

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
07/25/2016

ITEM NO. 3 IBP TO IL; 2.11 acres; 1300 Research Park Drive, Lot 3, Block 3 (BJP)

Z-16-00215: Consider a request to rezone approximately 2.11 acres from IBP (Industrial/Business Park) District to IL (Limited Industrial) District, located at 1300 Research Park Drive, Lot 3, Block 3. Submitted by Wallace Engineering, for Lydia L. Neu and Robert M. Neu, property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 2.11 acres from IBP (Industrial/Business Park) 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. *Work/Live Unit*
- b. *Cemetery*
- c. *College/University*
- d. *Day Care Center*
- e. *Event Center, Small*
- f. *Event Center, Large*
- g. *Postal & Parcel Service*
- h. *Public Safety*
- i. *Funeral and Interment*
- j. *Social Service Agency*
- k. *Health Care Office, Health Care Clinic*
- l. *Active Recreation*
- m. *Participant Sports & Recreation, Indoor*
- n. *Participant Sports & Recreation, Outdoor*
- o. *Passive Recreation*
- p. *Nature Preserve/Undeveloped*
- q. *Kennel, provided that the use be accessory to the Veterinary use*
- r. *Veterinary*
- s. *Restaurant, Quality*
- t. *Administrative and Professional*
- u. *Financial, Insurance & Real Estate*
- v. *Payday Advance, Car Title Loan Business*
- w. *Office, Other*
- x. *Parking Facility, Commercial*
- y. *Building Maintenance*
- z. *Business Equipment*
- aa. *Business Support*
- bb. *Construction Sales and Service*
- cc. *Maker Space, Limited*
- dd. *Maker Space, Intensive*
- ee. *Manufacturing & Production, Ltd.*

- ff. *Manufacturing & Production, Tech.*
- gg. *Research Service*
- hh. *Wholesale Storage & Distribution, Light*
- ii. *Agriculture, Crop*
- jj. *Broadcasting Tower*
- kk. *Communications Service Establishment*
- ll. *Recycling, Small Collection*

Reason for Request: *IBP (current zoning) may not permit the proposed land use (restoration) for the subject site, although this proposed use does generally conform with the established land use pattern in the surrounding IBP-zoned area. Thus, IL zoning [with restrictions] will facilitate the proposed restoration use and similar future uses upon the subject site, while preserving/maintaining the pattern and character within the neighborhood.*

KEY POINTS

- Proposal accommodates the development of a restoration business, which is classified as *Construction Sales and Service* in Section 20-1718 of the Land Development Code. *Construction Sales and Service* is permitted in the following districts:
 - CC (Community Commercial)
 - CR (Regional Commercial)
 - CS (Strip Commercial)
 - IL (Limited Industrial)
 - IG (General Commercial)
- The subject property is located within Oread West Research Park which is predominantly zoned IBP District.
- The rezoning proposal includes restrictions to the uses permitted in the IL District as a means to facilitate compatibility with the industrial/business park setting. Of the proposed permitted uses all are also allowed in the IBP District, with the exception of the *Work/Live Unit, Kennel, Building Maintenance*, and *Construction Sales and Service* uses.

ASSOCIATED CASES

- There are no active cases associated with this application at this time.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Submittal and approval of a Major Site Plan application.
- Submittal of construction plans to Development Services for processing of building permit, which is required prior to construction activity.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for rezoning
- *Downstream Sanitary Sewer Analysis* – not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not applicable to residential request

ATTACHMENTS

Attachment A: Use Table

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

Staff had one meeting with two adjacent property owners and a member of the Alvamar Development Corporation to discuss the proposed rezoning and receive feedback regarding the potential implications of the proposed use. The comments generally addressed exterior site appearance and compatibility with the surrounding area. The discussion addressed the on-site storage of company vehicles and damaged goods. The meeting participants requested that those items be stored indoors. Staff relayed that compliance with screening and design standards

would be reviewed during the site plan process.

Project Summary:

The proposed request is for the rezoning of approximately 2.11 acres located in the Oread West Research Park from the IBP District to the IL District. This rezoning would accommodate the relocation and potential expansion of an existing restoration business to this undeveloped site. The Planning Director determined that a restoration business is classified as a *Construction Sales and Service* use in Section 20-1718 of the Land Development Code. This use is not permitted in the IBP District.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *The request maintains the land use pattern present in the "Industrial/Business/Research Park" (pp. 7-3, 7-9); provides/promotes "employment opportunities" (p. 7-9); is compatible with "new technology-related industries" by providing support services, when needed, to the immediate and surrounding areas (p. 7-10).*

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

Industrial and Employment-Related Land Use (Chapter 7, *Horizon 2020*)

Policy 1.2: Ensure Compatibility of Development

"Encourage best management practices for site planning and design that include, but are not limited to, building placement and orientation, vehicular and pedestrian circulation patterns, open space, landscaping, lighting, stormwater management, and interfacing with adjacent neighborhoods and development, and appropriate accommodation of the design to the site's natural features."

The compatibility of the development will be evaluated during the development process, which will include a site plan application and review. Staff will review the submitted site plan for compliance with the standards of the Land Development Code, which will include compatibility with the arrangement of buildings, off-street parking, lighting, landscaping, pedestrian walkways and sidewalks, ingress and egress, and stormwater drainage. A submitted site plan will also be reviewed with the Community Design Manual to ensure that the Industrial Design Standards are met. The review will ensure that, by meeting the Development Code standards, the development is compatible with the surrounding area.

Policy 1.3: Concentrate Industrial and Employment-Related Development

"Maintain an appropriate supply of industrially zoned land so that site choices are available and infrastructure expansion can occur in an efficient and orderly manner."

The rezoning request maintains the industrially zoned land in the Oread West Research Park. In addition, the restrictions associated with the rezoning align the proposed IL zoning to the surrounding IBP zoning of the research park. The uses permitted in the IBP District would be maintained with this rezoning, and the uses included in IL District would be business oriented, rather than consumer oriented.

Staff Finding – Rezoning of the subject property to the IL District would be in conformance with *Goal 1: Development in Established Industrial and Employment Related Area of Horizon 2020*. The proposed rezoning would conform with the Comprehensive Plan.

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

Current Zoning and Land Use: IBP (Industrial/Business Park) District; undeveloped.

Surrounding Zoning and Land Use: IBP (Industrial/Business Park) District in all directions; *Day Care Center* to the northwest, *Manufacturing and Production, Limited* and *Office* to the north, *Health Care Office, Health Care Clinic* to the east and southeast, undeveloped to the south and west.

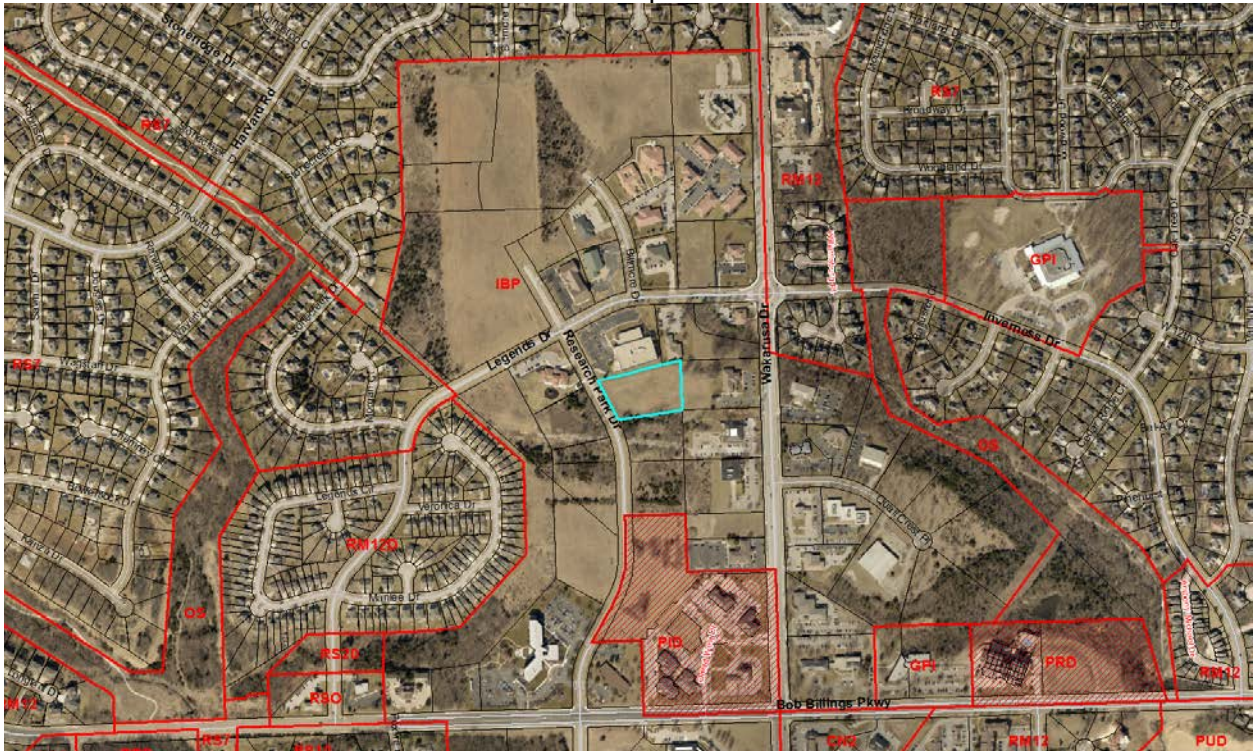


Figure 1: Surrounding zoning and land use of the subject property.

Staff Finding – The subject property is located in the Oread West Research Park. The surrounding properties are zoned IBP District and the subject property is adjacent to industrial and business type land uses, as well as vacant parcels. The proposed rezoning, with the use restrictions, is compatible with the existing zoning and land uses in the area.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *Business within a quarter-mile radius of the subject site include: dance school; gymnastics venue; tutoring service; plumbing contractor; dentist; financial planner/investment office; software company; Montessori school; two physical therapy offices and a university research office. Approx. 65% developed.*

The subject property is located in the Oread West Research Park and is surrounded by existing industrial and business type uses, which include a day care center to the northwest, Microtech Computers, Inc. and an office building to the north, Neu Physical Therapy Center to the east, and TherapyWorks to the southeast. There are also undeveloped parcels located to the south and southwest of the property.

Staff Finding – The subject property is located in the IBP District, which is intended to provide space for low-impact employment and manufacturing uses. The proposed rezoning would permit the development of a *Construction Sales and Service* use that is not permitted in the IBP District. The rezoning proposes restrictions to the uses permitted in the IL District as a means to align the zoning of the subject property to the surrounding area. Limiting the uses in the IL District would result in a project that 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 West Lawrence Neighborhood Association, which does not have any adopted area or sector plan.

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

Applicant's Response: *The property is not necessarily unsuitable for uses currently allowed, however, a slight-to-moderate expansion of uses on the subject lot will promote continued development within an otherwise very slowly developing area.*

The property is currently zoned IBP which permits certain low-impact employment and manufacturing uses in a planned industrial/business parking setting. Below is an analysis of the new uses that would be permitted and the uses that would be restricted with the approval of the rezoning.

NEW USES THAT WOULD BE PERMITTED

A Use Table is provided in Attachment A that shows the uses permitted in the two districts. The rezoning proposes restricting many of the uses normally permitted in the IL District that are not permitted in the IBP District as a means to align the subject property to the surrounding area zoned IBP. Four uses permitted in the IL District (not allowed in the IBP District) are proposed to not be restricted. These uses include *Construction Sales and Service*, *Work/Live Unit*, *Kennel*, and *Building Maintenance*.

Construction Sales and Service

The Development Code defines *Construction Sales and Service* as:

"Construction activities and incidental storage on lots other than construction sites. Also includes landscape contractors and landscape maintenance businesses and the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures including the retail sale of paint, fixtures, and hardware, but excludes those uses classified as "Automotive" and/or "Heavy Equipment" use types. Typical uses include home improvement or building material stores, tool and equipment rental or sales, **building contracting/construction offices with shops and/or outside storage yards.**" (Section 20-1717, emphasis added)

The rezoning would accommodate the relocation and expansion of an existing business, Rainbow International. This business provides restoration services to residential and business properties located in Topeka, Lawrence, and surrounding communities. This business is most like the contractor use described in the *Construction Sales and Service* definition above.

The Use Table of the Development Code indicates that the *Exterior Storage* use is permitted in the IBP and IL Districts as an accessory use subject to the standards in Section 20-538. To align the subject property with the surrounding development and the existing business park aesthetics, the *Exterior Storage* use would be restricted as a principal use; however, it would be permitted as incidental, or accessory, to the principal use. If incidental storage were a component of future development, the location and screening would be evaluated through the site plan review process.

Work/Live Unit

The use is defined in the Code as:

"A space within a building that consists of a dwelling unit which is accessory to a nonresidential use and has direct internal access to the nonresidential use." (Section 20-1734(8))

The applicant proposes not to restrict this use based on trends seen in modern-day research and industrial applications, and the perceived limited affects this use would have on nearby properties. Any proposal for a *Work/Live Unit* use would require submittal of a site plan application for administrative review and approval. Staff would review compatibility with the surrounding area and site plan compliance at that time.

Kennel

The use is defined in the Code as:

"Kennel services for dogs, cats, and small animals, including day care and overnight care. Typical uses include boarding kennels and dog training centers." (Section 20-1710(2))

The *Kennel* use supplements the *Veterinary* use, which is a use permitted in the IBP and IL Districts. The *Kennel* use would allow veterinary clinics to board their patients during the day or overnight. While the this use could also be associated with doggie day care facilities and dog training centers, the rezoning proposes restricting the *Kennel* use to activities that supplement the *Veterinary* use. Outdoor day care activities would be excluded from this rezoning.

Building Maintenance

The Code defines this use as:

"Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance and window cleaning services. Also includes exterminator services for residential, commercial or industrial applications." (Section 20-1712)

It is proposed that this use not be restricted given its supplemental nature with the *Construction Sales and Service* use. Permitting this use may provide an opportunity for the property to be developed with uses that complement each other.

USES THAT WOULD BE RESTRICTED

Below is a list of the uses that are allowed in the IBP District that are not allowed in the IL District. If the rezoning is approved, the following uses would no longer be an option for development.

- *Cultural Center Library*
- *Extended Care Facility, General* (permitted with approval of a Special Use Permit)
- *Accessory Restaurant* (permitted as an accessory use)
- *Private Dining Establishment*

The uses normally permitted in the IL District that are proposed to be restricted are listed below. Uses shown in blue are permitted with the approval of a Special Use Permit.

- | | | |
|---------------------------------------|-------------------------------------|--|
| • Mobile Home | • Personal Improvement Services | • Light Equipment Sales/Rental |
| • <i>Detention Facilities</i> | • Repair Service, Consumer | • RV and Boat Storage |
| • Lodge, Fraternal & Civic Assembly | • Retail Sales, General | • Industrial, General |
| • Campus or Community Institution | • Hotel, Motel, Extended Stay | • Laundry Service |
| • Neighborhood Institution | • Vehicle Sales & Service; Cleaning | • <i>Scrap and Salvage Operation</i> |
| • Livestock Sale | • Fleet Storage | • <i>Wholesale Storage & Distribution; Heavy</i> |
| • Animal Services; Sales and Grooming | • Gas and Fuel Sales | • Mini-Warehouse |
| • Fast Order Food | • Heavy Equipment Repair | • Agricultural Sales |
| • Fast Order Food, Drive-in | • Heavy Equipment Sales/Rental | • Recycling; Large Collection |
| • Food and Beverage | • Inoperable Vehicles Storage | • <i>Recycling; Processing Center</i> |
| • Mixed Media Store | | |
| • Personal Convenience Services | • Light Equipment Repair | |

Staff Finding – The subject property is suited for the addition of the *Construction Sale and Services* use, as well as the other uses discussed above that would differ from the uses permitted in the IBP District.

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

Applicant's Response: *22 to 23 years.*

Staff Finding – The property was annexed in 1988 and has been vacant since at least that time.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: *No detrimental effects are anticipated as a result of this approval.*

Staff met with nearby property owners on June 23, 2016 to discuss the project in more detail. Feedback that was received during the meeting included concerns on the number of company vehicles that would be parked on-site, and the potential for damaged goods to be stored outside.

The applicant noted that Rainbow International presently operates two service vehicles and those vehicles are stored indoors. The intent of the new development would also be for the vehicles to be parked indoors. Regarding the storage of damaged goods, the applicant noted that damaged materials are not brought back to the facility. Instead, the materials are typically disposed of at the project site.

Concerns voiced by the property owners will also be addressed during the development process via the site plan application review. The process will include review of the site for compliance with the standards of the Development Code. In particular, landscape screening standards for perimeter parking lot and bufferyard requirements will be reviewed for compliance. The site plan will also

note areas that will be used for incidental storage and show how the areas will be screened from view.

The site plan review process will also include public notice in the form of written notice mailed to property owners within 200 feet of the subject property and sign posting on the property. The notification will provide an opportunity for feedback and input to be given on the proposed site layout and building design.

Staff Finding – The request to rezone the property from IBP District to IL District includes proposed restrictions on the uses permitted in the IL District, as discussed in Factor 6 above. The recommended conditions set on these uses should minimize negative impacts to nearby properties. The rezoning, with the proposed restrictions on permitted uses, should have positive impact on the nearby properties through the development of a property that has been vacant for multiple decades.

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

Applicant's Response: *Gain to the public will be the addition of land-uses to support the existing business park and surrounding neighborhoods, an expansion of the employment base, and a reduction of undeveloped, unmaintained property within the park. Denial of this application will perpetuate non-development of the subject site and effectively force an appropriate land-use to seek a less suitable location.*

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

If the rezoning request were denied, the property would remain vacant as an IBP property, which has been in that state since the property was annexed in 1988.

If the rezoning were approved, a change in the uses permitted on the property would occur. However, use restrictions are proposed with the rezoning to align the subject property with the IBP District. Approval of the request will facilitate development and investment in existing property.

Staff Finding – There is no harm to the public resulting from approval of this request.

9. PROFESSIONAL STAFF RECOMMENDATION

Staff recommends approval of the request to rezone approximately 2.11 acres from IBP (Industrial/Business Park) 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. *Work/Live Unit*
- b. *Cemetery*
- c. *College/University*
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- f. *Event Center, Large*
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- h. *Public Safety*
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- j. *Social Service Agency*
- k. *Health Care Office, Health Care Clinic*
- l. *Active Recreation*
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- ff. *Manufacturing & Production, Tech.*
- gg. *Research Service*
- hh. *Wholesale Storage & Distribution, Light*
- ii. *Agriculture, Crop*
- jj. *Broadcasting Tower*
- kk. *Communications Service Establishment*
- ll. *Recycling, Small Collection*

TABLE 1. USE TABLE FOR IBP and IL DISTRICT

Uses proposed to be restricted in the IL District are shown with a strikethrough.

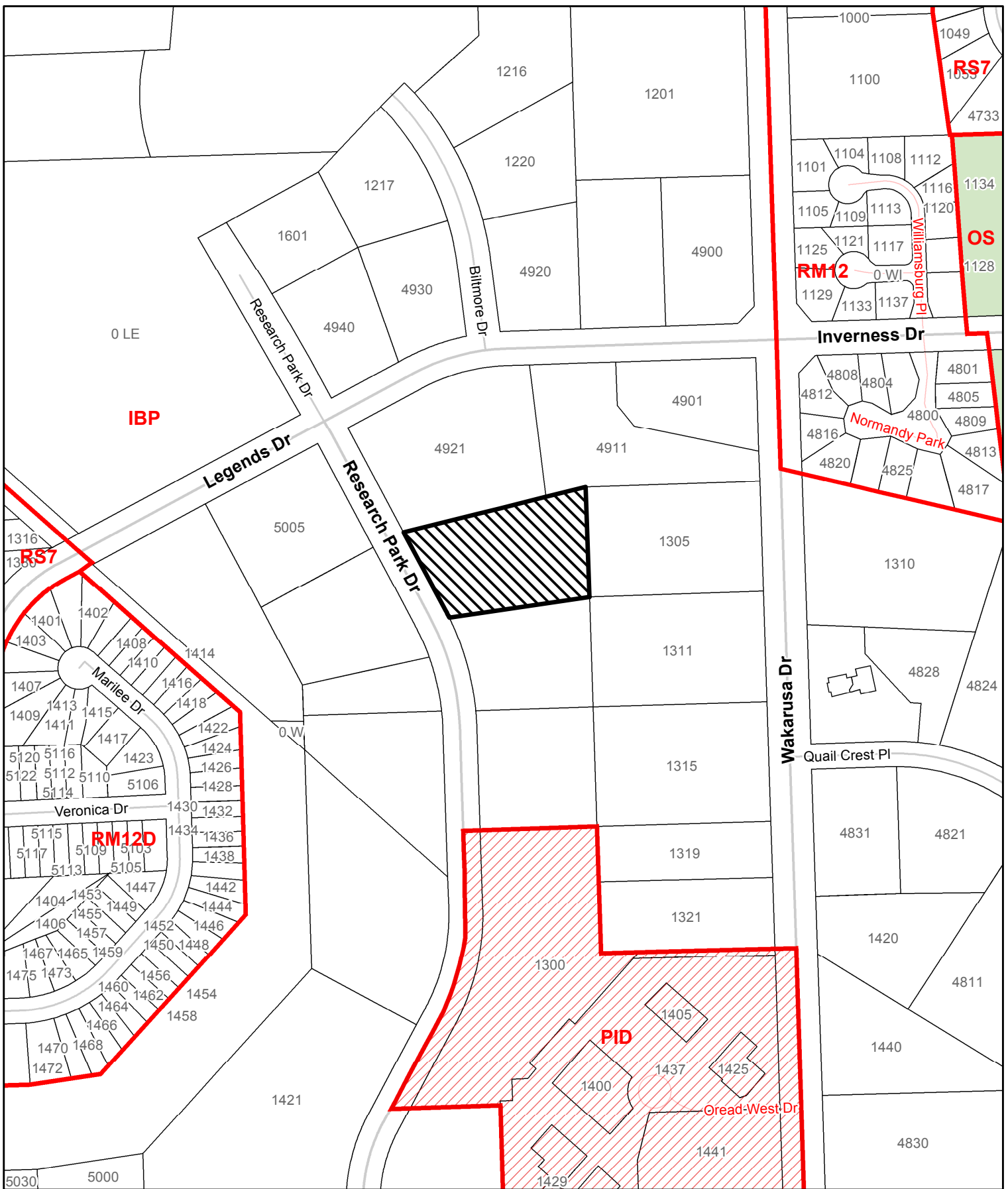
<i>A = Accessory</i> <i>P = Permitted</i> <i>S = Special Use</i> <i>* = Standard Applies</i> <i>- = Use not allowed</i>	IBP	IL	STDS
Household Living			
Accessory Dwelling Unit	-	-	
Attached Dwelling	-	-	
Cluster Dwelling	-	-	
Detached Dwelling	-	-	
Duplex	-	-	
Manufactured Home	-	-	
Manufactured Home, Residential-Design	-	-	
Mobile Home	-	P	
Mobile Home Park	-	-	
Multi-Dwelling Structure	-	-	
Non-Ground Floor Dwelling	-	-	
Work/Live Unit	-	P*	517/541
Zero Lot Line Dwelling	-	-	
Home Occupation, Type A or B	-	-	
Group Living			
Assisted Living	-	-	
Congregate Living	-	-	
Dormitory	-	-	
Fraternity or Sorority House	-	-	
Group Home, General [11 or more]	-	-	
Group Home, Limited [10 or fewer]	-	-	
Community Facilities			
Cemeteries	P*	P*	505
College/University	P	P	
Cultural Center/ Library	P	-	
Day Care Center	P*	P*	507
Day Care Home, Class A	-	-	
Day Care Home, Class B	-	-	
Detention Facilities	-	S	
Event Center, Small	P	P	
Event Center, Large	P	P	
Lodge, Fraternal & Civic Assembly	-	P*	512
Postal Service	P	P	
Public Safety	P	P	
School	-	-	
Funeral and Interment	P*	P*	505
Temporary Shelter	S*	S*/A	544/522
Social Service Agency	P	P	
Community Meal Program	S	S/A*	522
Utilities, Minor	P*/S*	P*/S*	530
Utilities and Service, Major	S	S	

Medical Facilities			
Community Mental Health Facility	–	–	
Extended Care Facility, General	S	–	
Extended Care Facility, Limited	–	–	
Health Care Office, Health Care Clinic	P	P	
Hospital	–	–	
Outpatient Care Facility	–	–	
Recreational Facilities			
Active Recreation	P	P	
Entertainment & Spectator Sports, General	–	–	
Entertainment & Spectator Sports, Limited	–	–	
Participant Sports & Recreation, Indoor	P	P	
Participant Sports & Recreation, Outdoor	P	P	
Passive Recreation	P	P	
Nature Preserve/Undeveloped	P	P	
Private Recreation	–	–	
Religious Assembly			
Campus or Community Institution	–	P*	522
Neighborhood Institution	–	P*	522
Animal Services			
Kennel	–	A**	
Livestock Sale	–	P	
Sales and Grooming	–	P	
Veterinary	P	P	
Eating & Drinking Establishment			
Accessory Bar	A*	A*	509
Accessory Restaurant	A	–	
Bar or Lounge	–	–	
Brewpub	–	–	
Fast Order Food	–	P*	511/509
Fast Order Food, Drive-in	–	P	
Nightclub	–	–	
Private Dining Establishments	P*	–	539
Restaurant, Quality	P*	P*	524
Office			
Administrative and Professional	P	P	
Financial, Insurance & Real Estate	P	P	
Payday Advance, Car Title Loan Business	P	P	
Other	P	P	
Parking Facilities			
Accessory	A*	A*	535
Commercial	P	P	
Retail Sales & Services			
Building Maintenance	–	P	
Business Equipment	P	P	
Business Support	P	P	
Construction Sales and Service	–	P	
Food and Beverage	–	P*	511
Mixed Media Store	–	P*	516/528

Personal Convenience	-	P	
Personal Improvement	-	P	
Repair Service, Consumer	-	P*	523
Retail Sales, General	-	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	-	-	
Campground	-	-	
Hotel, Motel, Extended Stay	-	P	
Vehicle Sales & Services			
Cleaning (e.g., car wash)	-	P	
Fleet Storage	-	P	
Gas and Fuel Sales	-	P	
Truck Stop	-	-	
Heavy Equipment Repair	-	P	
Heavy Equipment Sales/Rental	-	P	
Inoperable Vehicles Storage	-	P	
Light Equipment Repair	-	P	
Light Equipment Sales/Rental	-	P	
RV and Boats Storage	-	P	
Industrial Facilities			
Explosive Storage	-	-	
Industrial, General	-	P	
Industrial, Intensive	-	-	
Laundry Service	-	P	
Maker Space, Limited	P	P	
Maker Space, Intensive	P	P	
Manufacturing & Production, Limited	P	P	
Manufacturing & Production, Tech	P	P	
Research Service	P	P	
Scrap and Salvage Operation	-	S*	527
Wholesale Storage & Distribution			
Exterior Storage	A*	A*	538
Heavy	-	S	
Light	P	P	
Mini-Warehouse	-	P	
Adaptive Reuse			
Designated Historic Property	S*	S*	501
Greek Housing Unit	-	-	
Agriculture			
Agricultural Sales	-	P	
Agriculture, Animal	-	-	
Agriculture, Crop	P	P	

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

** Kennel Use permitted as Accessory to the *Veterinary* use



**Z-16-00215: Rezone Approximately 2.11 acres from IBP District to IL District
Located South of Legends Drive on East side of Research Park Drive**

Lawrence-Douglas County Planning Office
July 2016

 Subject Property

