjacent to or directly across the street from a Residential zoning district and another Institutional Use. For the purposes of this note, the term Institutional use shall mean a use listed in the table under Institutional Uses in 660 Attachment 4 in Section 660-49.
- In the I2 and I3 districts, a buffer in accordance with Section 660-76 "General Regulations for Buffer Strips" shall apply on the subject property along the side and rear property lines that directly abut an industrially zoned lot, in order to separate the school from existing or potential industrial uses.
- The "Additional Requirements for Specific Uses" for primary and secondary schools that are provided in Section 660-84(A)(36) shall apply."

- The petition is accompanied by a draft legislation to enable the proposed changes.

13. Again, unlike changing the Zoning Map – where only an isolated geographic area is changed from one zoning classification to another – a text amendment, in this case, will be applicable citywide where exactly the same conditions exist.
 - a. That is, when an industrially zoned parcel immediately abuts a residentially zoned area and a permitted institutional use.
14. In considering the merits of proposed zoning amendments, Staff is guided by the following:
 - a. Whether the ordinance is consistent with the Comprehensive Plan;
 - *Yes. The proposed amendment looks forward to re-activating a long-vacant and mis-used property back into productive use.*
 - b. In the context of re-zoning, will the proposed ordinance, constitute impermissible “spot zoning,” which is generally the creation of a small island of property zoned inconsistently with its surrounding properties?
 - *No. The proposed action is not a re-zoning and thus will not create a spot zone. Rather, the proposed amendment will be applicable citywide in similarly situated parcels.*
 - *In a desktop scan of the City’s Zoning Map, Staff has identified at least 7 areas – including the subject parcel – where the proposed change may be applicable (refer to Fig-3). The allowable locations for a school are also further limited by Section 660-84.A.36, which requires a 20,000 square foot minimum lot area for any school.*

Figure 3.
Residential and Industrial Zones, Allentown
 (and areas where the proposed amendment may apply)



- c. In the context of a text amendment, will the proposed ordinance allow for noxious or other objectionable uses of the property?

- *No. The envisioned STEAM school is not expected to engage in or attract any socially objectionable activities deemed detrimental to the established residential uses nearby.*
- d. Will the rezoning and subsequent development of the rezoned property create objectionable traffic or environmental conditions, and will those conditions be remedied through the land development plan approval process?
 - *The envisioned school will generate a traffic pattern different from the property's former office use and its current use as a truck parking.*
 - *If the proposed school advances towards fruition, the project will go through the Special Exception process (Chap. 660.25-C) wherein a traffic impact study will be routinely required. This process is described briefly under Items 15 and 16 below.*
 - e. How will the rezoning or text amendment and subsequent development of the property affect the municipality's tax revenue?
 - *Most likely no direct effect since charter schools are exempt from property taxes.*
15. Staff believes that the Zoning Ordinance has adequate safeguards against the potential misuse of this amendment. For instance, Chapter 660.25-C the Zoning Ordinance prescribes that:
 "Special exceptions may be authorized by the Zoning Hearing Board only in accordance with the requirements of this chapter. The Zoning Hearing Board may place reasonable conditions upon any approval under this chapter. Such conditions may be intended to protect the public health and safety, protect existing residential neighborhoods, provide for compatible development, minimize traffic congestion and safety problems, and serve other purposes and objectives of this chapter."
16. The proposed text amendment would require any new school in an industrial zoned district to apply for Special Exception approval, a process which would allow each application to be reviewed on a case-by-case basis. Furthermore, Chap. 660.25-C of the Zoning Ord prescribes that "the Zoning Hearing Board shall not approve a special exceptions application if evidence is presented that:
- a. The use would result in a significant traffic safety hazard;
 - b. The use would create a significant public health and/or safety hazard;
 - c. The use would cause substantial negative impacts upon the desirable character of an established residential neighborhood; and/or
 - d. The application does not meet the criteria for approval found in Article XV of this chapter."
17. The proposed text amendment includes landscaped buffer strip requirement to help ensure that any school is buffered from other industrial uses.
18. Lastly, the proposed amendment will not take away any land currently zoned for industrial use. Rather, the proposed amendment enables the use of an otherwise underutilized industrial land for another productive use.

Conclusion

19. Staff does not object to the text amendment as proposed.