



**Updated:**

**2/22/16 @ 12:30pm**

**Added communications for the following items:**

**Item 2 - Rezoning 1021 E 31<sup>st</sup> St**

**Item 4 - Text Amendment for Urban Agriculture**

**Added Draft January 25, 2016 Planning Commission Minutes**

**2/18/16 @ 3:00pm**

**Added Item 4 - Text Amendment for Urban Agriculture**

**2/17/16 @ 4:30pm**

**The following will be added when available:**

**Item 4 - Text Amendment for Urban Agriculture**

**Draft December 14, 2015 and January 25, 2016 Planning Commission Minutes**

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION  
CITY HALL, 6 EAST 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM  
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS  
FEBRUARY 22 & 24, 2016 6:30PM - 10:30PM**

**GENERAL BUSINESS:**

**PLANNING COMMISSION MINUTES**

~~Receive and amend or approve the minutes from the Planning Commission meeting of December 14, 2015. Not available for approval yet.~~

Receive and amend or approve the minutes from the Planning Commission meeting of January 25, 2016.

**COMMITTEE REPORTS**

Receive reports from any committees that met over the past month.

**COMMUNICATIONS**

- a) Receive written communications from the public.
- b) Receive written communications from staff, Planning Commissioners, or other commissioners.
- c) Receive written action of any waiver requests/determinations made by the City Engineer.
- d) Disclosure of ex parte communications.
- e) Declaration of abstentions from specific agenda items by commissioners.

***AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE COMMISSION'S DISCRETION***

**REGULAR AGENDA (FEBRUARY 22, 2016) MEETING  
PUBLIC HEARING ITEMS:**

**ITEM NO. 1 CS TO RM24; 1.326 ACRES; 2109 W 26<sup>TH</sup> ST (KES)**

Villa 26 Apartments: **Z-15-00640**: Consider a request to rezone approximately 1.326 acres from CS (Strip Commercial) District to RM24 (Multi-Dwelling Residential) District, located at 2109 W 26<sup>th</sup> St. Submitted by Petefish, Immel, Heeb & Hird, LLP, for Polaris KS3, LP, property owner of record.

**ITEM NO. 2 IG TO IL; .972 ACRE; 1021 E 31<sup>ST</sup> ST (KES)**

Gun Range: **Z-15-00471**: Reconsider a request to rezone, Z-15-00471, approximately .972 acres from IG (General Industrial) District to IL (Limited Industrial) District, located at 1021 E 31<sup>st</sup> St. Submitted by Richard G. Sells on behalf of Spirit Industries Inc, property owner of record. (PC Item 7; denied 4-2-2 on 11/16/15) *Referred back to Planning Commission by City Commission on 1/12/16.*

**ITEM NO. 3 B-3 TO B-2; 6.178 ACRES; 1400 BLOCK E 900 RD (MKM)**

Lakeside Vista: **Z-15-00608**: Consider a request to rezone approximately 6.178 acres from County B-3 District to County B-2 District, located in the 1400 block of E 900 Rd. Submitted by BG Consultants, Inc. on behalf of Fairway LC, property owner of record.

**ITEM NO. 4 TEXT AMENDMENT TO DEVELOPMENT CODE; URBAN AGRICULTURE (MKM)**

**TA-15-00346**: Consider a Text Amendment to the *City of Lawrence Land Development Code*, to add *Urban Agriculture* as a permitted use and establish standards. *Initiated by City Commission on 6/23/15. Deferred by Planning Commission on 12/14/15.*

**\*\*DEFERRED\*\***

~~**ITEM NO. 5 TEXT AMENDMENT TO ZONING REGULATIONS; WIND ENERGY CONVERSION SYSTEMS (SLD)**~~

~~**TA-15-00571**: Consider a Text Amendment to the *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to add Wind Energy Conversion Systems. *Initiated by County Commission on 10/21/15.*~~

**\*\*DEFERRED\*\***

~~**ITEM NO. 6 TEXT AMENDMENT TO ZONING REGULATIONS & SUBDIVISION REGULATIONS; ACCESSORY DWELLING UNITS (MKM)**~~

~~**TA-15-00461**: Consider Text Amendments to the *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* and the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, KS* to add Accessory Dwelling Units as a permitted use and to establish standards for the use. *Initiated by County Commission on 9/2/15.*~~

**\*\*DEFERRED\*\***

~~**ITEM NO. 7A RM32 TO MU-PD; .28 ACRE; 1137 INDIANA ST (SLD)**~~

~~HERE: **Z-15-00643**: Consider a request to rezone approximately 0.28 acres (12,513 SF) from RM32 (Multi-Dwelling Residential) District to MU-PD (Mixed-Use with Planned Development Overlay) District, located at 1137 Indiana St. Submitted by HERE Kansas LLC on behalf of Carter Management LC, property owner of record.~~

**\*\*DEFERRED\*\***

~~**ITEM NO. 7B PRELIMINARY DEVELOPMENT PLAN FOR HERE; 1137 INDIANA ST (SLD)**~~

~~HERE: **PDP-15-00644**: Consider a Preliminary Development Plan for HERE Kansas LLC, located at 1137 Indiana St. The plan proposes to replace an existing 12 unit apartment with a 12,688 SF parking~~

~~structure that includes a total of 97 spaces, 15 surface spaces and 82 spaces in the structure.  
Submitted by HERE Kansas LLC on behalf of Carter Management LC, property owner of record.~~

## MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

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## ADJOURN

## CALENDAR

January 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

March 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

**PCCM Meeting:**

(Generally 2<sup>nd</sup> Wednesday of each month, 7:30am-9:00am)

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<http://www.lawrenceks.org/subscriptions>

**2016**  
**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION**  
**MID-MONTH & REGULAR MEETING DATES**

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM <i>** alternate day/time</i>	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 13	Article 9 text amendments - Parking		Jan 25	Jan 27
<i>Feb 18 ** Thursday 6:00 PM meeting</i>	<i>Joint meeting with HRC – Oread Design Guidelines</i>		Feb 22	Feb 24
<i>Mar 9 ** Wednesday 5:30 PM meeting</i>	<i>Joint meeting with Sustainability Advisory Board [Meeting Room C – Lawrence Public Library – 707 Vermont Street]</i>		Mar 21	Mar 23
Apr 13	Retail Market Study		Apr 25	Apr 27
May 11	TBD		May 23	May 25
Jun 8	TBD		Jun 20	Jun 22
Jul 13	TBD		Jul 25	Jul 27
Aug 10	TBD		Aug 22	Aug 24
Sep 14	TBD		Sep 26	Sep 28
Oct 12	TBD		Oct 24	Oct 26
Nov 2	TBD		Nov 14	Nov 16
Nov 30	TBD		Dec 12	Dec 14
	<b>Suggested topics for future meetings:</b> <i>How City/County Depts interact on planning issues</i> <i>Stormwater Stds Update – Stream Setbacks</i> <i>Overview of different Advisory Groups – potential overlap on planning issues</i> <i>Joint meeting with other Cities' Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i> <i>New County Zoning Codes</i> <i>Tour City/County Facilities</i> <i>Water Resources</i>		<i>Communication Towers – Stealth Design, # of co-locations, notice area</i> <i>WiFi Connectivity &amp; Infrastructure Planning</i> <i>Oread Overlay Districts &amp; Design Guidelines</i> <i>Comprehensive Plan – Goals &amp; Policies</i> <i>Affordable Housing</i> <i>Retail Market Impacts</i> <i>Case Studies</i>	
<b>Meeting Locations</b>	The Planning Commission meetings are held in the City Commission meeting room on the 1 <sup>st</sup> floor of City Hall, 6 <sup>th</sup> & Massachusetts Streets, unless otherwise noticed.			
Planning & Development Services   Lawrence-Douglas County Planning Division   785-832-3150   <a href="http://www.lawrenceks.org/pds">www.lawrenceks.org/pds</a>				



## 2016 PLANNING COMMISSION ATTENDANCE

[illegible]

## 2016 MID-MONTH ATTENDANCE

[illegible]



## **PLANNING COMMISSION MEETING**

**January 25, 2016**

**Meeting Minutes DRAFT**

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January 25, 2016 – 6:30 p.m.

Commissioners present: Britton, Butler, Carpenter, Denney, Kelly, Liese, Sands, Struckhoff, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, M. Miller, Pepper, Ewert

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### **COMMITTEE REPORTS**

No committee reports.

### **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Deferral Request:  
Mr. McCullough said the applicant for Item No. 5 requested a deferral due to an illness.
- Ex parte:  
Commissioners Britton, Denney, and Kelly all received an email from Mr. Jamie Shew regarding traffic and access concerns for Item 6.
- No abstentions.

PC Minutes 1/25/16 **DRAFT**

**ITEM NO. 5      B-3 TO B-2; 6.178 ACRES; E 900 RD (MKM)**

**Z-15-00608:** Consider a request to rezone approximately 6.178 acres from County B-3 District to County B-2 District, located in the 1400 block of E 900 Rd. Submitted by BG Consultants, Inc. on behalf of Fairway LC, property owner of record.

**STAFF PRESENTATION**

Mr. McCullough stated the applicant requested a deferral due to an illness.

**ACTION TAKEN**

Motioned by Commissioner Liese, seconded by Commissioner Kelly, to defer Item 5 for one month.

Motion carried 9-0.

PC Minutes 1/25/16 **DRAFT**

**Recess LDCMPC**

**Convene Joint Meeting with Eudora Planning Commission**

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR CALCIO VILLAGE YOUTH SOCCER; E  
1750 RD & N 1300 RD (MKM)**

**CUP-15-00613:** Consider a Conditional Use Permit for Calcio Village, an *Athletic Field* complex for youth soccer on approximately 80 acres, located at the intersection of E 1750 Rd & N 1300 Rd. Submitted by Jambars Futbol Club Inc, on behalf of John Pendleton for Lorita H Pendleton, Trustee, property owner of record. (*Joint meeting with Eudora Planning Commission.*)

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Joe Comparato, coach from Bishop Seabury and academy director of Jambars Futbol Club, said more soccer fields were needed in the community. He said the current facility was preoccupied by another organization. He said Calcio Village would be private and not create a major mecca of traffic or activity. He said the best case scenario would be to get fields planted in the fall which would require a year of work before being played on. He said they hoped to have a few fields of sod so that they could use them for training earlier than that. He said regarding lighting they were researching a new LED lighting system being used in Europe. He said it was eco-friendly and used a third of the power that a standard light would use. He said regarding irrigation they were planning on putting in a pit pond. He said the irrigation system was designed to be self-sufficient. He said it may be possible to put in a well for water use in the buildings but well water was not an option for irrigation due to the iron content.

**PUBLIC HEARING**

Ms. Karen Heeb, South Siders Neighborhood Association, expressed concern about the timing of the project and increased traffic. She said water/sewage use was a concern because she and her neighbors were dependent upon well water.

Mr. Andy Bentley, president of Lawrence adult soccer league, said they were out of soccer space due to capacity of members in the league and that they were having to turn new members away.

Ms. Andrea Anderson, parent of a youth soccer player in Lawrence, said she was excited for the opportunity for children to have more places to play.

Mr. Eric Nelson, Athletic Director at Bishop Seabury, said it was difficult to schedule games for field space at the Youth Sports Complex due to another club using it.

Mr. Phil Wente expressed concern about traffic, wildlife, and sanitation/well water.

Mr. Ivo Ivanov felt they should find a way to address any issues because this was an important project.

**APPLICANT CLOSING COMMENTS**

*Complete audio & video from this meeting can be found online:*  
<http://www.lawrenceks.org/boards/planning-commission/agendas>

Mr. Comparato said they could not use well water to irrigate. He said there were a variety of access paths from E 1900 Rd to Noria.

### **COMMISSION DISCUSSION**

Eudora Planning Commissioner Richard Campbell asked if the detention pond extended past the property line.

Mr. Comparato said once the surveying was done that would be rectified. He said once the land was survived they could figure out how things needed to land in the space. He said they still had work to do to finalize the drawings.

Eudora Planning Commissioner Kurt von Achen said Eudora Planning Commission did not have quorum this evening. He said they would participate with comments but would not take an official vote.

Commissioner Sands said a block away, E 1700 Rd/N 1300 Rd, shows a future City of Lawrence park. He asked if plans were in the future to develop it in a similar fashion.

Ms. Miller said she did not know what the City's plans were.

Mr. McCullough said there weren't specific plans and that a master plan would be worked on in the future.

Commissioner Denney asked if a permit was needed to drill a well.

Ms. Miller said that was correct.

Commissioner Denney asked when a permit was under consideration if the water level in the area would be taken into account.

Mr. McCullough said he was unsure of the review standards and that staff relied on the Health Department for those permits.

Commissioner von Achen asked staff to show the proposed area on the overhead. She inquired about eventual expansion to the east and if it would come back to Planning Commission.

Ms. Miller said it may be possible to extend east in the future. She said expanding it could be done with an administrative site plan but that a condition could be added for notification to the neighbors.

Commissioner von Achen inquired about the intensity of the use. She asked what seasons it would include. She wondered if they had assurance about the conservation area to the east remaining undeveloped as a buffer.

Ms. Miller said if developed on the east side a condition could be added for a buffer area.

Mr. Comparato said fall and spring season would be the majority of the training time. He said the facility would be closed during the winter months. He said the hours of operation for the academy

would be 4:00pm-8:30pm. He said the adult league intended to use the fields on the weekends. He said the school anticipated 16-24 events per school year for home games.

Commissioner Kelly said the staff report stated a maximum of 88 trips for peak evening hours.

Ms. Miller said Bartlett & West prepared the traffic impact study. She said there were 300 trips per day expected and peak hours were the maximum expected during those peak hours. She said they expected 70% of the traffic to come off N 1300 Road, which would be about 60 trips per hour.

Mr. Darron Ammann, Bartlett & West, said the formula was comprised using the ITE manual.

Commissioner Kelly asked staff if the site grows how the County would determine when to make changes to the road.

Mr. McCullough said the traffic impact study indicates when geometric improvements are required. He said this will be capable of much higher traffic volumes once the SLT is complete and 31<sup>st</sup> Street extended out. He said turn lanes could be possible with a much more intense project.

Commissioner Kelly asked if there was a threshold that the County looked at for a different type of design.

Mr. McCullough said that was correct.

Commissioner Sands inquired about the lighting height.

Mr. Comparato said the lighting system would entail four poles, 70' high, on the four corners of the field.

Commissioner Sands wondered if the hours of use could be restricted.

#### **ACTION TAKEN**

Motioned by Commissioner Pennie von Achen, seconded by Commissioner Sands, to approve Conditional Use Permit, CUP-15-00613, for Calcio Village Youth Soccer, subject to the following conditions of approval, as revised by the Planning Commission (new wording in **bold** text), and forwarding to the Board of County Commission.

- a. The Conditional Use shall be administratively reviewed every 5 years.
- b. Provision of additional lighting information to insure the exterior lighting is designed to prevent off-site glare.
- c. **Before the item is considered by the County Commission, Planning staff will look into concerns raised by neighboring property owners regarding the potential impact of the proposed service well on the ground water level and the capacity of their wells.**
- d. **The Planning Office will provide mailed notice to all property owners within 1000 ft of the subject property when a site plan requiring County Commission approval is submitted.**
- e. Provision of a revised CUP plan with the following changes:

- a. Label the distance from the buildings to the existing E 1750 Rd right-of-way and the future right-of-way for the extension of N 1300 Rd to insure required setbacks are provided.
- b. Clearly show the location of the chemical toilets.
- c. Add 2 additional ADA accessible spaces in the large parking area for a total of 6 spaces.
- d. Add the following general notes to the plan:
  - i. *Chemical toilets will be used and potable water brought to the site for visitors use until a public water supply is available. Restrooms shall be installed in the training/concession building when the site is connected to public water.*
  - ii. *Significant improvements to the facility, following the construction of 31<sup>st</sup> Street, will require the addition of landscape screening along the north side of the parking areas.*
  - iii. ***A vegetated noise buffer will be installed on the east side of the property with the development of Phase 2.***

Commissioner Denney wondered if there was some way to tie the Conditional Use Permit to a determination of no impact on residents in the area as a condition of the CUP. He said it was one thing to have water for a public event but to have that interfere with individual homeowners, he felt there should be some sort of protection for them.

Commissioner Britton shared Commissioner Denney's concern but felt unqualified to say anything about it. He asked staff for suggestions on how to build in more protection.

Mr. McCullough said if the applicant applied for a permit and didn't get it they would have to make a provision for water. He said he was not sure how to weigh in on that since it was not Planning's area of expertise. He stated staff could do some research and provide that to County Commission.

Commissioner Denney said he wanted to be sure the issue was heard somewhere in the process. He said he was fine if it was heard during the permitting process.

Commissioner Britton said he would support the motion with the caveat that the well water issue be looked into. He felt it was important to build in safeguards for any expansion eastward.

Commissioner Kelly said that traffic and water would continually be a concern after the SLT was complete. He said he would support the motion because he felt there were steps in place to monitor growth.

Unanimously approved 9-0.

No vote from Eudora Planning Commission due to not having quorum.

## **Adjourn Joint Meeting Reconvene LDCMPC**

PC Minutes 1/25/16 **DRAFT**

**ITEM NO. 2A RS7 TO RM15-PD; 4.038 ACRES; 5325 W 6<sup>TH</sup> ST (BJP)**

**Z-15-00609:** Consider a request to rezone approximately 4.038 acres from RS7 (Single-Dwelling Residential) District to RM15-PD (Multi-Dwelling Residential with Planned Development Overlay) District, located at 5325 W 6<sup>th</sup> St. Submitted by Landplan Engineering PA on behalf of Village Cooperative of Lawrence (contract purchaser). Kansas/Nebraska Association of Seventh Day Adventist Inc. is the property owner of record.

**ITEM NO. 2B PRELIMINARY DEVELOPMENT PLAN FOR VILLAGE COOPERATIVE; 5325 W 6<sup>TH</sup> ST (BJP)**

**PDP-15-00610:** Consider of Preliminary Development Plan for Village Cooperative of Lawrence, located at 5325 W 6<sup>th</sup> St. The plan proposes the construction of a 3-story structure containing 52 assisted living units, underground & surface parking and site improvements, including the construction of Branchwood Drive north to W. 6<sup>th</sup> Street. Submitted by Landplan Engineering PA on behalf of Village Cooperative of Lawrence (contract purchaser). Kansas/Nebraska Association of Seventh Day Adventist Inc. is the property owner of record.

**STAFF PRESENTATION**

Ms. Becky Pepper presented Items 2A and 2B together.

**APPLICANT PRESENTATION**

Mr. Shane Wright, Real Estate Equities Company, said he was shocked at the limited options for seniors in the area. He said the goal was to provide an ownership option for perspective buyers that got them excited. He said the site had a significant grade change and that they had been working with the City to follow the Code. He said he hosted a neighborhood meeting in July 2015 and that 10 members from the neighborhood attended. He said there would be more setback and greenspace than normal since it was a larger site than they usually develop. He said the cooperative would maintain inside and outside of buildings and property. He said they had not received any negative comments/communications to date. He stated there would be heated underground parking with the building on top.

**PUBLIC HEARING**

Mr. Mark Turner, 925 Stonecreek Drive, expressed concern about the size and scale of the project. He said Branchwood Drive would be open to 6<sup>th</sup> Street which would increase traffic. He compared this project with Alvarora and how all the promises made with that site were not met regarding buffering/landscaping and the emergency gate not being in place. He expressed concern about the elevation height in relation to the surrounding neighborhood.

**APPLICANT CLOSING COMMENTS**

Mr. Turner said there was a significant difference between this and the Alvarora apartment complex to the west. He said one of the differences was that the other complex was rental and that this project would be home owners.

**COMMISSION DISCUSSION**

Commissioner Liese said it looked like a clean project with regard to the Golden Factors. He said he was comfortable making a motion to approve it.

*Complete audio & video from this meeting can be found online:*  
<http://www.lawrenceks.org/boards/planning-commission/agendas>



### **ACTION TAKEN on Item 2A**

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the request to rezone approximately 4.038 acres, from RS7 (Single-Dwelling Residential) District to RM15-PD (Multi-Dwelling Residential with Planned Development Overlay) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the approval of the associated Preliminary Development Plan (PDP-15-00610).

Commissioner von Achen asked staff to comment on concerns expressed regarding traffic.

Mr. McCullough said the road system could handle the added traffic. He said the plan was always to join 6<sup>th</sup> Street but that there was no need until now. He said he was unaware of the potential Alvarado violations and that Code Enforcement would look into it. He said the neighborhood wasn't completely developed so as development comes online the traffic would increase.

Commissioner Liese wondered about the percentage of people living at this project would be driving since it would be older adults.

Mr. McCullough said 6<sup>th</sup> Street had been designed as a limited roadway.

Commissioner Kelly said one word of caution was the Kansas Department of Transportation's plan for Queens Road. He stated Queens Road could be an access onto 6<sup>th</sup> Street. He said that was how development impacted the community. He said he supported the motion.

Commissioner Britton said he would support the motion. He said he liked that it was toward the outskirts of town but still infill.

Commissioner von Achen supported the motion and that she loved the idea of underground parking lot.

Commissioner Carpenter asked if there was an exit from the proposed structure directly onto Stonecreek Drive.

Ms. Pepper said the exit was to the east on Branchwood Drive. She showed the plan on the overhead.

Commissioner Carpenter said the turn lanes were already in place and ready for increased traffic. He said opening up the road and limiting parcel access only to Branchwood Drive would benefit the neighbors by having a secondary exit and entrance to the development. He said he would support the rezoning.

Unanimously approved 9-0.

### **ACTION TAKEN on Item 2B**

Motioned by Commissioner Liese, seconded by Commissioner Sands, to approve the Village Cooperative of Lawrence Preliminary Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

*Complete audio & video from this meeting can be found online:*  
<http://www.lawrenceks.org/boards/planning-commission/agendas>

1. Agreement not to protest the formation of a benefit district for future signal improvements at W 6<sup>th</sup> Street and Branchwood Drive must be executed by the applicant and provided to the Planning Office before recording of the Final Development Plan.
2. Provision of a revised Preliminary Development Plan with the following changes:
  - a. Add the following note, "We hereby dedicate to the City of Lawrence the right to regulate any construction over the area designated as Common Open Space, open air recreation area, and non-encroachable area and to prohibit any construction within said areas and spaces inconsistent with the approved use or enjoyment of residents, lessees, and owner of the Planned Development."

Commissioner Denney asked if the only access to the property would be from Branchwood Drive.

Mr. McCullough said there would be potential for revisions in the future but this would be the plan that would be approved with this rezoning.

Commissioner Denney said he would like to add amendment to the motion that this be approved contingent upon access only to Branchwood Drive and that if it changed it would come back to Planning Commission.

Mr. McCullough said it would add more public process.

Commissioner Liese was okay with Commissioner Denney's amendment.

Commissioner Sands seconded the amendment.

Unanimously approved 9-0.

PC Minutes 1/25/16 **DRAFT**

**ITEM NO. 3      COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTER 7  
(JSC)**

**CPA-14-00005:** Consider a Comprehensive Plan Amendment to *Horizon 2020* Chapter 7: Industrial Land Use, and Chapter 14: Specific Plans – *K-10 & Farmer's Turnpike Plan*, to revise the Future Land Use Map and include adjacent parcels for additional residential land use sections into the K-10 & Farmer's Turnpike Plan. Submitted by B.G. Consultants, Inc. *PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4A      ANNEX 97.8 ACRES; N 1750 RD & E 902 RD (MKM)**

**A-14-00161:** Consider an Annexation request for approximately 97.8 acres located south of the intersection of N 1750 Rd and E 902 Rd (extended). Submitted by BG Consultants, Inc. on behalf of Garber Enterprises, Inc., property owner of record. *PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4B      ANNEX 15 ACRES; N OF ROCK CHALK PARK (MKM)**

**A-14-00163:** Consider an Annexation request for approximately 15 acres located north of Rock Chalk Park. Submitted by BG Consultants Inc on behalf of Micah Garber, contract purchaser, and Robert and Jan Maxwell Trust, property owner of record. *PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4C      A TO RSO; 25 ACRES; N 1750 RD & E 902 RD (MKM)**

**Z-15-00602:** Consider a request to rezone approximately 25 acres from County A (Agricultural) District to RSO (Single-Dwelling Residential-Office) District, located SW of intersection of N 1750 Rd and E 902 Rd (extended). Submitted by BG Consultants, Inc. on behalf of Garber Enterprises, Inc., property owner of record. *Replaces Z-14-00162. PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4D      A TO IL; 11.6 ACRES; N 1750 RD & E 902 RD (MKM)**

**Z-15-00617:** Consider a request to rezone approximately 11.6 acres from County A (Agricultural) District to IL (Limited Industrial) District, located SW of intersection of N 1750 Rd and E 902 Rd (extended). Submitted by BG Consultants, Inc. on behalf of Garber Enterprises, Inc., property owner of record. *Replaces Z-14-00165. PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4E      A TO RS5; 15 ACRES; N 1750 RD & E 902 RD (MKM)**

**Z-15-00603:** Consider a request to rezone approximately 15 acres from County A (Agricultural) District to RS5 (Single-Dwelling Residential) District, located SE of intersection of N 1750 Rd and E 902 Rd (extended). Submitted by BG Consultants, Inc. on behalf of Micah Garber, contract purchaser, and Robert & Jan Maxwell, Trustees, property owner of record. *Replaces Z-14-00164. PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4F    A TO RS5; 61.3 ACRES; N 1750 RD & E 902 RD (MKM)**

**Z-15-00618:** Consider a request to rezone approximately 61.3 acres from County A (Agricultural) District to RS5 (Single-Dwelling Residential) District, located SE of N 1750 Rd and E 902 Rd (extended). Submitted by BG Consultants, Inc. on behalf of Garber Enterprises, Inc., property owner of record. *Replaces Z-14-00164. PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

**ITEM NO. 4G    A TO RS5-FP; 0.8 ACRES; N 1750 RD & E 902 RD (MKM)**

**Z-15-00619:** Consider a request to rezone approximately 0.8 acres from County A (Agricultural) District to RS5-FP (Single-Dwelling Residential with Floodplain Overlay) District, located SE of intersection of N 1750 Rd and E 902 Rd (extended). Submitted by BG Consultants, Inc. on behalf of Garber Enterprises, Inc., property owner of record. *Replaces Z-14-00204. PC recommended denial on 6/23/14, City Commission returned to Planning Commission on 12/8/15.*

*Items 3 and 4A-4G were deferred prior to the meeting.*

PC Minutes 1/25/16 **DRAFT**

**ITEM NO. 6 SPECIAL USE PERMIT FOR FAST ORDER FOOD, DRIVE-IN; 4300 W 24<sup>TH</sup> PLACE (SLD)**

**SUP-15-00521:** Consider a Special Use Permit for approval of a neighborhood commercial shopping area that includes buildings to house *Fast Order Food, Drive-in*, located at 4300 W 24<sup>th</sup> Place. The plan proposes 31,625 sq. ft. of commercial development in five buildings with four drive-thru uses indicated. Two drive-thru uses are for *Fast Order Food*. Submitted by Paul Werner Architects, for RPI, LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, agreed with the conditions of the staff report except for the desire to defer the project. He felt deferral wasn't necessary. He showed renderings on the overhead projector and stated the 145' buffer yard from the property line would benefit the neighborhood to the west. He noted concept features of the site, such as the pedestrian plaza at the corner and the pedestrian connectivity.

**PUBLIC HEARING**

Ms. Dawn Shew said the only egress to her neighborhood was off of Inverness. She expressed concern about increased traffic on Inverness. She said her kids walk to school and that there was no school zone between 23<sup>rd</sup> Street and 27<sup>th</sup> Street. She could not see how this project would benefit the neighborhood. She felt the roads were not set up to support increased traffic.

Mr. Larry Grecian said "here we go again." He said the developer seemed sincere in the past about wanting to work with the neighbors but he had become apprehensive about that. He said the developer, Glen Lemesany, gave his word that he would not develop high volume fast food drive-thru's at this location but did not want them excluded for fear of being sued if they were rejected. He said homeowners had received conflicting changes to the developers plan. He felt there had been a lot of smoke & mirrors and not much good will. He expressed concern about increased traffic in the area.

Mr. Richard Bennesch requested Planning Commission deny the Special Use Permit because this type of development was not appropriate. He felt the applicant's development was becoming overly focused on automobile use. He felt drive-thru's would have negative consequences to the existing neighborhood. He said the intention of the neighborhood commercial zoning district was to allow businesses to serve the neighborhood and be pedestrian friendly. He felt a drive-thru restaurant would only exacerbate the lack of focus on pedestrian usage in the area. He asked Planning Commission to deny the request and stick to the recently adopted neighborhood plan. He said in the event that a fast order food drive-thru was approved he requested that the operation hours be restricted to 9:00pm during week and 11:00pm on weekends. He was concerned about the unknowns of what business would occupy the space. He said if the Special Use Permit was granted places like Jimmy Johns or pizza places could have delivery services and it was not appropriate for the neighborhood.

Ms. Jamie Hulse said she was in support of the area being rezoned to CN2 because of potential impacts of the high-density multi-family. She said what was originally planned was different than what was there now. She said she supported the senior citizen project but it never got built but the zoning was still there. She said the traffic associated with multi-family concerned her more than a Jimmy Johns delivery service. She said the neighborhood had been promised a lot things over the years and then they were changed. She said she agreed with everything staff said in the presentation and was supportive of this proposal. She said she would like the right for public comment once tenants were identified.

Mr. Pat Ryan requested that they deny a fast food drive-thru. He stated commercial retail was fine, just not a drive-thru. He felt new development to the east could potentially be a site line item if there were fences that run out to the sidewalk, leaving the potential for accidents.

#### **APPLICANT CLOSING COMMENTS**

Mr. Werner clarified that his client did not have any involvement in previous multi-family developments for the site. He said he understood the neighborhood concerns. He said they wanted businesses to succeed and not be vacant. He said a coffee shop or anything else with a drive-thru would be considered the same under the Code. He said the Code did not care what the business sold or the hours, only if there was a window drive-thru. He said regarding increased traffic, the school traffic was the target for a coffee shop that they could stop at. He said the plan was laid out to be successful.

#### **COMMISSION DISCUSSION**

Commissioner Butler said she was vocal last time concerning this specific land. She felt that allowing fast order food with drive-thru would further congest traffic. She did not support this and did not think it would add benefit to the community. She expressed concern about school children walking in the area.

Commissioner Britton asked for clarification on what Planning Commission was voting on.

Mr. McCullough said the request was for a Special Use Permit with site plan element for one fast food drive-thru use.

Commissioner Denney said if the applicant was not requesting a Special Use Permit than Planning Commission would not see the site plan.

Mr. McCullough said that was correct.

Commissioner Denney asked the applicant who he saw as the customers for this center.

Mr. Werner said it was a neighborhood commercial center. He said this was a tough site to pull vehicles off of Clinton Parkway. He said this was not ideal in the sense it would not face the major traffic street. He said the focus was on 24<sup>th</sup> Place and the surrounding neighborhood. He said residents in the area could walk to neighborhood commercial center.

Commissioner Butler said she could not think of another drive-thru in the area.

Mr. Werner said a Subway or Papa Murphy's with a drive-thru would do more business than without a drive-thru.

Commissioner Denney said he spent some time driving around the area and walking a little bit. He felt there was a need for small businesses that could serve the apartments and residents in the area. He said there was no way to differentiate between drive-thru coffee shops and all drive-thru fast food.

Mr. McCullough said in activity they were similar and the Code doesn't differentiate. He said even a fast order drive-thru could serve the neighborhood. He said staff tried to look at it from the impacts at the corner and a more pedestrian oriented building at the southwest corner.

Commissioner Denney he said there were a wide range of things that could fit into this category. He said he was having a hard time approving it at this point with it being so open-ended.

Commissioner Britton said generally speaking he liked the project but that the drive-thru gave him heartburn. He felt this kind of neighborhood commercial would be good for the neighborhood. He said one thing this project does was cement an actual use for the property. He said he hadn't really heard a need for the drive-thru. He wondered about restricting the hours, as suggested by the public.

Mr. McCullough said it was not known yet what the business would be. He said that had been done in the past with outdoor impacts.

Commissioner Britton said maybe they could exclude a 24 hour fast food place, such as a Taco Bell that would be open until 3:00am. He said a Starbucks could have just as long of lines in the morning.

Commissioner Kelly said auto related sites near schools gave him heartburn. He expressed concern about traffic volumes and felt the City shouldn't average volumes over the day. He said he was not in favor of a drive-thru. He felt it would be tricky to limit hours. He said he was not real thrilled that Planning Commission only got to review this site plan because it had a Special Use Permit component. He said he would support a denial.

#### **ACTION TAKEN**

Motioned by Commissioner Kelly, seconded by Commissioner Butler, to deny the Special Use Permit, SUP-15-00521, located at 4300 W 24<sup>th</sup> Place.

Commissioner Liese said he was going to vote against the motion because he felt the item should be deferred per staff's request.

Commissioner Denney agreed with Commissioner Liese.

Commissioner Carpenter asked staff for their reasoning of deferral.

Mr. McCullough said the main request for deferral was for the site plan design components. He said Planning Commission would see it back with one drive-thru restaurant potentially in a new location on the site.



Commissioner Struckhoff appreciated staffs desire to revisit the layout. He said the overall layout and drive-thru gave him heartburn and that pedestrian traffic would have to cross vehicle traffic to get to it. He said even if the drive-thru was on the east side of the access road he might be able to stomach it more. He did not want to deny the Special Use Permit and said he would support a motion to defer because he would like to see it developed in a more pedestrian friendly way.

Commissioner Kelly said the reason for his motion was not to put the neighborhood through this again. He felt they needed to let City Commission do their job.

Commissioner von Achen said she had strong reservations about a drive-thru in an area where they were trying to promote pedestrian friendly accessibility. She wondered about the impacts of the motion.

Mr. McCullough said if Planning Commission findings conclude no drive-thru food anywhere on the site then that conclusion would be best served by sending it to City Commission with a recommendation of denial. He said if Planning Commission could support a drive-thru restaurant if x, y, and z were met then it could be deferred for the applicant to work on. He said City Commission would make the final decision.

Commissioner Denney wondered if they would be able to approve a fast food restaurant with limited square footage.

Mr. McCullough said the square footage was limited in CN2 to 3,000 square feet. He said it could be restricted more but that it could be pretty small like the new Burger King at Bauer Farm.

Commissioner Sands agreed with Commissioner Kelly in the fact that it should go to City Commission. He said he would vote against the motion because the site plan conformed with the district plan. He said the weakness in the plan did not have to do with development, but with the fact that there were a ton of apartment buildings and multi-dwelling units in the area. He said he was not personally worried about the single lane drive-thru, but rather delivery trucks on the downhill street of Inverness Drive. He was conflicted because it conformed to the plan but should send to City Commission.

Commissioner Carpenter did not see any purpose in deferring. He felt the Special Use Permit should be denied because it would bring more traffic into the neighborhood.

Commissioner Britton said he did not support the Special Use Permit but was interested in seeing a more pedestrian friendly site. He said he would support the motion to deny.

Motion carried 6-3, with Commissioners Britton, Butler, Carpenter, Kelly, Struckhoff, and von Achen, voting in favor of the motion to deny the Special Use Permit. Commissioners Denney, Liese, and Sands opposed the motion.



PC Minutes 1/25/16 **DRAFT**

**ITEM NO. 7      TEXT AMENDMENT TO ZONING REGULATIONS; WIND ENERGY  
CONVERSION SYSTEMS (SLD)**

**TA-15-00571:** Consider a Text Amendment to the *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to add Wind Energy Conversion Systems. *Initiated by County Commission on 10/21/15.*

*Item 7 was deferred prior to the meeting.*

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN 10:05pm**

# Planning Commission

## Key Links

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City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES



### Plans & Documents

- [Horizon 2020](#)
- [Sector/Area Plans](#)
- [Transportation 2040](#)
- [2012 Retail Market Study](#)

### Development Regulations

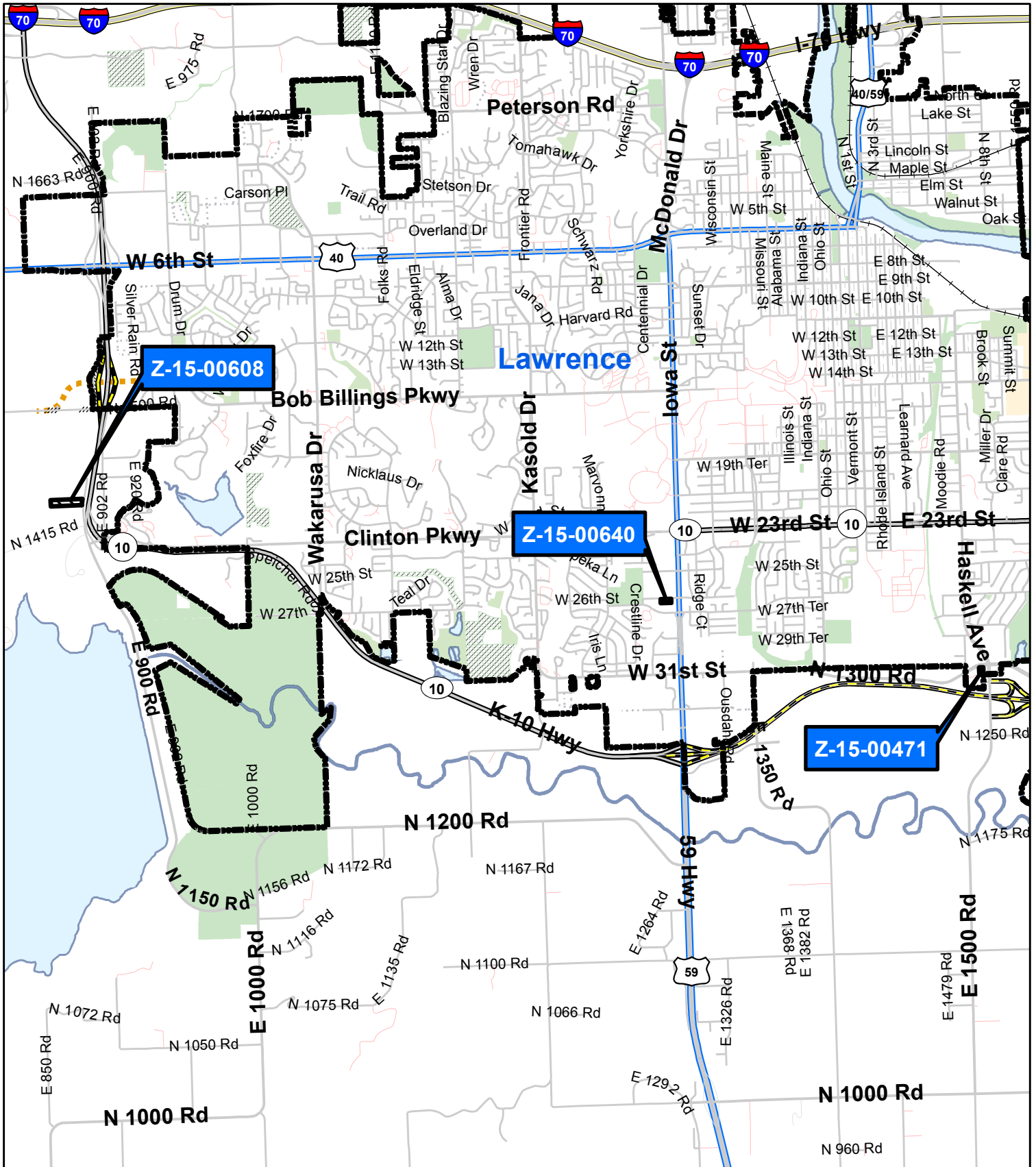
- [Community Design Manual](#)
- [County Zoning Regulations](#)
- [Land Development Code](#)
- [Subdivision Regulations](#)

### Online Mapping

- [City of Lawrence Interactive GIS Map](#)
- [Douglas Co. Map Viewer](#)
- [Submittals to the Planning Office](#)

### Planning Commission

- [Bylaws](#)
- [Mid-Months & Special Meetings](#)
- [Minutes](#)
- [Planning Commission Schedule/Deadlines](#)



## Lawrence-Douglas County Planning Commission February 2016 Public Hearing Agenda Items



**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
2/22/16

**ITEM NO. 1 Villa 26 Apartments – Rezoning from CS (Commercial Strip) to RM24 (Multi-Dwelling Residential); 1.325 ACRES; 2109 W 26<sup>th</sup> St. (KES)**

**Z-15-00640:** Consider a request to rezone approximately 1.325 acres from CS (Commercial Strip) District to RM24 (Multi-Dwelling Residential) District, located at 2109 W 26<sup>th</sup> St. Submitted by Petefish, Immel, Heeb & Hird, LLP., for Polaris KS3, LP., property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request from CS (Commercial Strip) District to RM24 (Multi-Dwelling Residential) District 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.

**REASON FOR REQUEST**

Applicant's Response:

*“When the subject property was developed, it was zoned C-5 (Limited Commercial). Under the C-5 zoning district, multi-family use was permitted. Following adoption of the 2006 Development Code, C-5 zoning was eliminated and replaced with the CS (Commercial Strip) category. The subject property became classified as legal non-conforming under the current City Code. The applicant is requesting rezoning of the subject property for compliance with the current City Code, consistent with the remainder of the Villa 26 Apartments as RM24 zoning.”*

**KEY POINTS**

- The property is located to the west of Iowa Street and to the south along W 26<sup>th</sup> Street.
- The proposed zoning change would bring the property from a legal non-conforming status to a legal conforming status.
- The proposed zoning change would bring this portion of the development into the same zoning district as the rest of the Villa 26 Apartment development.
- RM24 zoning is the current zone of the adjacent residential development.

**ASSOCIATED CASES**

SP-5-14-81 Site Plan; Villa 26 Apartments; Approved July 29, 1986 & Revised August 8, 1986.

**OTHER ACTION REQUIRED**

- City Commission approval of rezoning.
- Publication of rezoning ordinance if approved.

**PUBLIC COMMENT**

N/A – no communications received.

## Project Summary

The proposed rezoning would bring a portion of an existing apartment development into the same zoning district as the rest of the development. There is no construction or building development proposed. Three of the apartment buildings are part of this rezoning.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's response:

*"Existing use of the property was constructed in 1987 in compliance with the former Development Code."*

This property is currently zoned CS (Commercial Strip). This rezoning would bring the existing southeast portion of the apartment development under the same RM24 (Multi-Dwelling Residential) District as the rest of the apartment complex. The change in zoning would not trigger a change in use and would be in compliance with the Comprehensive Plan.

**Staff Finding** – The proposed rezoning does not change the overall character of development in the area and the request is in conformance with the multi-dwelling residential land use recommendations in the Comprehensive Plan.

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

Current Zoning and Land Use: CS (Commercial Strip) District; *Part of the existing apartment complex. Villa 26 Apartments*

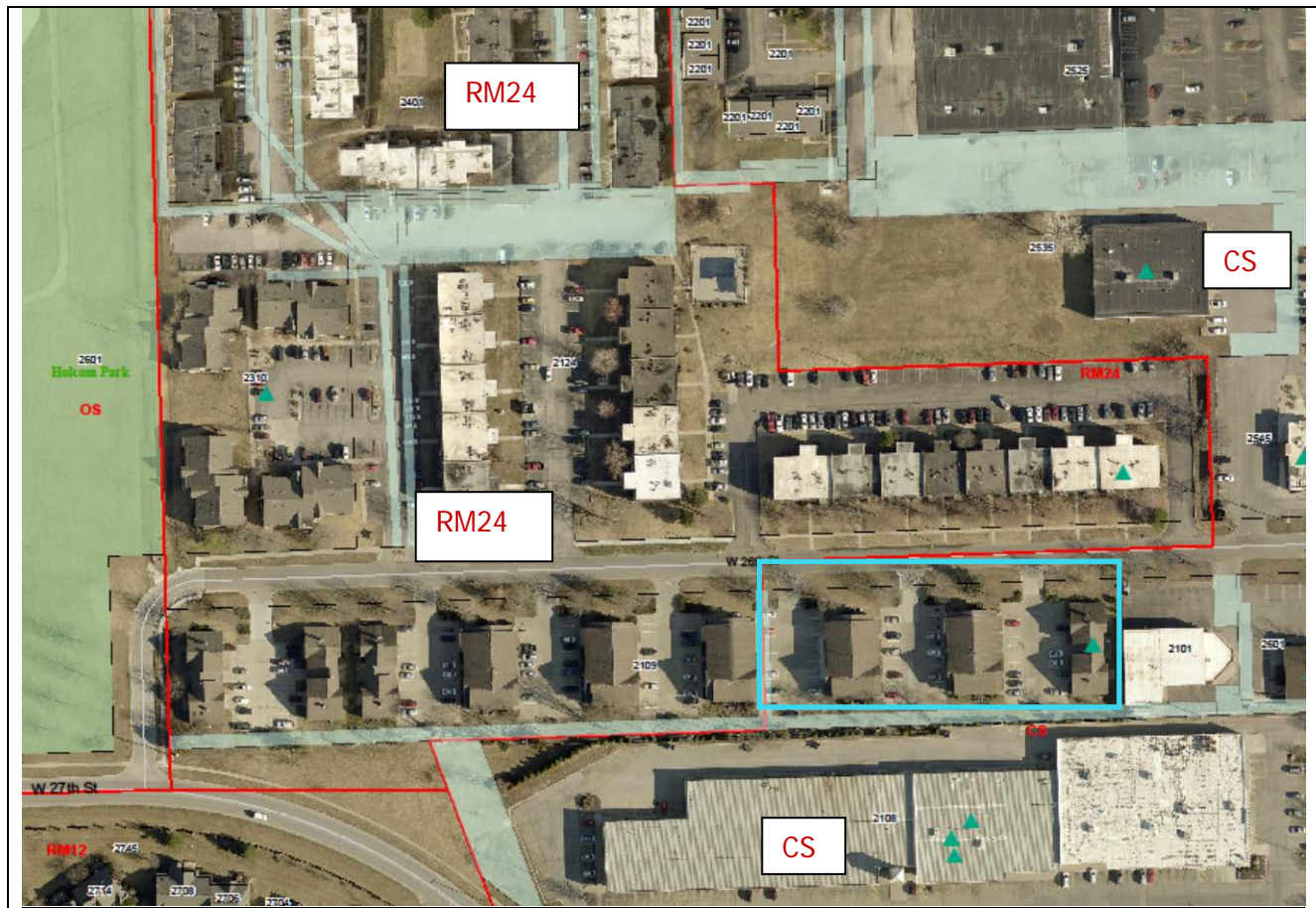
Surrounding Zoning and Land Use: To the east: CS (Commercial Strip) District; *Commercial structures.*

To the south: CS (Commercial Strip) District; *Commercial structures.*

To the west: RM24 (Multi-Dwelling Residential) Districts; *Developed with Multi-Dwelling Residential structures. Villa 26 Apartments*

To the north: RM24 (Multi-Dwelling Residential); *Multi-Dwelling Residential structures. Villa 26 Apartments*

The property is currently zoned CS (Commercial Strip) District. Adjacent zoning in the area is RM24 (Multi-Dwelling Residential) and CS (Commercial Strip). The requested rezoning is consistent with existing zoning in the existing residential development, Villa 26 Apartments. The request complies with the Comprehensive Plan land use projections in the area. The RM24 zoning district will bring the southeast portion (three buildings) of the Villa 26 Apartments into the existing zoning district for the development.



**Figure 1.** Zoning and land use in the area. Subject property is outlined in cyan.

**Staff Finding** – The subject property is adjacent to properties zoned for multi-dwelling residential land uses. The residential zoned properties are already developed. The proposed rezoning is compatible with the zoning and land uses, existing and approved, in the area.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"Mixed-use commercial retail and multi-family."*

This area is currently developing as a multi-dwelling residential area and commercial retail. The properties surrounding the subject property are established with Multi-Dwelling Residential structures and are part of current residential development, Villa 26 Apartments.

**Staff Finding** – The proposed rezoning is in keeping with the development in the area. The proposed rezoning would be in keeping with a use 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

Applicant's response:

*"Conforms to the existing use."*

This property is a portion of Villa 26 Apartments and the rezoning would bring this portion of the development into the same zoning district.



**Staff Finding** – This rezoning does not alter plans for the area and is consistent with the existing development.

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

Applicant's response:

*"Conforms to existing use."*

**Staff Finding** – The proposed rezoning brings existing development into the zoning district consistent with the rest of the apartment complex and is consistent with the area and corrects the non-conforming status that resulted from the change in the 2006 Development Code.

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

Applicant's Response:

*"Existing apartment buildings were constructed in 1987."*

**Staff Finding** – The existing use will not be altered by this rezoning.

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

Applicant's Response:

*"Existing multi-family use is suitable for this site and compatible with adjacent uses. The existing use of the property will become legal conforming by the rezoning rather than legal non-conforming."*

**Staff Finding** – The RM24 zoning is in keeping with surrounding zoning. The rezoning would allow for existing development, Villa 26 Apartments, to reside in one zoning district and to bring the status from legal non-conforming into legal conforming with the current Land Development Code. The rezoning would be compatible with the nearby uses and should have no detrimental effect.

**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**

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

The proposed rezoning is not changing the allowed use of the property in a manner that would be detrimental to public health, safety and welfare. The proposed rezoning brings the entire Villa 26 Apartments development into one zoning district that is compatible with the area.

**Staff Finding** - There would be no gain to the public health, safety, and welfare through the denial of the rezoning request.

**PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan and the Golden Factors, and for compatibility with surrounding development. The rezoning request is consistent with the Comprehensive Plan and would be compatible with surrounding development. Staff recommends approval of the rezoning request.





# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Lawrence -Douglas County Metropolitan Planning Commission

**FROM:** Katherine Simmons, Planner

**Date:** February 11, 2016

**RE:** Item No. 2; Z-15-00471: Rezoning request for 1021 E 31<sup>st</sup> – IG to IL (Gun Range)

The rezoning request referenced above was submitted to the Planning Office in September, 2015. The Planning Commission considered the request at their November 16, 2015 meeting and voted 4-2-2 to forward this item to the City Commission with a recommendation for denial.

On January 12, 2016, the day the City Commission was to consider the rezoning application, the applicant submitted a site plan for a secondary location at 711 W. 23<sup>rd</sup> St., the Malls Shopping Center. This location is zoned CN2 (Neighborhood Commercial) District and does not require a zoning change to accommodate the proposed use, classified at Participant Sports, Indoor and Retail Sales. The application is considered a minor site plan and falls under the administrative approval process.

The City Commission considered the request for rezoning at their January 12, 2016 meeting and voted unanimously to return the item to the Planning Commission for further consideration. Specific direction for reconsideration of the rezoning at 1021 E. 31<sup>st</sup> St given by the City Commission included two items:

- 1) A comparative analysis of a secondary site under consideration at 711 W. 23<sup>rd</sup> St. with the site at 1021 E. 31<sup>st</sup> being considered for rezoning.
- 2) Additional discussion regarding suitability of the proposed use at the proposed location upon rezoning and potential detrimental impact to the character of the neighborhood in the context of zoning/land use requirements.

The rezoning request has not been revised; therefore, the staff report that was submitted in November 2015 has been placed back on the agenda for reconsideration at the direction of the City Commission. In addition, a draft administrative determination of the Minor Site Plan application for the location at 711 W. 23<sup>rd</sup> Street and a comparative table of the two properties are included for discussion.

Comparative Table		
	1021 E. 31 <sup>st</sup> Street	711 W. 23 <sup>rd</sup> St.
<b>Site Characteristics:</b>		
Zoning	IG	CS
Use currently permitted?	No- requires change to IL	Yes
Planning Process	Rezoning: Planning Commission & City Commission followed by Administrative Site Plan.	Minor Site Plan: Administrative
Access	Primarily Vehicular	Vehicular, Pedestrian, Bicycle
Traffic to site (volume) KDOT 24hr #s (last updated 2013)	31 <sup>st</sup> St. - 12,015	23 <sup>rd</sup> St. – 29,600 Louisiana St. – 13,810
Pedestrian Use	Low	High
Density of Area	Low	High
Stand-alone building?	Yes	No (other tenants in building)
Neighboring Uses/Use on site.	Light Industrial, KDOT storage lot and contractor sales/service offices.	Retail, Fast Food, Dining, Pet Store, Yoga Studio, Hardware Store, Salon, Car Audio & other strip commercial center uses.
Within a Neighborhood?	No	Yes (abuts 3 residential neighborhoods)
Property within 1000 ft. Gun Free Zone of school property?	Yes	Yes
Building location or (tenant space) within 1000 ft. Buffer Zone?	Yes	No
<i>Approximate</i> distance of property to school property	760 ft. – Lawrence College and Career Center	300 ft. – Baseball field (LHS) 740 ft. – Centennial School 1300 ft. – Lawrence High 1730 ft. – Broken Arrow Elem.
Is property within the 1000 ft. Gun Free Zone.	Within buffer - 240 ft.	Within buffer - 700 ft.
<i>Approximate</i> Building location (or tenant space) distance to 1000 ft. Gun Free Zone.	Fully within buffer	Outside buffer by 30 ft.

**Public Comment:**

The School Board (USD497) has expressed concern for the safety of the students, area and the school property located at 2910 Haskell Ave (The Lawrence College and Career Center.) The School Board is not in favor of the proposed use associated with this rezoning at this location.

Staff received a phone call from a neighbor of the 711 W. 23<sup>rd</sup> St. (The Malls Shopping Center) property location proposed in the site plan application. The concern was for the safety of the neighborhood adjacent to this location. The neighbor is not in favor of the proposed gun range being located in proximity to the neighborhood.

## **Discussion**

### **Character of the area**

One of the Golden factors used for the review by the zoning body is The Character of the Neighborhood. For planning purpose this is considered in the context of land use.

The character of the area surrounding the 31<sup>st</sup> Street and Haskell site includes industrial uses (immediate and to the northeast and northwest), school to the north, residential to the northeast, agricultural to the south and rights-of-way for city streets and K-10 Highway. The properties south of E 31<sup>st</sup> Street were platted and developed in the 1980's and 1990's. The recent extension of E. 31<sup>st</sup> Street and realignment of Haskell Avenue/E1500 Road as part of the K-10 highway project has modified traffic patterns and parcel sizes in the area. This area's character is changing with the development of the College and Career Technical Center and the Dwayne Peaslee Technical Training Center north of the subject request.

The character of the area for the Malls Shopping Center includes commercial to the north, west and east, school to the north (north of the commercial), and residential to the south.

Both sites have significant public investments in public education given the nearby schools but vastly different characters. The Malls site is intended to attract commercial customers and is a high activity center intending to attract every age of life. The 31<sup>st</sup> St industrial site is designed to accommodate only those users of the park and the new school and training center serves high school students and adults. Arguably, any use that is viewed as potentially incompatible with high activity centers would be better served at the 31<sup>st</sup> Street and Haskell location.

### **Harm to public**

There has been discussion as to just what the harm would be for a gun range/retail sales use. The following concerns have been identified throughout the process:

Inside the building:

- 1) Concern for stray bullet containment.
- 2) Concern for nuisance noise near a neighborhood and other tenants.
- 3) Concern for harm-minded consumers seeking to purchase weapons.

On site, particularly in the parking lot:

- 1) Concern for individuals carrying unsecured weapons to the site, near a school.
- 2) Concern for parking lot altercations resulting in stray bullets near a school.
- 3) Concern for "setting up" patrons to be out of compliance with the Gun Free School Zone Act by allowing the establishment of a gun range/sales shop within a Gun Free School Zone.

The Planning Commission seemed particularly concerned with the potential for parking lot disturbances near a school. As reflected above, schools exist at both locations but with varying degrees of activity and potential for conflicts and poor results if a shooting occurs. Given the possible harms, the 31<sup>st</sup> Street location presents a site of much less activity given it is designed to accommodate a narrower degree of users.

### **Gun Free School Zone Act**

The Gun-Free Schools Act of 1995 (within schools) and the Gun-Free Schools Zone Act (reenacted in 1996 and creating a zone 1,000 ft. around a school).

The Gun-Free School Zones Act (GFSZA) prohibits any person from knowingly possessing a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the individual knows, or has reasonable cause to believe, is a school zone. The GFSZA also prohibits any person from knowingly, or with reckless disregard for the safety of another, discharging or attempting to discharge a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the person knows is a school zone. The GFSZA defines "school zone" as: 1) in, or on the grounds of, a public, parochial or private school; or 2) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

Exceptions to the possession prohibition include:

- Firearm possessors licensed by the state or locality to possess the gun, whose law requires that before the person obtains a license, state or local law enforcement verify that the person is qualified to receive the license; or
- Where the firearm is:
  - Unloaded and in a locked container or locked firearms rack on a motor vehicle; or
  - Unloaded and possessed while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities

Exceptions to both the possession and discharge bans include:

- On private property no part of school grounds.
- Where the firearm is possessed for use in a program approved by a school held in the school zone, or in accordance with a contract entered into between a school and the individual or an employer of the individual; or
- Where the firearm is possessed or used by a law enforcement officer acting in his or her official capacity.

The Act exempts possession and firing on private property within 1,000 ft., which is the key to the act not directly prohibiting a gun range near the school. So while neither act prohibits a gun range within 1,000 feet of a school, it appears that the consumers may have certain responsibilities to comply with the federal law.

One could reasonably argue that since both sites are affected by the Act almost the same degree (one just outside the zone and one almost outside the zone), that the Act should be provided close to equal weight when comparing the two sites and when comparing this factor to the other land use factors used to judge the rezoning application.

**Staff Conclusion:**

Taking into account the comparative table in this report, Staff believes the 31<sup>st</sup> Street and Haskell Avenue site would accommodate the gun range use in a more compatible fashion than at The Malls. The potential for parking lot conflicts, in particular, are greater at The Malls given its high activity, mix of uses and attraction of consumers of all ages.

Staff recommends that the Planning Commission recommend approval of the rezoning request from IG (General Industrial) District to IL (Limited Industrial) District based on the findings in the body of the original staff report and discussion of points noted in this memorandum.

**PC Options:**

Section 20-1303(f)(2)(i) of the Land Development Code lists the review and recommendation procedures for Zoning Map Amendments (Rezoning) following the City Commission returning the item to the Planning Commission. The Planning Commission, after considering the explanation by the City Commission, may submit;

- 1) Its original recommendations with the reasons for doing so or,
- 2) Submit a new or amended recommendation.

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
11/16/15

**ITEM NO. 7**      **IG TO IL; .972 ACRES; 1021 E 31st (KES)**

**Z-15-00471:** Consider a request to rezone approximately .972 acres from IG (General Industrial) District to IL (Limited Industrial) District, located at 1021 E. 31<sup>st</sup> St. Submitted by Richard G. Sells, for Spirit Industries, Inc., property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request from IG (General Industrial) District to IL (Limited Industrial) District 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.

**REASON FOR REQUEST**

Applicant's Response:

*"A business man would like to provide an indoor shooting range and a gun sales and repair shop. The present zoning, General Industrial, does not allow this use group."*

**KEY POINTS**

- The property is located at the southwest corner of Haskell Avenue and E. 31<sup>st</sup> Street and is currently zoned IG (General Industrial) District.
- IG zoning does not permit *Participant Sports & Recreation, Indoor* use.
- IL zoning would permit the use and allow the shooting range/gun shop (*Ancillary Retail Sales, General*) within the district.
- As currently zoned, the property has been developed since 1991.
- The proposed rezoning will allow development consistent with the industrial nature of the area and fit within the goals of the comprehensive plan as well as allow the proposed use to better fit within the City Code.

**ASSOCIATED CASES**

SP-10-59-90      Site Plan; Balfour Manufacturing/Silkscreening; approved on November 6, 1990.

**OTHER ACTION REQUIRED**

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Submission and administrative approval of a site plan.
- Application and release of building permits prior to development.

**PUBLIC COMMENT**

A question was posed to staff inquiring about any issues the proposed use for this property might pose in regards to the proximity to school property. The property where The Lawrence

College Career Center, Unified School District #497, property owner of record, is located approximately 760 ft. from the subject property.

There are no local codes that would prohibit the location of a gun range or shop within 1000 ft. of a school.

There are two federal acts that relate to guns and schools.

The Gun-Free Schools Act of 1995 (within schools) and the Gun-Free Schools Zone Act (reenacted in 1996 and creating a zone 1,000 ft. around a school).

The Gun-Free School Zones Act (GFSZA) prohibits any person from knowingly possessing a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the individual knows, or has reasonable cause to believe, is a school zone. The GFSZA also prohibits any person from knowingly, or with reckless disregard for the safety of another, discharging or attempting to discharge a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the person knows is a school zone. The GFSZA defines "school zone" as: 1) in, or on the grounds of, a public, parochial or private school; or 2) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

Exceptions to the possession prohibition include:

- Firearm possessors licensed by the state or locality to possess the gun, whose law requires that before the person obtains a license, state or local law enforcement verify that the person is qualified to receive the license; or
- Where the firearm is:
  - Unloaded and in a locked container or locked firearms rack on a motor vehicle; or
  - Unloaded and possessed while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities

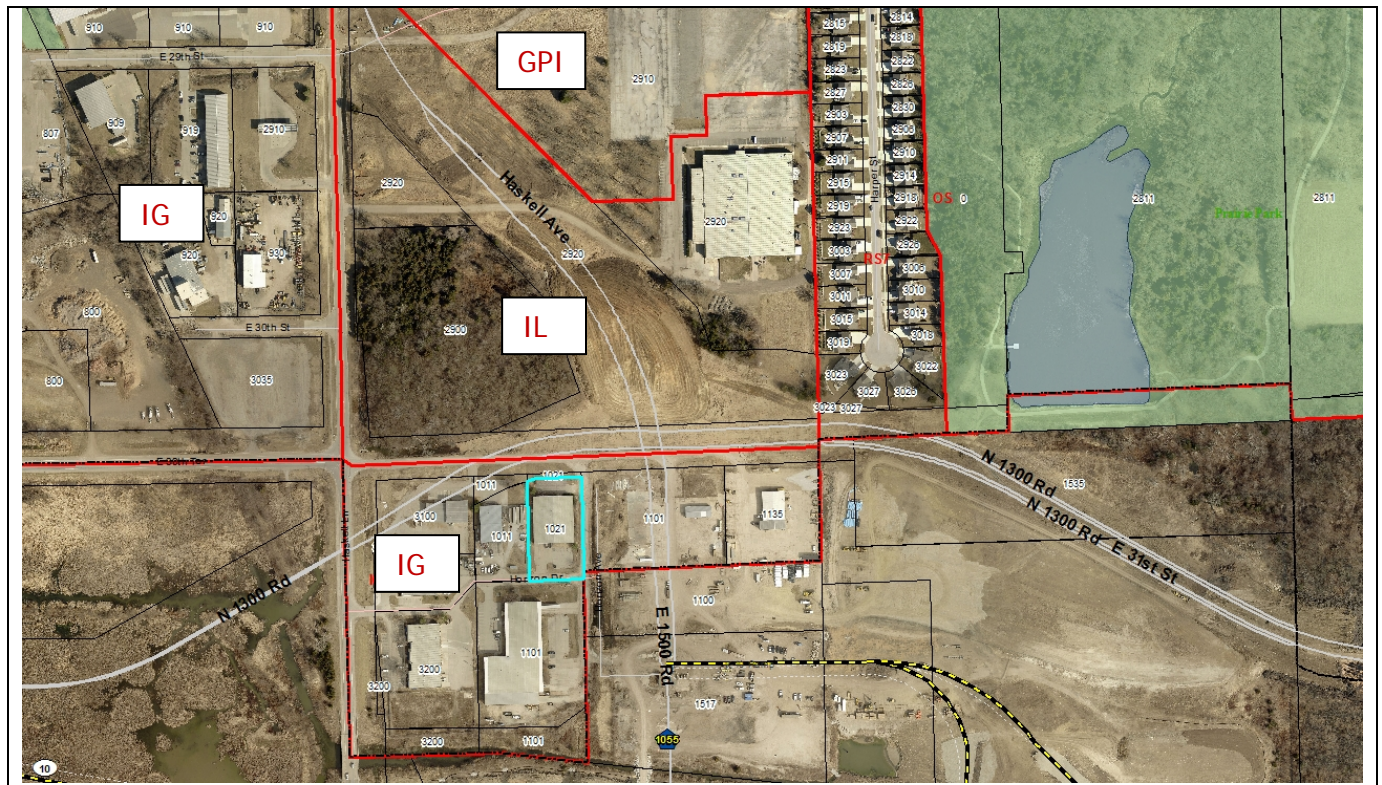
Exceptions to both the possession and discharge bans include:

- On private property no part of school grounds.
- Where the firearm is possessed for use in a program approved by a school held in the school zone, or in accordance with a contract entered into between a school and the individual or an employer of the individual; or
- Where the firearm is possessed or used by a law enforcement officer acting in his or her official capacity.

The Act seems to except possession and firing on private property within 1,000 ft, which is the key to the act not directly prohibiting a gun range near the school. So while neither act prohibits a gun range within 1,000 feet of a school, it appears that the consumers may have certain responsibilities to comply with the federal law.

## **Project Summary**

The property is currently zoned IG (General Industrial) District. A rezoning request to the IL (Limited Industrial) District is requested to better accommodate the proposed indoor recreation use (indoor gun range). Adjacent zoning in the area is IG and IL and the requested rezoning would be in harmony with this industrial area. The request complies with the Comprehensive Plan land use projections in the area. The area remains industrial. The IL zoning district accommodates the proposed use while maintaining the suitability within an industrial zoned area.



**Figure 1.** Zoning and land use in the area. Subject property is outlined.

Properties in the surrounding area of the property are zoned IG (General Industrial) and IL (Limited Industrial) and are developed with industrial and commercial structures. The USD 497 property to the north is zoned GPI (General Public and Institutional Use) District. A zoning map in Figure 1 illustrates the zoning and land uses of the area.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's response:

*"The property is within the Lawrence city limits. The property is located in an existing industrial zoned area. Rezoning the property does not effect the comprehensive plan, Horizon 2020."*

This property is currently zoned IG and is in compliance with the current goals of *Horizon 2020* and the urban growth projections for the subject area. No change in density or character of development is proposed.

**Staff Finding** – The proposed rezoning does not change the overall character of development in the area and the request is in conformance with the industrial land use recommendations in the Comprehensive Plan.

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

Current Zoning and Land Use: IG (General Industrial) District; *Developed*.

Surrounding Zoning and Land To the west and south: IG (Industrial General) District;



Use: *Industrial businesses.*

To the north and east: IL (Limited Industrial) District;  
*Undeveloped property to the north and Peaslee Center  
 to the northeast.*

**Staff Finding** – The subject property is adjacent to properties zoned for industrial land uses. The industrially zoned properties are currently developed. The proposed rezoning is compatible with the zoning and land uses, existing and approved, in the area.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"This is an industrial site located at 31<sup>st</sup> Street and Haskell Avenue. The site consists of six industrial lots. All lots have been developed."*

This area is currently developed as an industrial area. The properties south of E 31<sup>st</sup> Street were platted and developed in the 1980's and 1990's. The recent extension of E. 31<sup>st</sup> Street and realignment of Haskell Avenue/E1500 Road as part of the K-10 highway project has modified traffic patterns and parcel sizes in the area.

**Staff Finding** – This is a low intensity industrial area with developed pad sites for industrial use. The proposed rezoning would result in the reuse of an existing building with a use 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

The rezoning request is not changing overall development plans for the area, the character of the area or impacting adjoining property.

**Staff Finding** – The rezoning request is compliant with the area. The request is a change from an IG (General Industrial) District. The IL (Limited Industrial) District permits similar uses with the additional use group that would accommodate a *Participation Sports & Recreation, Indoor* venue that would include a gun range.

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

Applicant's response:

*"An indoor gun range and shop would be very suitable. There are no residential homes or public activities near the site."*

**Staff Finding** – The property is well suited to the uses to which it is restricted under the existing zoning regulations. The proposed rezoning permits additional commercial and recreational uses which will accommodate *Participant Sports & Recreation, Indoor*.

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

Applicant's Response:

*"Twenty-five years."*

**Staff Finding** – The property is not currently being used as a business and the 14,000 sq. ft. structure is currently vacant. The zoning would enable to property to be utilized as a business with a use compatible with the area.

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

As noted earlier, the property is surrounded with industrial zoned property which is developed. The rezoning of this property would allow for business development similar to, and compatible with the adjacent land uses.

**Staff Finding** – The IL zoning is in keeping with surrounding zoning. The rezoning would allow for a proposed use that would be compatible with the nearby uses and should have no detrimental effect. Future development is subject to site plan approval.

**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**

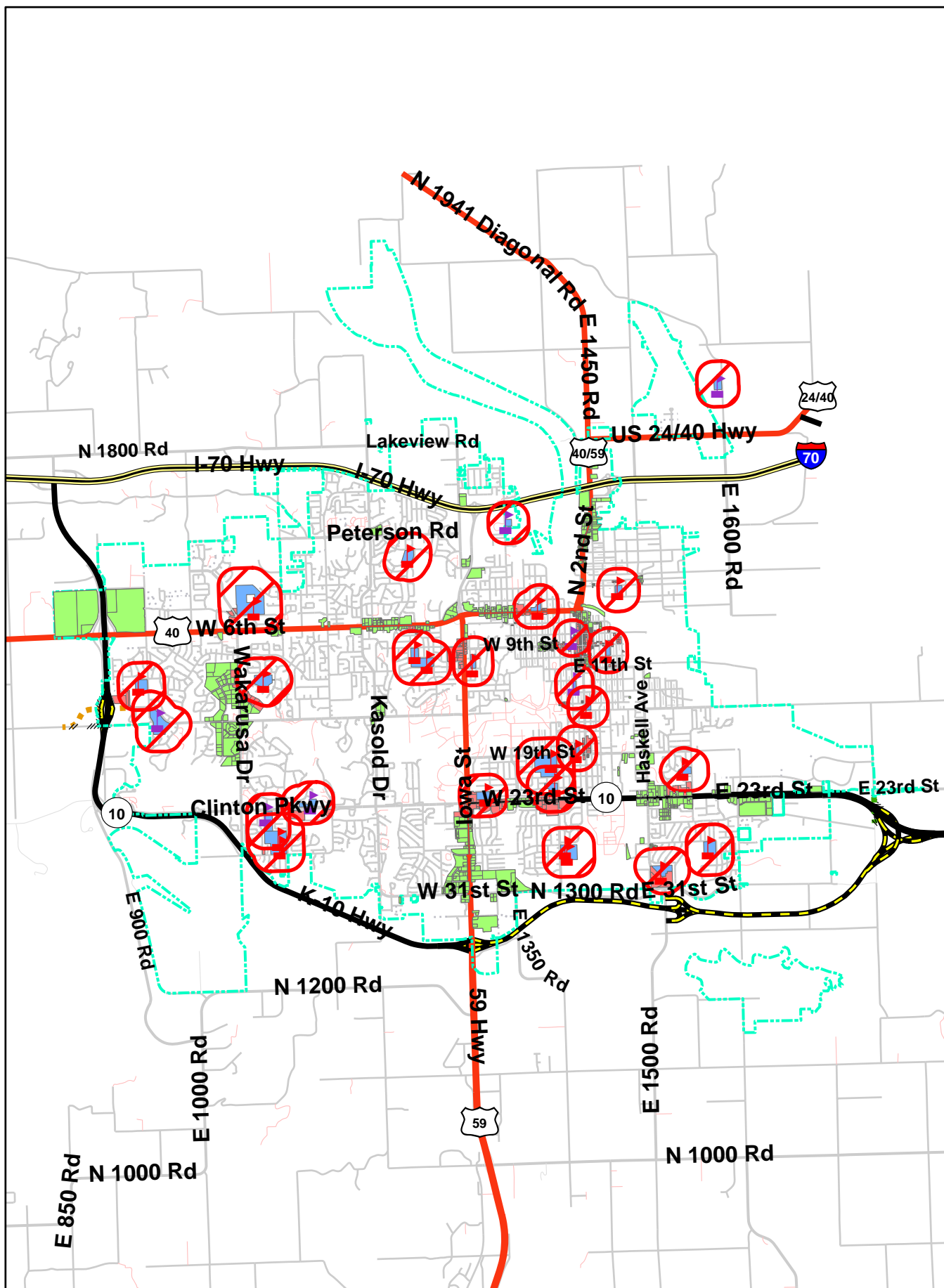
Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

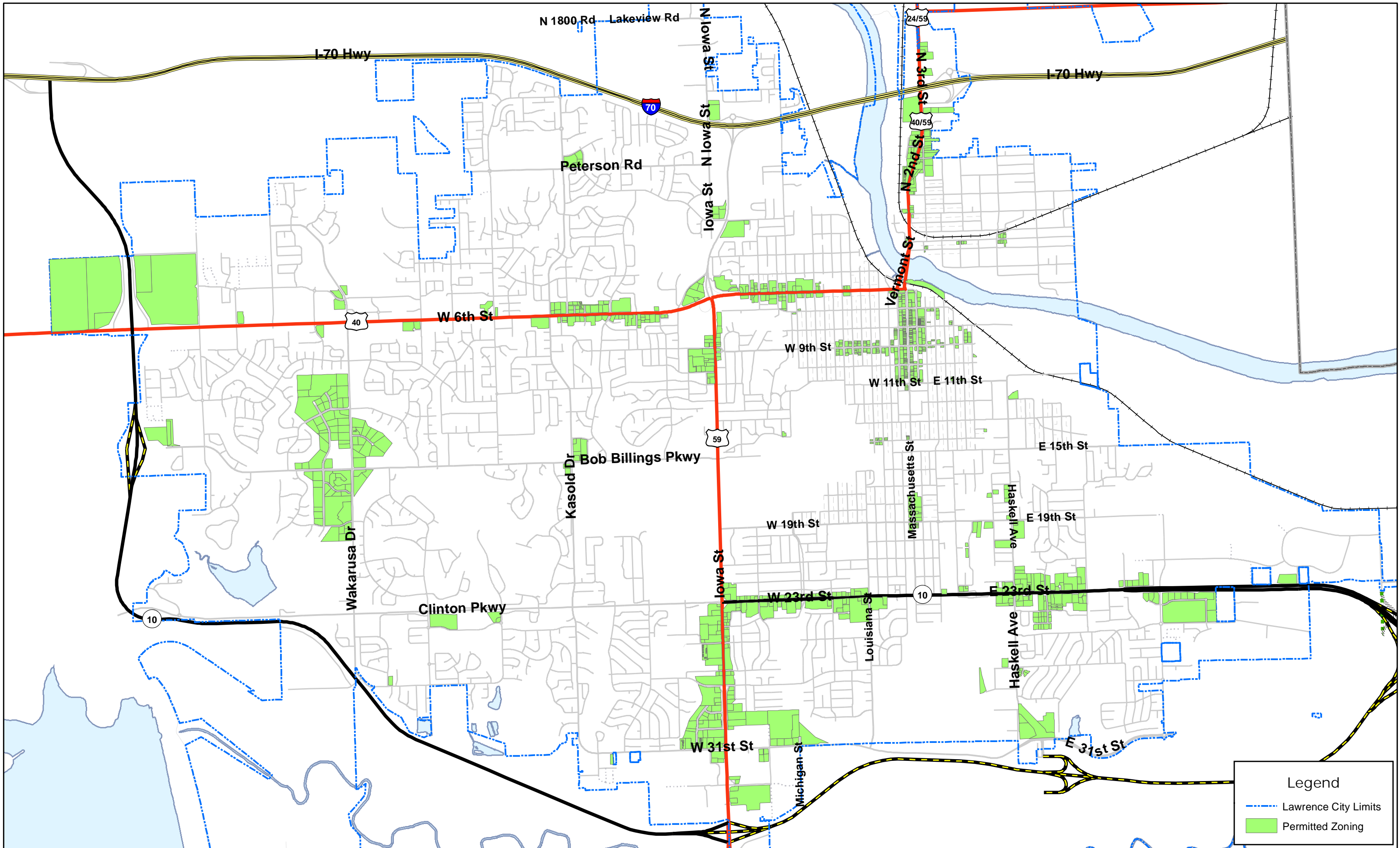
The proposed rezoning is not changing the allowed use of the property in a manner that would be detrimental to public health, safety and welfare. The proposed rezoning allows the applicant to develop a business that is compatible with the area.

**Staff Finding** - Approval of the rezoning request will allow reuse of a currently vacant building with a use similar in intensity and compatible with the uses already in the area. Site plan approval is required prior to the change of use. This review provides an opportunity to specifically address site improvements and potential impacts to nearby properties. There would be no gain to the public health, safety, and welfare through the denial of the rezoning request.

**PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan and the Golden Factors, and for compatibility with surrounding development. The rezoning request is compliant with the Comprehensive Plan and the Golden Factors and would be compatible with surrounding development. Staff recommends approval of the rezoning request.

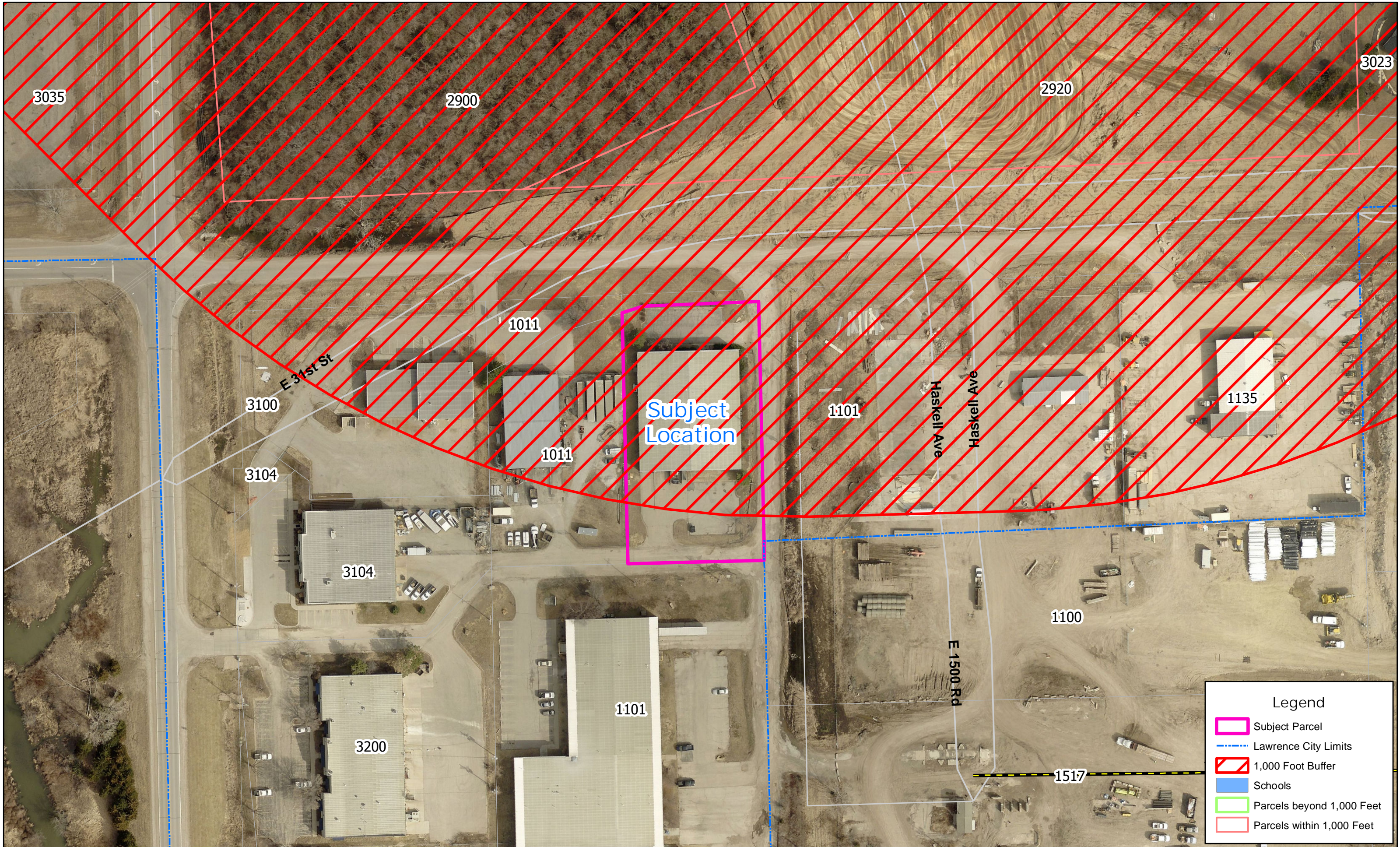




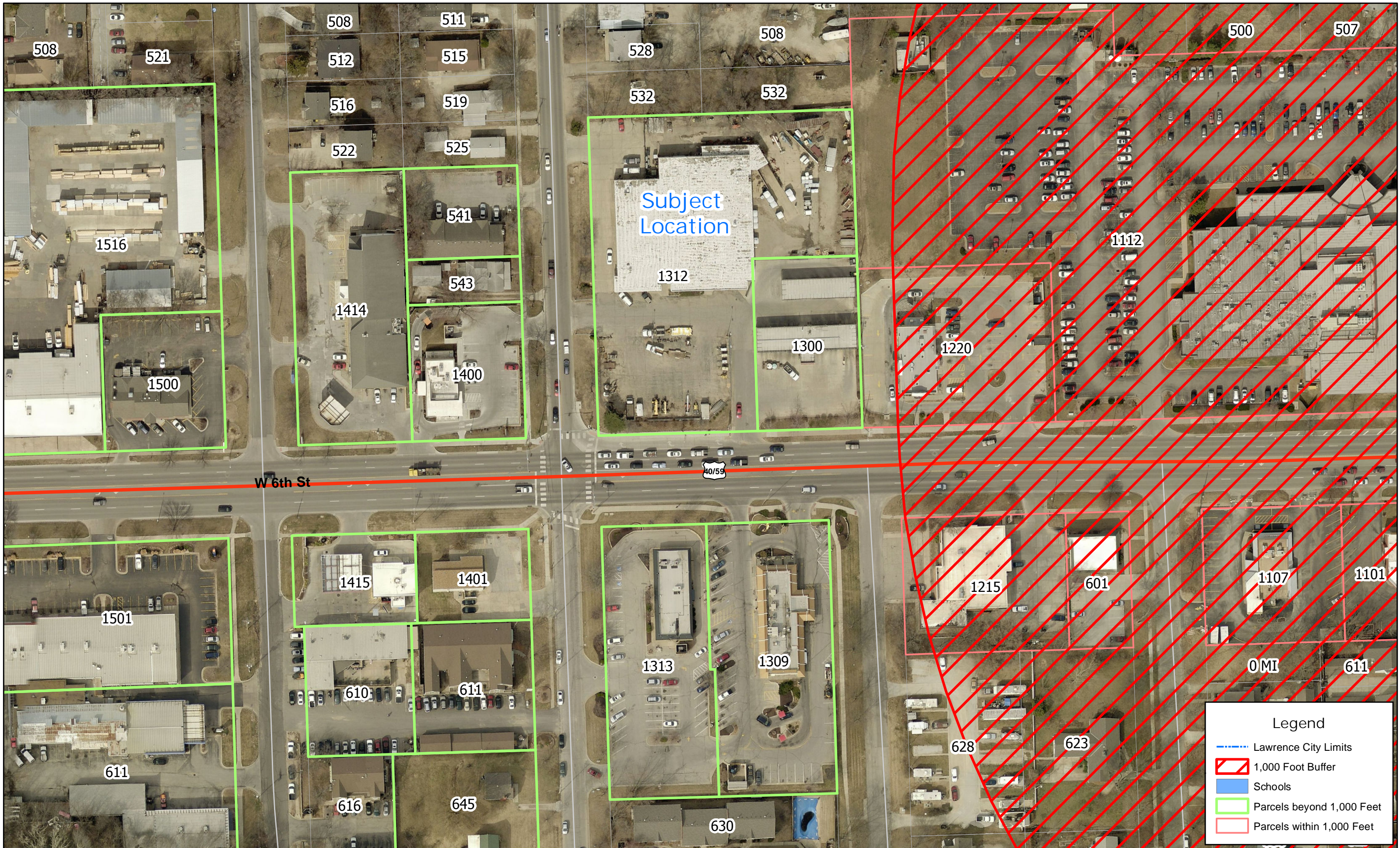




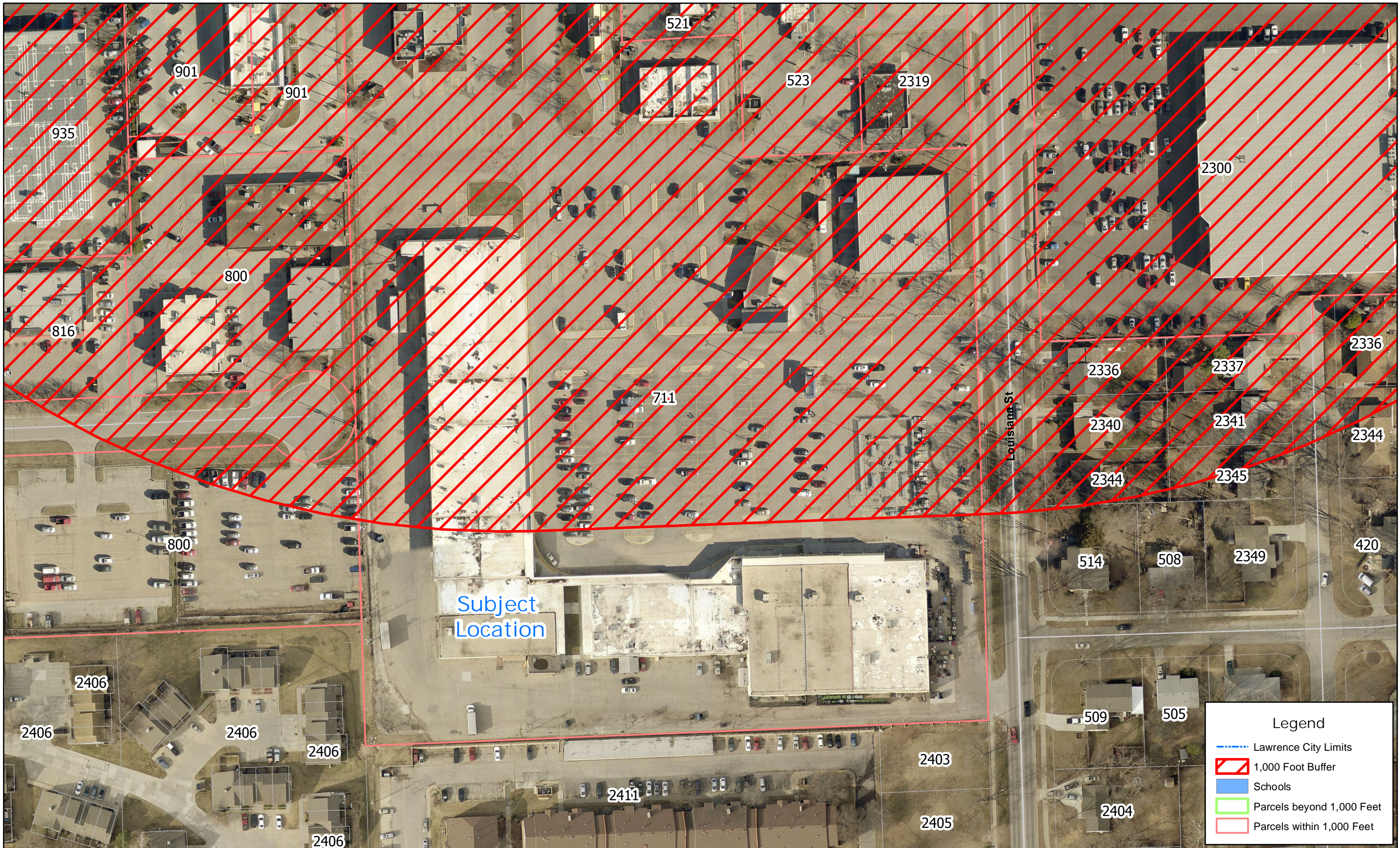














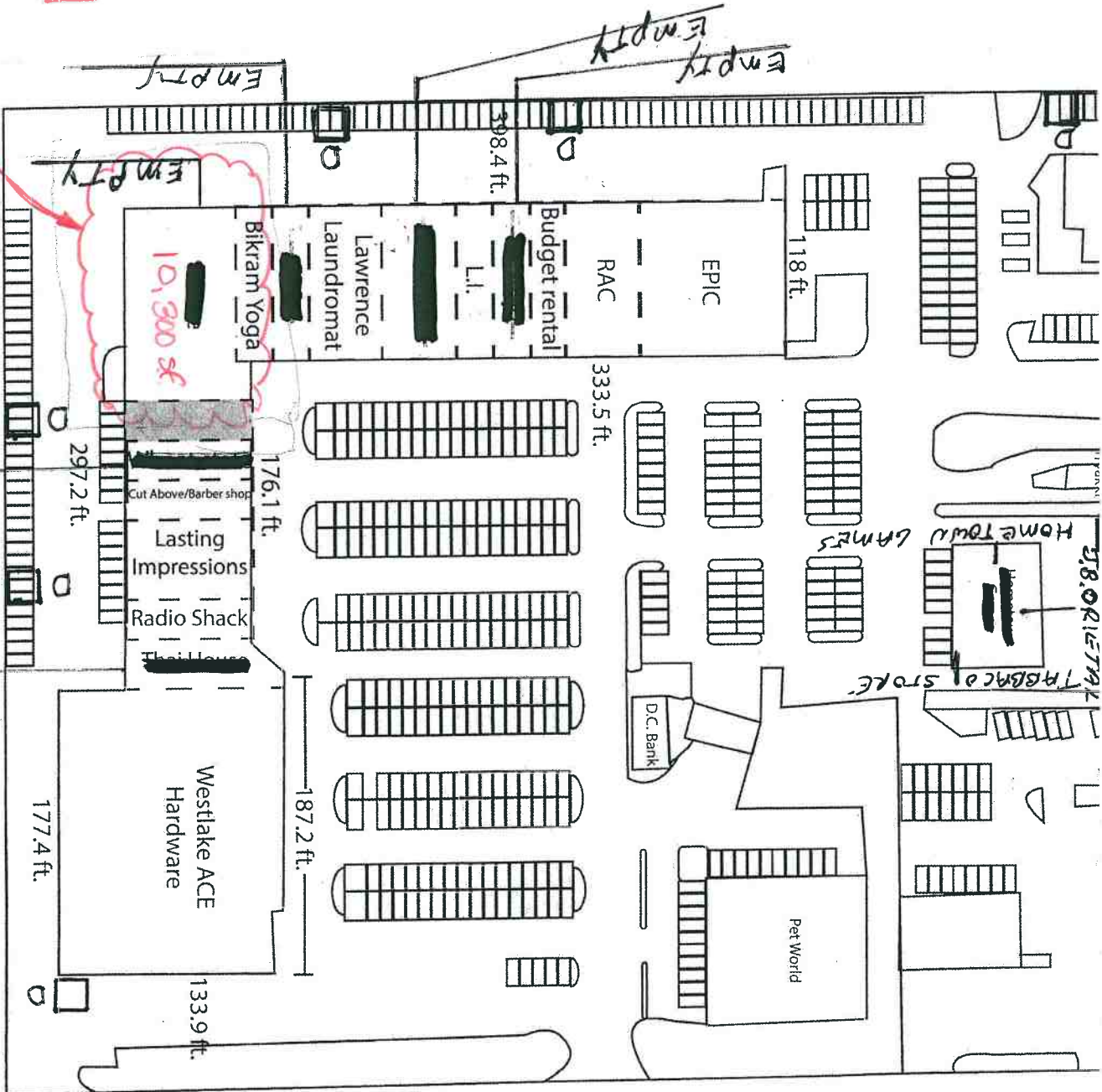
711 W. 23rd St

SHOOTER'S GUN CLUB - PROPOSED GUN RANGE

INTERIOR CHANGES

GOLF:

10 Lanes  
CLASSROOM  
LOBBY/DESK AREA  
GUN SMITH AREA



YEAH5V5H1

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Scott McCullough, Planning and Development Services Director

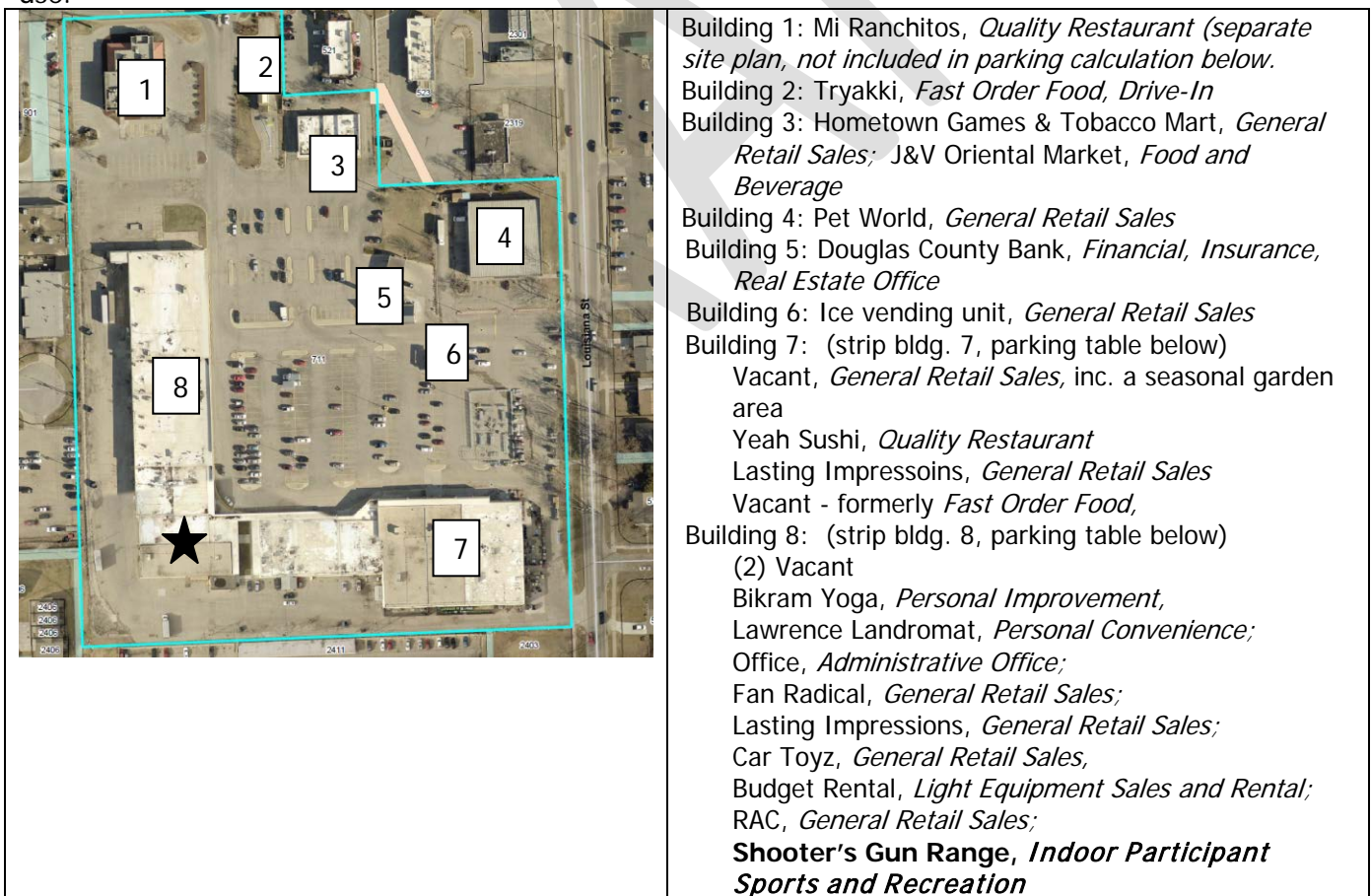
**FROM:** Katherine Simmons, Planner

**Date:** February 11, 2016 \*DRAFT\*

**RE:** SP-16-00017; 711 W 23rd Street, Shooter's Gun Range, *Indoor Participant Sports and Recreation*.

**Administrative Determination:** The site plan referenced above has been administratively approved .

The property at 711 W 23<sup>rd</sup> Street contains The Malls Shopping Center which consists of two strip retail buildings, five stand-alone businesses, and an ice-vending machine. The graphic below illustrates the layout of the center and the proposed location of the Shoot's Gun Range, *Indoor Sports and Recreation*, use.



**Figure 1.** Layout of The Malls Shopping Center. Proposed location of Shooters Gun Range marked with a star.

The proposal is to change the use of the former Hume Music Store, *General Retail Sales*, to Shooter's Gun Range an *Indoor Sports and Recreation* use which includes indoor gun range, classroom, sales and repair. No physical changes are proposed to the site. The proposed recreational use would be considered less intensive than the previous use of the suite. The vacant space was classified as a *General Retail Sales* use which has a parking requirement of 1 space per 300 gross sq. ft. The proposed *Indoor Participant Sports and Recreation* use has a parking requirement of 1 space per 500 sq ft of customer/activity area. The parking requirement is one measure of intensity, with a lower parking requirement signaling a lower intensity. Another measure is the anticipated activity on the site. The Shooter's Gun Range will be located within the building, with no additional activity on the site and has a lower parking requirement than the previous use; therefore, it is considered a change to a less intensive use which can be accommodated with a Minor Site Plan.

Only those features which are being changed with a Minor Site Plan are reviewed for Code Compliance. The parking requirements were calculated with the updated tenants and the amount of parking provided exceeds that required by the Code. The strip buildings, which include the proposed use, will have parking calculated at the *Retail, Specialty* rate. This use applies to a mix of retail uses in one building with the exception of eating and drinking establishments. As these have higher parking demands than other uses, their parking requirements are calculated separately as required for the particular use. A total of 439 parking spaces are required and a total of 477 are provided when the seasonal sales are located in the parking area.

Parking Summary				TOTAL
Retail Specialty	Building Area (GSF)	1/300 sq ft up to 45,000	1/400 sq ft 45,000 to 100,000	
Strip Bldg 7	51,923	150	(6923 sq ft/400) 18 spaces	168
Strip Bldg 8	51,923	150	(1595 sq ft/400) 4 spaces	154
Yeah Sushi ( <i>Quality Restaurant</i> )	1992	1/100 sq ft customer service area PLUS 1 per employee on largest shift	1494 sq ft customer service area 1494 sq ft / 100 = 15 5 employees= 20 spaces	20
Vacant Formerly - <i>Fast Order Food</i>	3336	1/100 sq ft customer service area PLUS 1 per employee on largest shift	2502 sq ft customer service area 2502 sq ft / 100 =25 5 employees= 30 spaces	30
<b>Bldg. 3 General Retail and Food and Beverage</b> Hometown Games Tobacco Mart	4,500	1/300 sq ft	4,555 / 300 = 15 spaces	15
<b>Bldg. 4 Pet Store</b> ( <i>General Retail</i> )	10,284	1/300 sq ft	10,284 sq ft / 300 = 35 spaces	35
<b>Office</b> DG County Bank ( <i>Office</i> )	3,126	1/300 sq ft	3,126 sq ft / 300 = 11 spaces	11
Tryaki	740	1/100 sq ft customer	No customer service	5



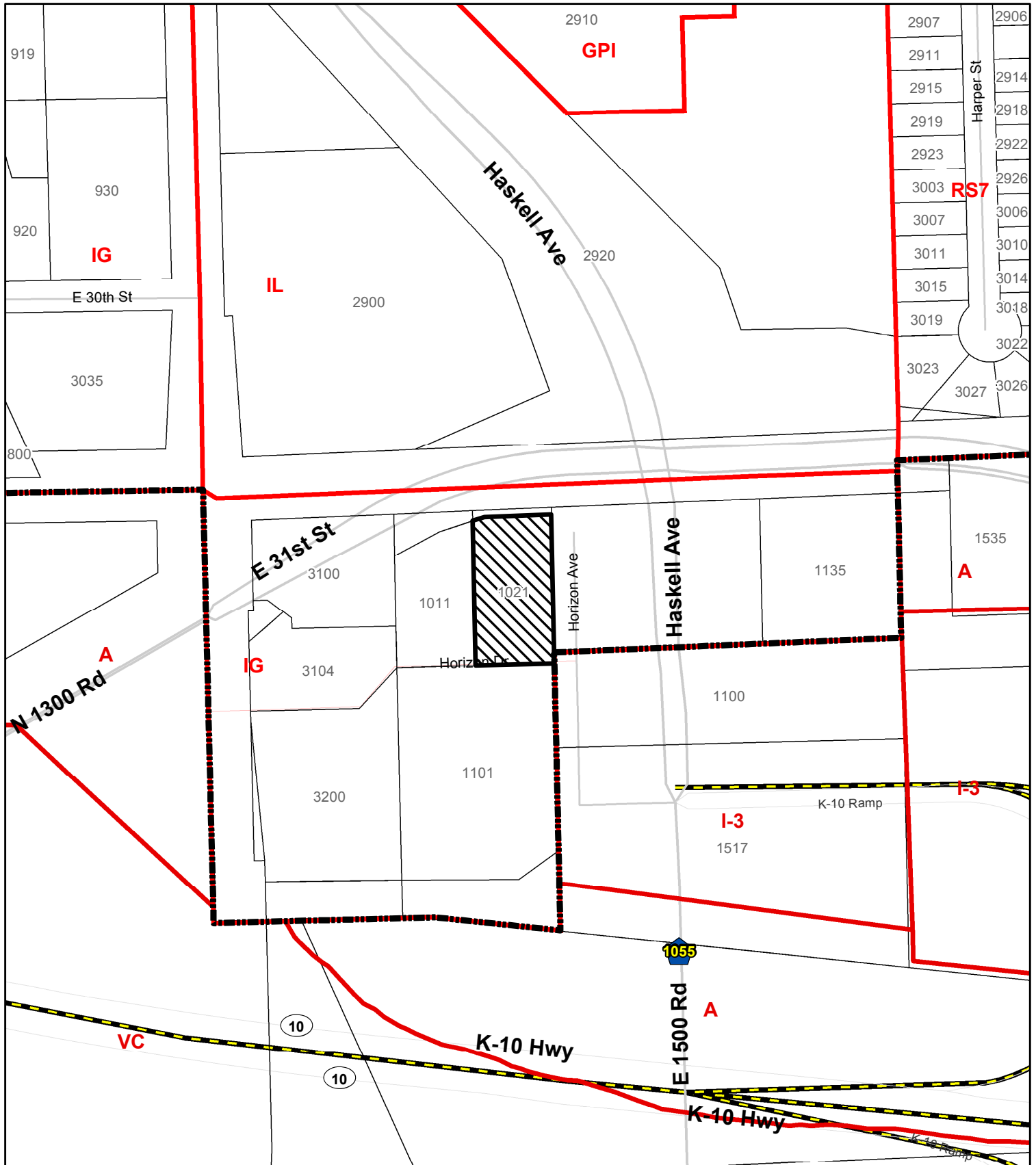
(Fast Order Food)		service area PLUS 1 per employee on largest shift	area 5 employees = 5 spaces	
Ice House Vending (Food and Beverage)	200	1/300 sq ft	200 sq ft/300 = 1 space	1
<b>439 (REQUIRED)</b>				
<b>(when seasonal sales in parking area) * 477 (PROVIDED)</b>				
*521 spaces provided on previously approved plans; The Mi Ranchitos restaurant was site planned separately and is not included in this summary.				

The proposed use for this Site Plan application is Participant Sports and Recreation, Indoor, specifically a gun-range and ancillary sales and service area. Under the Gun Free School Zone Act a gun free "school zone" was designated as within a distance of 1000 feet from the grounds of a public, parochial or private school. **Figure 1** shows the relationship of the subject property and the nearest school zone. As private property, the subject property is exempt from the Gun Free School Zone Act and there is no local code to be applied under this context.



**Figure 1 – 1000 ft. School Buffer zone generated by USD 497 property at 701 Greever Terrace. Centennial School, LHS tennis courts and baseball field.**

The minor site plan application is compliant with the provisions of the Development Code and is administratively approved.



**Z-15-00471: Rezone 0.972 acres from IG District to IL District  
Located at 1021 E. 31st Street**



**ITEM NO. 7 IG TO IL; .972 ACRES; 1021 E 31<sup>ST</sup> ST (KES)**

**Z-15-00471:** Consider a request to rezone approximately .972 acres from IG (General Industrial) District to IL (Limited Industrial) District, located at 1021 E 31<sup>st</sup> St. Submitted by Richard G. Sells on behalf of Spirit Industries Inc, property owner of record.

**STAFF PRESENTATION**

Ms. Katherine Simmons presented the item.

**APPLICANT PRESENTATION**

Mr. Richard Sells said he had been looking for a location for a gun range and had only found 2 sites. He said he understood the free school gun act. He said in July 2014 open carry and conceal carry was signed into law. He said that took away some of the restrictions from the 1000' barrier. He said any person can walk up to a school with a hand gun as long as they don't go in. He also stated shooting on private land was allowed. He said the community center was less than 1000' from St. John's Catholic School, First United Methodist Church private preschool, Plymouth Congregational Church private preschool. He said for the past 19 years the city of Lawrence had operated a gun range inside the 1000' rule of a school and nobody had complained.

**PUBLIC HEARING**

Ms. Shannon Kimball, USD 497 Board of Education, expressed opposition to the rezoning. She discussed safety and security of the faculty and students. She said the proposed use would detrimentally affect the school district's College & Career Center site. It did not correctly address the impact of the federal gun free act. She said the campus in the future will partner with the Boys and Girls Club. She said a gun sale outlet and shooting range was not a compatible use with the neighboring school district educational use. She said the gun free school zone act created a 1000' gun free buffer around school district property. She stated the detriment to the school was very real and that the detriment outweighed the interest of the applicant in going forward with the rezoning.

She asked Planning Commission to deny this for safety and security reasons.

Mr. Colby Wilson, Director of Boys & Girls Club, said they were in the process of building a new teen center next to the College & Career Center. He said the expectation was that it would provide a safe place, physically and emotionally. He expressed concern about safety and asked Planning Commission to deny the rezoning request.

Mr. Randy Masten said he could not recall a worse idea than allowing a gun range near a school. He said it was not compatible with the surrounding development. He said a gun range was not conducive to the safety and wellbeing of children. He asked Planning Commission to deny the rezoning.

Mr. Chris Lane said he was in favor of the rezoning. He said other states that allow gun facilities near schools have not had issues. He said 80% of gun fatalities and injuries were due to guns bought illegally, not those regulated by gun ranges and facilities. He said having a gun facility near a school does not increase gun violence in schools.

**APPLICANT CLOSING COMMENTS**

Mr. Sells said he understood where the school board was coming from. He said the State of Kansas conducted a poll and found out that 30-40% of houses had guns in them. He stated that would mean there were approximately 30,000 guns in Lawrence. He said those guns would be sprinkled throughout the city and surely within 1000' of every school. He stated his facility would work with the Police, Sheriff's Department, and University of Kansas, to provide a safe environment and that education would be a part of his facility. He stated this facility would be a way to teach people to be safe with guns. He said he would conduct background checks for every member for felonies and they would not be able to shoot at his club.

**COMMISSION DISCUSSION**

Commissioner Sands asked Mr. Randy Larkin for the City's opinion on the law.

Mr. Larkin said the gun free school zone act limited possession of fire arms within 1000' of a school. He said there were certain exceptions. He said it would not apply to private property or a gun in a motor vehicle that was not loaded and in a box. He said it did not prohibit a shooting range or the discharge of firearms on private property within 1000'. He said in the City's opinion it would not necessarily prohibit it. He said the main argument seemed to be people traveling on the street to get to this location would be in violation of the law, but motorists can't drive anywhere in Lawrence without coming within 1000' of a school. He said the it was the City's opinion that this use at this property would not be prohibited.

Commissioner von Achen asked Mr. Wilson to show on the map where the Boys & Girls club would be located.

Mr. Wilson pointed on the map and stated that the Boys & Girls Club would connect to the College & Career Center.

Commissioner Sands asked Mr. Wilson if the Boys & Girls Club had already made a determination that this was the final site for their building. He asked what impact the shooting range would have on their plans.

Mr. Wilson said yes. He said the Boys & Girls Club would move forward but it may impact the efforts to raise funds for the facility.

Commissioner Denney asked the applicant what caliber of weapons would be allowed at the facility.

Mr. Sells said most of the guns shot at his indoor range would be handguns, such as 22 or 9mm. He said the ballistics of the range would handle any weapon with a muzzle velocity of 3,600 feet per second, which would include up to a 300 Winchester magnum but he didn't know why someone would want to site that type of gun on a 25' range. He said the only rifles he would allow would be 22, AR15, and 300 Blackout.

Commissioner Britton said federal law would take priority over state law. He said they needed to be concerned about the gun free school act. He said there was nothing about this that necessarily conflicted with the federal law. He said the hard question was about safety and compatibility with the surrounding area.

Commissioner Sands asked the applicant about his earlier comment about working with Police, Sheriff's Department, and KU Public & Safety.

Mr. Sells said he planned to work with them but did not have any correspondence with them yet. He said he talked to the fire department and they wanted to see the gun range happen. He said he had been approached by the National Guard who said they had to drive to Kansas City and Topeka to get qualified. He said he wanted to have a facility in place before he reached out to Police, Sheriff, and KU Police.

Commissioner Sands asked who at the National Guard Mr. Sells talked to.

Mr. Sells said he talked to a gentleman with the last name of Rogers. He said the conversation took place during a swim meet that their daughters were in.

Commissioner Sands said a key distinction needed to be made that Mr. Sells talked to individuals who provided their personal opinion but that they were not speaking on behalf of any organization.

Mr. Sells said that was correct.

Commissioner von Achen asked if the shooting range in the community building was still there.

Mr. Sells said yes.

Commissioner von Achen asked what kind of people Mr. Sells would hire to teach gun safety.

Mr. Sells said he would hire qualified people who would pass National Rifle Association provided tests.

Commissioner Liese said he received a conceal carry license in the past and owned guns. He wondered what percentage of customers would not qualify to join the club.

Mr. Sells said applicants names would be run through the National Instant Criminal Background Check System Nix program. He said anyone who did not pass that would not be allowed. He said in his experience it hasn't happened that often. He said he didn't know how many felons lived in Lawrence.

Commissioner Liese expressed concern about felons being turned away and being near a school. Commissioner Liese inquired about noise from the site.

Mr. Sells said there may be a popping noise, but not booming noise. He said he had lengthy rules that members would have to follow.

Commissioner Denney said federal law took precedent over state law. He said the federal law had exceptions. He said in the state of Kansas if you are licensed to have a conceal carry or retired law enforcement officer the 1000' rule does not apply. He said he drove by the area and the proposed site elevation was lower than the school district property. He said with the elevation a stray bullet would be unlikely to impact the school property. He said it came down to whether this was equal to an adult business or some other activity like that near a school.

Ms. Kimball said the business building could not be seen from the parking lot but that there were large banks of windows.

Commissioner Denney said the College & Career Center was close but not right across the street. He said the Bullet Hole in Overland Park was in a residential area. He said it was not unheard of.

Commissioner Liese said he wished there was a good gun range/gun shop in the county. He said having spent time at gun shops the people who walk around outside and come inside could be scary. He said he could not vote for this because of what goes on around a gun shop. He said he would vote in opposition but could support it in another location away from a school.

Commissioner Britton agreed with Commissioner Liese. He said any time they were talking about rezoning or significant change in an area they need to take the opposition seriously. He said the neighbors were the school district and Boys & Girls Club and if they have serious concerns about safety then they take those concerns seriously. He said it was a piece of mind thing for those taking their children there and employees who work there. He said often Planning Commission hears situations where neighbors are talking about not wanting something in their backyard. He said this wasn't like a cell or water tower where it was needed. He said a gun range wasn't a necessity.

Mr. McCullough said the rezoning request would accommodate the gun range use. He asked them to think about whether they thought the Code was deficient in its treatment with this particular use. He said there weren't prohibitions in the Code for locating this use to schools or other types of uses. He said Planning Commission may want to have a discussion about amending the Code to where gun ranges or retail sales should occur in the city. He said if the property had already been zoned IL then they wouldn't be having this discussion and it would have gone through an administrative site plan process.

Commissioner Britton asked staff if they needed to do anything with the request tonight. He said the zoning made sense but the use did not.



Mr. McCullough said he recommended making their opinions known in the minutes for City Commission. He said staff will know better after City Commission if a Code amendment may be necessary. He said on its face value they would support the recreation, but it was a gun range not a basketball court.

Commissioner Liese asked if the property had been zoned correctly at what point would the use have been questioned.

Mr. McCullough said through the site plan review.

Commissioner Denney said they should vote on if it fits in the Code. He asked Mr. Larkin about State law.

Mr. Larkin said there would be limitations on what the City could do. He said they could do some things like they do with drinking establishments, such as distances and time.

Commissioner Liese said Planning Commission was just a recommending body and that it was ultimately up to City Commission. He felt the issue would come back to Planning Commission one way or the other.

Commissioner Denney asked if they voted to deny the rezoning if it would go to City Commission.

Mr. McCullough said yes.

Commissioner Sands said in looking at the Golden Factor criteria it fit many but not all. He said the length of time the property was vacant was quite a while. He said regarding the relative gain to public health safety and welfare he was on the fence. He felt they should base decisions on facts not fears. He said if they try to create new zoning criteria it would unnecessarily restrict the decisions of Planning Commission. He said regarding safety, his fear was negligence discharge outside the box. He said he did not think gun ranges or gun shops draw certain types of people. He cautioned the applicant about mischaracterizing opinions of government agencies. He said he would vote in favor of the rezoning but just barely.

Commissioner von Achen commended Mr. Sells for his objective on training gun owners. She said she was uncomfortable endorsing this and referred to the Golden Factor of welfare health and safety. She said if anything ever happened it would be difficult for Planning Commission to handle. She said she would not support this but hoped the applicant found another location more appropriate.

Commissioner Struckhoff echoed Commissioner von Achen's comments about the applicant wanting to provide training. He said the difference between this location and the gun range in the community building was the retail aspect. He said he would not support the rezoning for the Golden Factor of wellness, health and safety.

Commissioner Struckhoff said this was difficult decision for him and he was on the fence.

Commissioner Denney said he was not as concerned about the Boys & Girls Club teen center because it would be more than 1000' away. He said if it was 50-75' across the street then yes it would be too close. He said given the distance and topography he would vote in favor of approval.

Commissioner Britton felt staff made the right recommendation based on the zoning ordinances. He commended the applicant for his work and emphasizing the educational side. He said when it came to public safety he preferred to error on the side of caution. He said he would vote against approval. He said Mary's Lake was near the site and another factor to consider. He felt perhaps they should consider looking at a text amendment so this could be separated out in the future.

Commissioner Liese asked staff to look into other municipalities and how they handle this issue.

Commissioner Britton suggested that the topic be a possible mid-month topic.

**ACTION TAKEN**

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to recommend denial of the rezoning request and forward to City Commission.

Motion carried 4-2-2. Commissioner Britton, Liese, Struckhoff, and von Achen voted in favor of the motion. Commissioners Denney and Sands voted against the motion. Commissioners Culver and Kelly abstained.

## **Bobbie Walthall**

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**From:** Michael Kelly <job4mike6@aol.com>  
**Sent:** Tuesday, January 12, 2016 1:42 PM  
**To:** Mike Amyx; Leslie Soden; Stuart Boley; Matthew Herbert; Lisa Larsen  
**Cc:** Shannon Kimball; Scott McCullough; Diane Stoddard; Bobbie Walthall; Chad Lawhorn; nwentling@ljworld.com; rvalverde@ljworld.com  
**Subject:** Gun Range Zoning--Z-15-00471

City Leaders-

I urge you to vote in favor of the gun range rezoning application submitted by Mr. Sells.

I am a retired military veteran of 34 years active duty and hold a Master of Science degree from the Air Force Institute of Technology School of Engineering. I was a technical advisor for weapon safety for a significant portion of my active service.

Know this:

Better training results in better safety. Gun owners should have a facility to safely maintain their weapon proficiency. Use of Mr. Sell's proposed business would improve the safety of gun owners in our community. A properly designed facility is a necessary predicate for useful firearms training. Many in our community use their weapons in the performance of their public safety jobs or their reserve military service. This proposed business will permit more gun owners to train safely.

The proposed location in the SE portion of our city is a favorable factor, not a negative factor as the school board has wrongly claimed. All of the land south of the proposed location is sparsely populated land. Prairie Park and Haskell INU are nearby and are comprised largely of sparsely populated areas.

An accidental firearm discharge can take any azimuth from zero to 360 degrees and an elevation of minus 90 to plus 90 degrees. Only a tightly constrained set of aim points would create a trajectory for an accidental discharge to hit the USD 497 property. There are perhaps 5 degrees of azimuth and one degree of elevation that would create such a dangerous trajectory. Given this rudimentary ballistic analysis, there is roughly one chance in 8 thousand that a random accidental discharge would hit the USD 497 property. Further, as Planning Commissioner Denney previously noted, the higher elevation ground of the College and Career Center facility under USD 497 jurisdiction is largely protected from low elevation trajectory from the proposed gun range facility by the terrain and vegetation which create ballistic obstacles.

I understand, but respectfully disagree with, the views of many in Lawrence in favor of large-scale infringement on the current and long-held Constitutional right to bear arms. I went in the way of danger many times in my military career to protect ALL of their Constitutional rights. Accordingly, those citizens have the right to favor changes in our Constitution. I suggest those who hold such views to loudly and repeatedly call for repeal of the Second Amendment rather than falsely claim to improve public safety by this type of zoning regulation.

The school board's characterization of safety-minded gun owners and future business customers as non-compliant with federal law are plainly offensive and not supported by empirical data available to me. Ask any school board member that appears before you for such empirical data (not political judgment) that substantiates the school board's high level of skepticism.

When you do the math of the ballistics (as I have) the risk of accidental firearms discharge hitting any part of USD 497 property is quite small (1 in 8,200) and the risk of injury even smaller because the occupants comprise only a small part of the entire property. Further, the property will not be used at all hours of operation of Mr. Sell's proposed business. Certainly the gun range could be operating without any risk to student or instructor injury from an accidental firearms discharge on days and times when USD 497 classes are not in session and the school building is vacant.

Approval of this rezoning will make gun owners more safe, not less. Accordingly, the community will be more safe, not less, when the gun range is open for business.

I will be unable to attend the City Commission meeting tonight due to a conflict with my school's Site Council meeting and other obligations.

Thank you for your careful consideration of my views and those of other citizens,

Michael K. Kelly  
Lawrence KS Taxpayer and Voter

## **Bobbie Walthall**

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**To:** Beth Meyers  
**Subject:** RE: 1-12-16 Regular Agenda Item 2

-----Original Message-----

From: Beth Meyers [<mailto:bmeyers@sunflower.com>]  
Sent: Tuesday, January 12, 2016 12:27 PM  
To: Bobbie Walthall  
Subject: 1-12-16 Regular Agenda Item 2

1-12-16

City Commission Members:

Regarding the continued efforts to have a gun range and retail gun store near a South Lawrence neighborhood:

The previous objections have been that the range would be too close to the new post-secondary tech learning center, and that a zoning change to allow a retail gun store in the facility would have a deleterious effect on the nearby neighborhood. Mr. Sells continues to maintain that the property he owns is already zoned industrial, which is true, and that the area around it is not residential. That is untrue!

The Prairie Park Neighborhood, bordered by 24th Street on the North, 30th Street on the South, Haskell Avenue on the West and McConnell Rd. on the East, consists of approximately 1,178 HOMES!! It includes an elementary school, a nature center and wildlife environment and a small lake.

The property on which Mr. Sells wants to have his gun range and store, 1021 E. 31st., is currently zoned industrial, but it borders both the Mary's Lake RESIDENTIAL subdivision (south of 28th) and the rest of the Prairie Park Neighborhood. Both Prairie Park Elementary School, at 2711 Kensington, and the Prairie Park Nature Center and land at 2730 Harper out to Mary's Lake, are only FOUR BLOCKS from the proposed development!

The industrial designation of the area helped the residential neighborhood grow when assembly plants like King Radio were the major employers. It was easy for people to live close to where they worked. The neighborhood's affordability and close-knit, family-oriented character have remained the same, even though more people now commute to Olathe or KC for work. How would Mr. Sells' enterprise affect this neighborhood?

How much traffic does the proposed indoor gun facility expect on a daily or weekly basis? How much of a change is that from current numbers? Would weekend traffic increase, and if so, by how much? How much parking would it require? How many hours a day would it be open? Would parking lot lights affect the Nature Trails environment?

Would increased traffic fumes and exhaust pollution affect the entirety of Prairie Park?

Would there be periodic tournaments or sales that would bring in more traffic than usual? How often? How much more traffic could be expected?

How much would infrastructure, such as storm drainage or noise abatement, be affected?

Please, please remember that it's easier to prevent something than it is to ameliorate the undesired effects once the changes are made!!

We have numerous examples of endeavors that seemed good ideas at the time and then failed. When this happens out by I-70, it's sad but not tragic, but what Mr. Sells is proposing could undermine this close and affordable neighborhood in ways not even conceived of yet!

There are other locales in Lawrence more suitable to Mr. Sells<sup>1</sup> enterprise, but this particular property is not the best suited for his endeavor!

PLEASE REMEMBER THAT JUST BECAUSE SOMETHING IS LEGAL DOESN'T MEAN IT'S A GOOD IDEA! THAT ARGUMENT MISSES THE POINT ENTIRELY!

I think the zoning of 1021 E. 31st should remain the same industrial designation and use as it has been since the neighborhood was developed.

Thank you for your thoughtful consideration.

Sincerely,  
Beth Meyers  
2703 Bonanza

Attachments:

Journal World article of November 15, 2015 Journal World article of January 11, 2016 JPEG map of the Prairie Park neighborhood

November 15, 2015

Lawrence school board members are voicing opposition to a shooting range and gun shop that is proposed for a location across the street from the district's new college and career center.

"It's not an appropriate location for a business that sells deadly weapons — that close to a school," said school board member Shannon Kimball.

Kimball brought up the topic at the board's meeting last week, and board members have since written a letter voicing their official opposition, calling the proposal "unreasonable." The Douglas County Planning Commission will consider the issue at its Monday meeting, in which a public hearing about the rezoning request that would allow for the proposed shooting range and shop is scheduled.

Commissioners will vote on whether to approve the request of Lawrence businessman Rick Sells to rezone an approximately 1-acre property at 1021 E. 31st St. — currently a vacant industrial building — to allow for the indoor shooting range and a gun sales and repair shop, according to the commission's report. The rezoning request is recommended for approval.

Sells — the former owner of Lawrence Athletic Club and a substitute teacher for the school district — said he is not against the district's concerns and will be providing details about the safety measures and regulations that would be in place.

"I can understand why people are a little concerned, because when you say guns, it's a scary topic," he said, noting that if people from the school district or community have questions, he'd like to answer them.

<https://goo.gl/maps/MXjwvcnUL6S2>

The Lawrence College and Career Center, 2910 Haskell Ave., is located across 31st — about 760 feet — from the proposed site. The LCCC is attended by hundreds of students from both high schools. It's also adjacent to the proposed site for the future Boys & Girls Club teen center, which will run an after-school program for about 300 middle and high

school students.

Colby Wilson, executive director of the Boys & Girls Club of Lawrence, said the club supports the school district's stance, but explained he will be attending Monday's meeting to learn more about the proposal and safety measures that would be in place.

"We need the club and the college and career center to be a safe place," Wilson said. "We need people to trust that their kids are going to be safe there, and I'm not sure if this is the best fit for a gun range."

Amid an increase in school shootings across the country, the district has made efforts to tighten security at its 21 schools. As part of the district's \$92.5 million bond issue, all schools are getting renovations, which include safety updates such as secure entrances, keypad-entry classroom doors and portable remotes that teachers can carry to lock classrooms at the press of a button. Kimball said having a business that sells guns so close to a school is contrary to such measures.

"We have undertaken a massive effort in our district to increase the safety and security of our campuses, and this just feels wrong in that light," she said.

However, there are no local codes that would prohibit the location of a gun range or shop within 1,000 feet of a school, according to the commission's report. The federal Gun-Free School Zones Act prohibits possession and discharge of firearms within 1,000 feet of a school but has several exceptions, including on private property.

Sells said he doesn't think guns are the problem or that the act would necessarily stop violence.

"It doesn't matter whether that act says 5 feet, 500 feet, 1,000 feet or 10,000 feet, if someone is going to do something stupid, they're going to do it no matter what," he said.

The Gun-Free School Zones Act also requires guns be unloaded within the 1,000-foot zones, unless on private property, so customers of the proposed business could not load their weapons until they entered the property. Kimball argues that puts the burden to comply on the individual.



“I don’t think that there’s any way that you can reasonably expect all customers of a business like that to comply with that statue,” she said.

Sells said he thought more gun training and education would be beneficial to public safety. His customers would not only be informed of the law requiring them to bring their weapons unloaded, but also would be required to sign an agreement to do so, he said. In addition, Sells said, a gun safety and range etiquette class would be available for \$10 and required for customers under the age of 18.

“We’re going way out of our way to make sure this place is safe,” he said.

Sells confirmed that there is another potential location for the business, in the Malls Shopping Center at the intersection of 23rd and Louisiana streets. He noted that location has a residential neighborhood to its south and is near both Lawrence High School and South Middle School.

The Douglas County Planning Commission is scheduled to meet from 6:30 to 10:30 p.m. Monday at City Hall, 6 E. 6th St. The rezoning proposal is the seventh of 10 items on the agenda.

**Originally published at:** <http://www2.ljworld.com/news/2015/nov/15/lawrence-school-board-against-shooting-range-near-/>

January 11, 2016

City commissioners will have the final say Tuesday on whether a new gun range can be located in a spot on the southern edge of Lawrence near the school district's College and Career Center — a proposal that has pitted the school district against the local businessman behind the idea.

Commissioners will have to decide between following up on a recommendation by the Lawrence-Douglas County Planning Commission to reject the proposal because of the site's proximity to the school, and their staff's support for the business, the location of which they say is legal according to federal, state and city laws.

"I've been talking with some of the city commissioners and going over some stuff," said Rick Sells, who's proposing the range. "There's a lot of stuff they're going to have to take into consideration."

Sells plans to open the indoor shooting range and gun sales and repair shop in the vacant building at 1021 E. 31st St., about 760 feet away from the Lawrence College and Career Center at 2910 Haskell Ave. The center is attended by hundreds of students from both high schools.

The property at 1021 E. 31st St. is currently zoned as industrial. In order to locate the business there, Sells is seeking to rezone it to commercial.

[https://www.google.com/maps/d/edit?mid=zcXj7zKCiv9Q.kVarj1t\\_7OHg&usp=sharing](https://www.google.com/maps/d/edit?mid=zcXj7zKCiv9Q.kVarj1t_7OHg&usp=sharing)

The planning commission voted 4-2 on Nov. 16 to recommend the City Commission deny the request. The vote was taken after the Lawrence Board of Education came out in opposition to the gun range because of its concern for the safety students and staff at the College and Career Center.

The [board's letter of opposition](#) also states that there are plans for a new Lawrence Boys and Girls Club Teen Center to be constructed on the College and Career Center's campus. The club is currently accepting donations for the teen center, which will operate an after-school program for about 300 middle and high school students.

“It’s not an appropriate location for a business that sells deadly weapons — that close to a school,” school board member Shannon Kimball told the planning commission.

After hearing the school board’s complaints, Sells said he had little time to defend himself before the planning commission took its vote. He said he had not heard any negative feedback about his idea before then.

“There was one guy who said, ‘Rick, you’re going to try to open a gun club in the big blue dot?’” Sells said, referencing Lawrence's reputation as a liberal community. “I said, ‘I’m going to give it a whirl.’”

When considering this issue, one thing commissioners will have to note, Sells said, is that the location of the proposed range is legal.

Both the school board’s letter and a city staff report point out the federal Gun-Free School Zones Act, which prohibits any person from knowingly possessing a firearm within a 1,000 feet of a school. The shooting range would be an exception to the law because it allows possession and firing of a gun on private property.

Sells said the law would require anyone leaving the shooting range to store their unloaded firearms in a locked container before leaving the property.

In their letter, the school board members stated they were “highly skeptical” that customers would take that precaution.

“If it was illegal, I’d be right there with them; I’d agree, I’d understand,” he continued. “But there’s nothing to keep me from doing this legally.”

Among the items Sells hopes city commissioners will consider Tuesday are the safety measures that would be implemented in his renovation of the property to follow federal regulations on gun range design.

He also said the shooting range would provide another in-town option to Lawrence gun owners, some of whom, he said, travel to other cities to use their shooting facilities.

Lawrence does have a city-owned gun range in the basement of the Community Building

at 115 W. 11th St. It's used by the Douglas County Rifle/Pistol Club and open to the public weekday nights.

Sells said this point was a "pet peeve."

"Everybody in town against this, what they don't realize is there's a gun range in the basement of the community building," he said.

Sells said that if the rezoning is not approved Tuesday, he has a backup location in mind: the Malls Shopping Center at the intersection of 23rd and Louisiana streets.

With that location, Sells would not have to go through the zoning process, as it is already zoned as commercial.

Sells prefers the location on 31st Street, which is on the southern edge of town, away from residential neighborhoods.

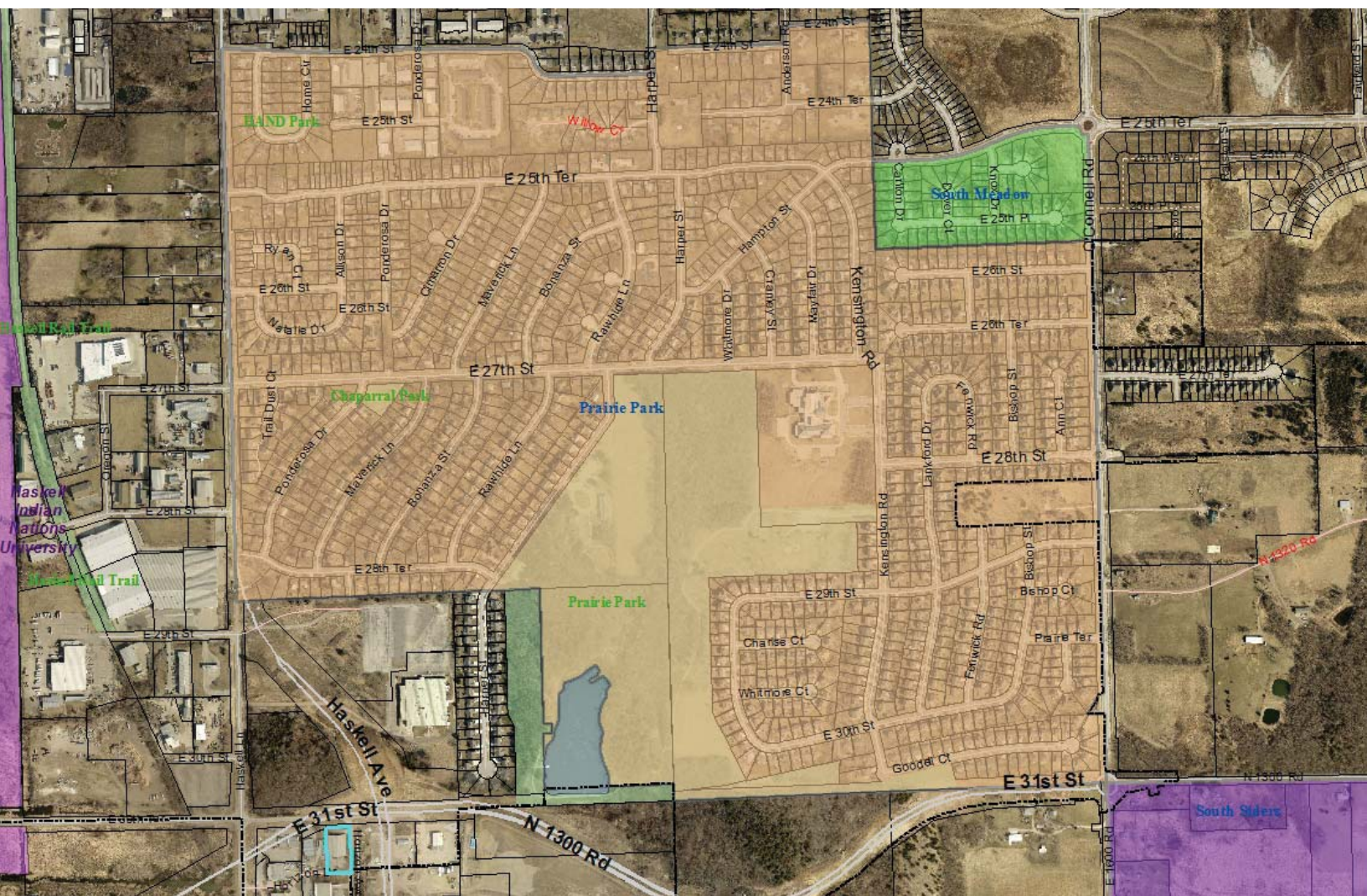
Though he's wary of how commissioners will vote, Sells said he would go into the meeting Tuesday "open-minded."

He said one thing he'd be fighting against is that the public is mostly "uneducated about the topic" or the reasoning for which people would want to use the range.

"A lot of guys work all week, and by Thursday they're stressed out. Some of them go to the country club and hit a bucket of golf balls, but some people like to squeeze a trigger," Sells said. "It is a recreation."

**Originally published at:** <http://www2.ljworld.com/news/2016/jan/11/city-commission-consider-proposed-gun-range-near-s/>







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Lawrence, Kansas 66044-1063  
Telephone: (785) 832-5000  
Fax: (785) 832-5020  
www.usd497.org



November 13, 2015

Lawrence-Douglas County Metropolitan Planning Commission  
Scott McCullough, Director, Planning and Development Services  
City Hall, 6 East 6th Street, PO Box 708  
Lawrence, KS 66044

Dear Mr. McCullough and Planning Commissioners,

I write today on behalf of the Lawrence Board of Education, which opposes the staff recommendation to approve the rezoning request (Z-15-00471) from IG (General Industrial) District to IL (Limited Industrial) District in order to allow an applicant to provide an indoor shooting range and gun sales and repair shop at 1021 E. 31st Street. This property is within a school zone; specifically, it's located 760 ft. from a public school, the Lawrence College and Career Center at 2910 Haskell Avenue. In addition, the College and Career Center campus will be home to the Lawrence Boys and Girls Club's future Teen Center, which will serve students as young as the sixth grade.

While the Board understands that the Gun-Free School Zones Act does not prohibit gun sales or a shooting range from locating on private property in a school zone, the federal law does require that consumers entering or leaving the private premises ensure that all firearms are unloaded and stored in locked containers. The Board is highly skeptical that customers will take these lawful precautions prior to entering or exiting the premises. The challenges with enforcement of the federal law relating to Gun-Free School Zones seem insurmountable, and the Board thinks, therefore, that it would be unreasonable to allow the rezoning to occur for the purpose of locating a gun shop/shooting range in a school zone.

The Board discussed this issue at its November 9, 2015, meeting. Due to board members' safety concerns for students and school staff, the Board strongly opposes the staff recommendation to approve the rezoning request related to 1021 E. 31st Street for the purpose of allowing an indoor shooting range and gun sales and repair shop in a school zone. The Board urges Lawrence-Douglas County Metropolitan Planning Commissioners to deny this rezoning request.

Sincerely,

Vanessa Sanburn, President

Cc: Lawrence Board of Education

Marcel Harmon	Jill Fincher
Kristie Adair	Rick Ingram
Jessica Beeson	Shannon Kimball

-----Original Message-----

From: Shannon Kimball

Sent: Monday, November 09, 2015 6:48 PM

To: Patrick Kelly <[PKelly@usd497.org](mailto:PKelly@usd497.org)>; Rick Doll <[RDoll@usd497.org](mailto:RDoll@usd497.org)>

Subject: Federal gun free school zones act of 1996 information

I found this information pamphlet while doing a little bit of digging on the federal statutory issues noted by the city. My reading of the attached is that while the gun shop/shooting range would be allowed because it's on private property, any customer entering or leaving the gun shop would have to ensure that the firearm is unloaded and in a locked container except while on the private premises. I am highly skeptical that customers of a gun shop would be willing to lock their guns in a container before putting them in their cars and driving off in order to comply with the federal statute. I think the enforcement issues here are insurmountable and therefore it would not be reasonable to allow the rezoning to occur for the purpose of locating a gun shop less than 1000 feet from our school facility.

Thanks, Shannon

<https://www.atf.gov/file/58691/download>

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

- (i) on private property not part of school grounds;
  - (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
  - (iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
  - (iv) by a law enforcement officer acting in his or her official capacity.
- (4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

If you have any questions, contact:

Bureau of Alcohol, Tobacco, Firearms  
and Explosives  
650 Massachusetts Ave., NW  
Washington, DC 20226  
(202) 927-7770

or

Visit our web site at [www.atf.gov](http://www.atf.gov)



U.S. Department of Justice  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
*Office of Enforcement Programs and Services*  
*Firearms Programs Division*

# Gun Free School Zone Notice

**STATE**



## General Information

Generally, it is unlawful for any individual to knowingly possess a firearm within a school zone. A school zone is defined as being within a distance of 1,000 feet from the grounds of a public, parochial, or private school. This prohibition does not apply to the possession of a firearm on private property not part of school grounds such as an FFL's business premise (e.g., commercial storefront, residence, or driveway)

Once a customer leaves private property located within 1,000 feet of a school with a firearm, they may be in violation of Federal Law. However, in the following situations an individual would not be possessing a firearm in violation of 922(q)(A):

1. The individual is licensed by the State or political subdivision to possess the firearm, and the license was issued after law enforcement officials verified that the individual is qualified to receive the license;
2. The firearm is unloaded and is contained within a locked container or a locked firearms rack that is on a motor vehicle;
3. The firearm is possessed by an individual for use in a school-approved program;
4. The individual or his/her employer is doing so in accordance with a contract between the individual and the school;
5. The individual is a law enforcement officer acting in their official capacity; or
6. The individual is crossing school grounds to reach a public or private way. Their firearm is unloaded, and they have permission from the school.

ATF realizes that not all persons who enter or exit an FFL's premises in such case may fall under one of the above-described statutory exemptions. Therefore, ATF advises that in those States where a permit is not needed, the FFL should ensure that prior to a purchaser leaving the business premise with a firearm that it is unloaded and placed in a locked container.

## Federal Law

**The Gun Control Act of 1968, 18 U.S.C. Chapter 44, provides in pertinent parts as follows:**

### 18 U.S.C. 922(q)(1)

**(q)(1)** The Congress finds and declares that—

**(A)** crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

**(B)** crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

**(C)** firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate;

**(D)** in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

**(E)** while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

**(F)** the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

**(G)** this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

**(H)** States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

**(I)** the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

**(2)(A)** It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

**(B)** Subparagraph (A) does not apply to the possession of a firearm—

**(i)** on private property not part of school grounds;

**(ii)** if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

**(iii)** that is—

**(I)** not loaded; and

**(II)** in a locked container, or a locked firearms rack that is on a motor vehicle;

**(iv)** by an individual for use in a program approved by a school in the school zone;

**(v)** by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

**(vi)** by a law enforcement officer acting in his or her official capacity; or

**(vii)** that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

To Pennie von Achen  
Member, Planning Commission  
Dear Pennie,

Because of my health I am no longer very active in the Land Use Committee and am writing to you as a private citizen. However, because of the over 50 years that I have been watching and studying land use planning in Lawrence as a member of citizen groups, there have been many uses that I believed were extremely important to avoid in specific locations but because of lack of available regulations, were presented to the Commissions by our planners because they believed that they had no other options.

I believe that the case of 2-22-16 PC Agenda Item No. 2, the gun sales and shooting range, being treated as an ordinary permitted recreational use is one of these cases. Below is the definition of active recreation excerpted from the current Lawrence Land Development Code. I have searched the Code and this is what I found, below. I could find no terms or definitions for “gun,” “shooting range,” or other related terms, or for that matter regulations relating to them.

LAWRENCE LAND DEVELOPMENT CODE 2-21-16 DEFINITION EXCERPTED

**20-1762 SPORTS AND RECREATION, PARTICIPANT**

Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). The following are participant sports and recreation use types (for either general or personal use):

**(1) Indoor**

Those uses conducted within an enclosed [Building](#). Typical uses include bowling alleys, billiard parlors, swimming pools and physical fitness centers.

**(2) Outdoor**

Those uses conducted in open facilities. Typical uses include driving ranges, miniature golf courses and swimming pools.

Where the Planning Commission has been confronted with this situation in the past, i.e., no zoning definition or restrictions, the Planning Commission chose to limit the permitted location except with a Special Use Permit and treat it as a defined use. A recent one was where to locate “Truck Stops,” when they changed the definition of “Filling Station.” I believe that gun sales and firing ranges are special uses also that should not be treated as ordinary “recreational uses.” The current situation has arisen because the planners have not recognized that they are very different uses from other recreational uses and really need study. They have given you only two choices. We ask that rather than accept the limited choice of only these two alternatives that are before you at your meeting on Feb. 22 that you act on the following suggestions.

You have been given a choice to place the use of gun sales and shooting range in one of two locations both of which ultimately could be highly detrimental. ***There are three other options that the planners haven’t mentioned or even considered:*** (1) deny both choices of locations for the gun sales and shooting range, or (2) defer the issue for study and write the uses into the ordinance with proper regulations that require a special use permit and much more stringent regulations and more restricted locations, or (3) deny both choices and then rewrite the ordinance for proper regulations. We (my family) would much prefer that you follow choice No. 3, above.

The last two approaches have been used by our planners in similar serious situations in the past. I should emphasize again that this is not a use that I could find in the zoning ordinance. This alone should give both the Planning Commission and the planners pause before making recommendations for approval, especially when potentially dangerous uses are located in sensitive locations and are privately supervised.

We appreciate your valuable work on the Planning Commission. Thank you.

Betty Lichtwardt

**From:** Eric Kirkendall <[kirkendall1@gmail.com](mailto:kirkendall1@gmail.com)>

**To:** Jim Denny <[denney1@sunflower.com](mailto:denney1@sunflower.com)>; Patrick Kelly <[pkelly@usd497.org](mailto:pkelly@usd497.org)>; [julia.v.butler@gmail.com](mailto:julia.v.butler@gmail.com);  
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[cqjacob@sunflower.com](mailto:cqjacob@sunflower.com); [jjzieg@sunflower.com](mailto:jjzieg@sunflower.com); [rbennett@sunflower.com](mailto:rbennett@sunflower.com); [bebeeh@aol.com](mailto:bebeeh@aol.com);  
Cathy Hamilton <[director@downtownlawrence.com](mailto:director@downtownlawrence.com)>; Aaron Paden <[aaronpaden@gmail.com](mailto:aaronpaden@gmail.com)>; Jacki Becker  
<[jackioh@uptoeleven.com](mailto:jackioh@uptoeleven.com)>; [steve@ventureproperties.com](mailto:steve@ventureproperties.com); [ilovelawrence@icloud.com](mailto:ilovelawrence@icloud.com);  
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[vwdean51@gmail.com](mailto:vwdean51@gmail.com); [ccrose@sunflower.com](mailto:ccrose@sunflower.com); [bturvey@ku.edu](mailto:bturvey@ku.edu); [tsedwards311@yahoo.com](mailto:tsedwards311@yahoo.com);  
[cityhall@lawrenceks.org](mailto:cityhall@lawrenceks.org)

**Sent:** Monday, February 22, 2016 8:31 AM

**Subject:** Please do not allow any lead-polluting gun ranges unless you understand lead pollution risks and health effects, pollution in and around current indoor gun ranges, and how to protect the health of the community

Please do not allow any new gun ranges to open unless you understand lead pollution risks and health effects, the levels of lead pollution in current indoor gun ranges, workers blood, adjacent neighborhoods, and how to prevent the pollution - and have put adequate controls in place to ensure the safety of the community, particularly children.

Please be sure you understand the pollution and health impacts, if any, or existing gun ranges, including the recently closed decades-old gun range in the Community Building.

I very much hope this has been done, and that this email message is unnecessary.

If you have any doubts, please consider these questions

In your discussions of the existing gun range at the Lawrence Community Building as well as the new proposed gun range, have you?

**1. Considered the fact that lead is a dangerous neurotoxin (especially for children) and that without appropriate pollution controls and worker protection, indoor gun ranges often pollute the buildings in which they are located, customers and workers, and/or the neighborhoods around them?**

Background information:

[City-owned gun range operated for years with toxic lead levels, Sacramento auditor says](#), Sacramento News

[\(Gun Range\) Workers Found Being Exposed to Lead at Levels Exceeding the Permissible Exposure Limit By Almost 2000%](#), Ecothink

[Lead exposure at gun ranges 'a serious problem'](#), Washington Times

[Ashland armory closes to public because of lead contamination](#), The Oregonian

From a Seattle Times series:

[Loaded with Lead](#). Lead poisoning is a major threat at America's shooting ranges, perpetuated by owners who've repeatedly violated laws even after workers have fallen painfully ill.

[Bellevue shooting range poisoned dozens](#). The worst known case of workplace lead exposure at a U.S. range happened during renovations at Wade's Eastside Guns in 2012. But documented hazards there go back to 2008.

[Young shooters at risk](#). At a shooting club in Vancouver, Wash., 20 youngsters tested positive for lead overexposure. 'We would get lead on our hands and eat finger food,' one teenager recalls.

[Lead endangers officers](#). Police agencies across the country have put their officers in harm's way by using lead-polluted shooting ranges and by not educating them about safe practices.

[Toxic ranges win federal contracts](#). To train their officers, federal law-enforcement agencies have awarded contracts to contaminated commercial gun ranges, riling unions and sparking calls for reform.

[Research in the news: Rise in lead exposure linked to firearms](#), Yale News

[OSHA cites gun range for workplace lead, arsenic exposure](#), U.S. Department of Labor

[In reversal, Kingston Planning Board sets public hearing on proposed Midtown shooting range](#), Daily Freeman News

**2. Measured lead contamination in existing indoor shooting ranges in Lawrence, in the bodies of people who used, cleaned, and maintained the shooting ranges, and in the neighborhoods around them?**

**3. Required appropriate operational and pollution controls at existing and future indoor gun ranges to protect the safety of children, police officers and other range users, employees and contractors (including cleaning workers), and residents of nearby neighborhoods?**

I very much hope I will hear back that "of course this has all been taken care of and we are safe". If so, thank you for your time.

Regards,

Eric Kirkendall  
785-550-3408

Good evening commissioners. My name is Shannon Kimball. I am a member of the USD 497 Board of Education. I appear before you this evening on behalf of the Board of Education of Lawrence Public Schools in opposition to this rezoning request.

I understand that you all have received the letter from our Board president, Vanessa Sanburn, that outlines our objections to this zoning change. I am here to elaborate on those objections. Respectfully, the city planning staff's favorable recommendation does not give appropriate consideration to the District's safety and security concerns, nor does it correctly address the impact of the federal Gun Free School Zones Act on the affected parties.

In August, the school district opened our new College and Career Center at 31st and Haskell, across the intersection from the property at issue in the applicant's request. In fact, it is a mere 760 feet from the proposed site of this gun sales shop. Our district has invested over \$6 million dollars in this facility. The City and County have invested substantial additional dollars in our partner facility at this location, Peaslee Tech, for the purpose of creating a college and career training campus that, in partnership with the Boys and Girls Club, will be serving children as young as 10 years old in the future.

The safety and security of our students and faculty at our school facilities is of the utmost importance and concern, and drives our opposition to this rezoning request. Contrary to the staff analysis, rezoning of this parcel will detrimentally affect our neighboring school site. In fact, the analysis of neighboring sites fails to even mention the USD property. It references Peaslee Tech, but that is not the same facility. I submit that a gun sales outlet is not in fact a use that is compatible with the educational use of the school district's property.

It has been noted that this rezoning/use are legal. However, the fact that it is legal does not therefore mean that it is a correct or desirable application of good planning principles. For safety and security reasons, the Gun Free School Zones Act creates a 1000 foot gun-free buffer around our property. The school district, its students, staff, and parents, are entitled to the protection of this law. As the handout I am sharing illustrates, there is no entrance or exit from the parcel at issue that would allow customers to access the gun sales shop without traveling through this gun free buffer zone. Allowing this rezoning and use of this property would make repeated violations of this law a certainty. The detriment to us is very real, as the proposed use exposes us to repeated violations of these safety and security protections. I submit that our detriment greatly outweighs the interests of the applicant here. Staff correctly noted that the federal law places the burden on the consumer to comply, and that it does not apply on the private property at issue but only on the public property. What that means in practice, however, is that there are no actions that Mr. Sells can take, or assurances that he can make or enforce as the business owner, that will prevent or mitigate these repeated violations that will occur.

In sum, for these reasons I strongly urge you to reject this rezoning request. Thank you for your time.



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**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
2/22/16

**ITEM NO. 3:     B-3 TO B-2; 6.178 ACRES; 1400 BLOCK E 900 RD (MKM)**

Lakeside Vista: **Z-15-00608**: Consider a request to rezone approximately 6.178 acres from County B-3 District to County B-2 District, located in the 1400 block of E 900 Rd. Submitted by BG Consultants, Inc. on behalf of Fairway LC, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends denial of rezoning request Z-15-00608 and forwarding it to the Board of County Commissioners with a recommendation for denial based on the findings of fact found in the body of the staff report.

**REASON FOR REQUEST**

Applicant's Response:

*"The owner wishes to build small warehouses on the property which are not permitted in the current zoning."*

**KEY POINTS**

- The property is located within the boundaries of the *West of K10 Plan*. The plan recommends 'Commercial--Lake Oriented' uses for this property.
- Access to the property is provided from E 900 Road, a Local Road.
- The adjacent B-3 Zoned property is developed with *Boat/RV Storage*, which is permitted in the B-3 District, and with *Mini-Storage*, which required approval of a Conditional Use Permit in the B-3 District.
- The property was platted as Lot 1 Block 1, Lakeside Vista in conjunction with the rezoning to the B-3 District in 2008.

**ASSOCIATED CASES**

- Z-05-10-06: Rezoning from A-1 (Suburban Home Residential) District to B-3 (Limited Business) District approved by County Commission on August 16, 2006. Resolution adopted on June 2, 2008 following platting of the property.
- PF-07-07-07: Lakeside Vista Final Plat which was recorded at the Register of Deeds Office on April 4, 2008.
- CUP-04-06-07: Conditional Use Permit for *Mini-Storage* to the south; approved by the Board of County Commissioners on June 11, 2007.

**OTHER ACTION REQUIRED**

- Board of County Commissioners approval of rezoning application and publication of Resolution.
- Board of County Commissioners approval of site plan prior to development.
- Zoning and Codes Office issuance of building permit prior to development.



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## ATTACHMENTS

Attachment A: Zoning map

## PUBLIC COMMENT

No public comment was received for this item prior to the printing of this staff report.

## Project Summary

The subject property is located along the north side of an existing commercial development with boat/RV and mini-storage uses. Fully enclosed warehouse buildings, under 20,000 sq ft each, are proposed on the subject property.

## REVIEW & DECISION-MAKING CRITERIA

### 1. ZONING AND USE OF PROPERTIES NEARBY

Current Zoning and Land Use: B-3 (County- Limited Business) District; *Agriculture*.

Surrounding Zoning and Land Use: To the north:  
A-1 (County-Suburban Home Residential) District;  
*Agriculture*

To the west: A-1 (County-Suburban Home Residential) District, A (County-Agricultural) Districts and F-F (Floodway Fringe) Overlay District;  
*Agriculture*

To the south:

A (County-Agricultural) District and F-F (Floodway Fringe) Overlay District; Army Corps of Engineers Information Center and Facility Yards for Clinton State Lake and Open Space.

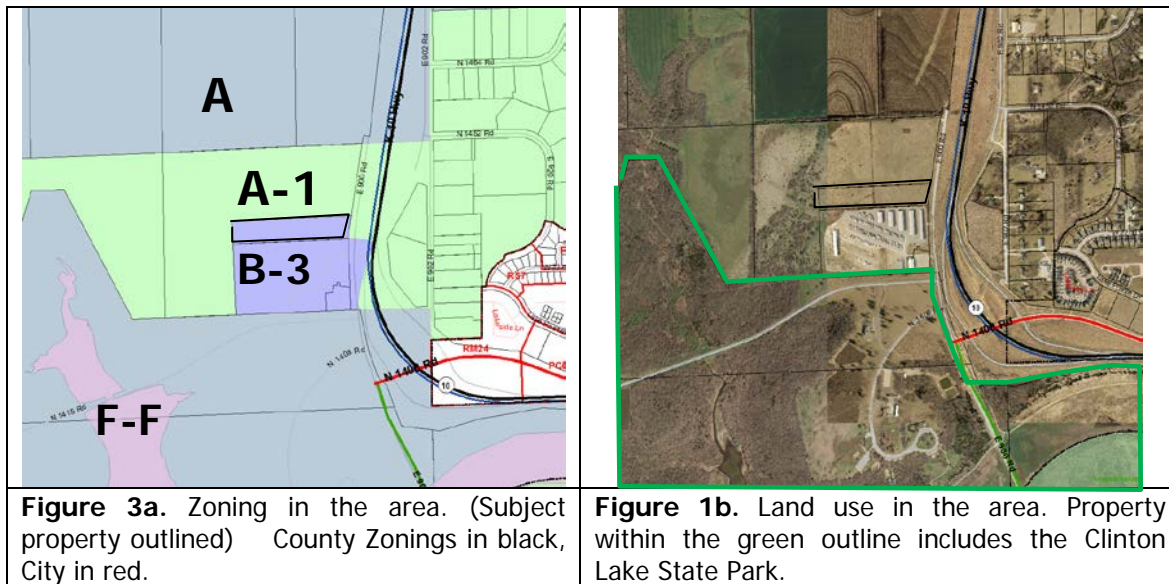
To the east:

A-1 (County-Suburban Home Residential) District, K10 Highway and *Single-Family Dwellings*. Property further to the east is within the City of Lawrence and includes RM12 and RM24 (Multi-Dwelling Residential), RS10 and RS7 (Single Dwelling Residential), and PCD (Planned Commercial Development) Districts Zonings;

(Figure 1)

**Staff Finding** – The area is near the west boundary of the city of Lawrence and contains a mix of rural and urban zonings and land uses. The subject property and the area to the south are zoned for limited commercial uses with County and City residential zoning surrounding the property to the west, north, and east. Property to the south of the commercially zoned property is zoned A (Agriculture) and is part of the Clinton State Park. Land uses in the area include mini-warehouse and boat storage to the south, open space and Army Corps of Engineers facilities further to the south, agriculture to the north and west, and residential to the east.





## 2. CHARACTER OF THE AREA

The area is divided east and west by the K10 Highway, with the west city limits of Lawrence approximately a quarter mile east of the highway. Properties to the east of the K10 Highway, both within and outside of the city limits, are developed residentially while properties to the west remain undeveloped with the exception of the storage uses in the B-3 District and park offices and facilities for Clinton Lake. The area immediately south of the subject property is developed with storage uses: mini-storage and boat/RV storage. The remainder of the area to the west of E 900 Road and K10 Highway is relatively undeveloped, with the northern portion in Agricultural use and the southern portion containing the Clinton State Park and facilities.

**Staff Finding –** The area is divided east/west by the K10 Highway. The area west of K10 is primarily rural in nature with agriculture and open space as the primary uses. The area also contains a commercial node with boat- and mini-storage uses. The area east of K10 is more urban residential in nature with residential development in varying densities.

## 3. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's Response:

*"The property has never been developed with the current zoning. With no access to sanitary sewer facilities, any immediate use must be one that will not require sanitary facilities. The proposed warehouses will be able to function without sanitary facilities."*

The property is currently zoned B-3 (Limited Business) which is intended to permit and encourage the grouping of certain retail activities and services intended primarily to serve the motoring public. The uses permitted in this district include the following:

Automobile Service Station	Boat Storage	Florist Shop, Greenhouse, Garden Supplies
Antique Sales	Camera Supply Sales	Gift, Novelty and Souvenir Sales

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Art Supplies	Drug Store	Grocery Store
Bicycle Sales/Rental/Repair	Equestrian Equipment Sales	Hardware Store (excluding lumber and industrial)
Boat and Equipment Sales & Repair	Fishing and Camping Equipment and Supplies	Restaurant (no service to automobiles)

These uses could be accommodated with the use of an on-site sewage management system. The property is served by Rural Water District No. 1, so a public supply of water is available. The property is suited to the uses which are permitted in the B-3 District.

The B-2 District allows an expanded list of commercial uses in addition to all uses which are permitted in the B-3 District. (Attachment B). The use the applicant is considering is *Wholesale establishment or warehouse in a completely enclosed building as long as floor area devoted to such uses shall not exceed 20,000 square feet* (Section 12-310-2.12, Zoning Regulations).

City services, including water and sanitary sewer infrastructure, have not been extended to the area. Annexation of the property into the city and development at an urban density would not be feasible until city services were extended to serve the area west of K10 Highway. Development of rural commercial uses, using on-site sewage management systems and rural water, would be appropriate prior to annexation.

The property is in close proximity to the K10 Highway and its intersection with E 900 Road, which is classified as a Minor Arterial to the south. E 900 Road is classified as a Local Road to the north of the intersection and dead-ends just north of the subject property. The City Future Thoroughfare map identifies E 900 Road to the north as a Future Collector which will be extended to the north to connect with the extension of N 1457 Road, designated as a Future Minor Arterial. A traffic impact study would need to be provided with any development project to insure the road network is adequate for the anticipated traffic. The extension of E 900 Road and N 1457 Road are proposed in the future; however, the proximity to K10 Highway access would suit commercial uses.

**Staff Finding** – The property is suitable for the uses to which it is restricted in the B-3 Zoning District and is also suitable for the uses which are permitted in the B-2 District, with limitations that may be placed on the scale and scope of development by the use of rural utilities and the property's access on a Local Road.

#### **4. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED**

**Staff Finding** – The property has not been developed since it was rezoned to the B-3 District in August of 2006.

#### **5. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES**

Applicants Response:

*"The property to the south is zoned B-3 and is currently used as mini-warehouses and boat/vehicle storage. The property to the north and west is owned by the same owner as the subject property. K-10 Highway is abutting the property on the east side. The proposed zoning will not detrimentally affect the nearby properties."*

The uses permitted in the B-2 District, beyond those which are allowed in the B-3 District, include amusement uses such as a skating rink, billiard parlor, or theater; manufacturing uses such as bottling works, plumbing and heating shop, tire sales and service, and general service and repair establishments; as well as drive-in restaurants; motels; and wholesale establishment or warehouse, provided such uses occupy a maximum of 20,000 sq ft. These uses may be incompatible with future development of the residential uses to the north. This area is currently zoned A-1 (Suburban Home District) for rural residences and is recommended for medium density and high density residential development in the *West of K10 Plan*.

**Staff Finding** – Removal of restrictions could have negative impacts on the future residential use of the property to the north, as currently zoned and as recommended in the *West of K10 Plan*.

**6. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS**

Applicants Response:

*"If the rezoning is approved, additional tax revenue will be generated as opposed to the property remaining vacant if the rezoning is denied."*

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

If the rezoning were denied, the property would retain the B-3 Zoning and could be developed with uses which are permitted within the B-3 District with site plan approval, or with uses which are listed as Conditional Uses in Section 12-319 when approved as a Conditional Use. The proposed warehouse use would not be possible if the rezoning were denied.

As discussed in Section 7 of this report, the proposed warehouse use, and many of the uses permitted in the B-2 District are not compliant with the land use recommendations in the long range plan for the area, the *West of K10 Plan*. Compliance with the recommendations in the area plan provides predictability for land owners in the area regarding future development. Denial of the proposed rezoning would require the zoning to remain B-3 and would limit the uses which are permitted in the area to lake-oriented uses as recommended in the long range plan.

The Zoning Regulations note that the B-2 (General Business) District is intended to provide sufficient space for a wide variety of business, commercial, and miscellaneous service activities, particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor and noise associated with manufacturing. The area contains the mini-warehouse and boat storage use and a lot with a vacant convenience store. The development of the property to the north with the warehouse use would exceed the 20,000

sq ft that is permitted in the B-2 District. The Code language is unclear if this limit applies per building or for the use overall; however, the purpose language for the B-2 District notes that it should not be characterized by extensive warehousing. Based on the purpose statement, it is staff's opinion that the limitation applies to the use as a whole and not to the individual buildings. The proposed use exceeds the area limitation in the B-2 Zoning District. If the rezoning were approved, the proposed use would need to be altered to fit the use standards of the B-2 District.

**Staff Finding** –The proposed development of warehouse buildings would not be possible if the rezoning were denied. The proposed warehouse use is not consistent with the land use recommendations in the Comprehensive Plan, the area plan, or with the use standards of the Zoning Regulations. The denial would benefit the public health, safety, or welfare as it would maintain consistency with the adopted long range plan for the area and provide predictability for the future development of the site.

## **7. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response:

*"The West of K-10 Plan proposed this area be a Community Commercial Center (CC) which allows a Light Wholesale, Storage and Distribution use."*

The property is located within the boundaries of the *West of K10 Plan*. The plan recommends 'Commercial Center-Lake Oriented' uses for this area and recommends CC200 or MU Districts when the property is within the City. The plan notes:

*"This lake-oriented commercial development should serve the many visitors to Clinton Lake. Horizon 2020 identifies K-10 and Clinton Parkway as a future Neighborhood Commercial Center. This Plan recommends changing that designation to a Community Commercial Center to reflect the higher intensity of the lake oriented nature of the existing commercial uses. Many of those uses serving the lake, such as boat storage, are not appropriate for a Neighborhood Commercial designation."* (Page 27, *West of K10 Plan*)

The primary land uses recommended for this area are 'lake oriented commercial'.

The Comprehensive Plan, which includes the area plan by reference, recommends this area for lake-oriented commercial uses and notes typical uses as bait shops, boat rental, and lodging. (Page 6-23, *Horizon 2020*) Other uses which could be considered lake oriented commercial include bike rental/repair, hiking and camping equipment, restaurants, small grocery store, and fuel/gas sales. The proposed warehouse use is not a lake-oriented use. In addition, many of the uses permitted in the B-2 District are not lake-oriented uses.

**Staff Finding** – The rezoning request to the B-2 General District is not compliant with the overall recommendations in the Comprehensive Plan or the specific recommendations in the Area Plan, for lake-oriented commercial uses in this location. The proposed use and many of the uses in the B-2 District are not lake-oriented. The B-3 Zoning District contains a limited range of uses which are lake-oriented.

## **8. PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The proposed warehouse use, and many other uses permitted in the B-2 Zoning District do

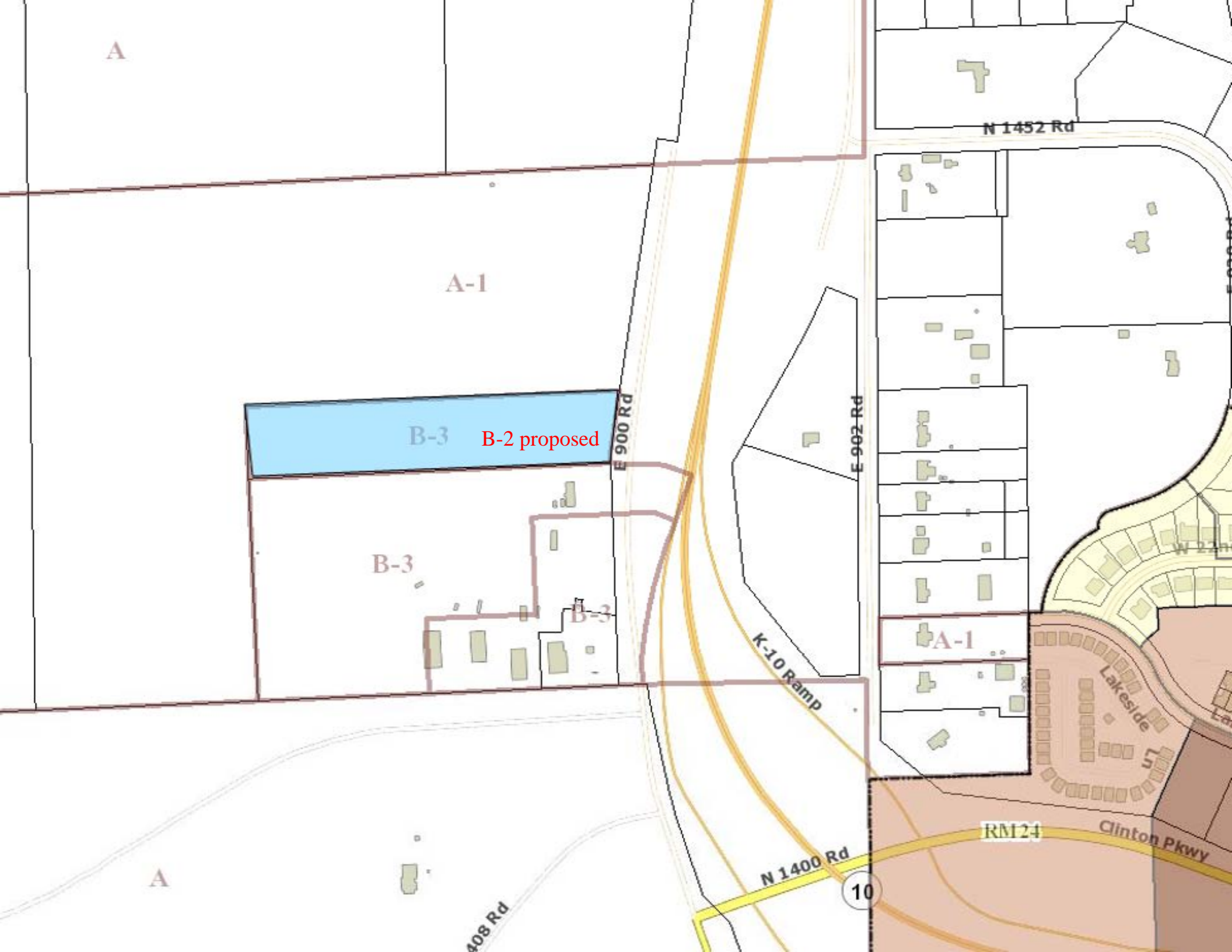
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not comply with the recommendation in the Comprehensive and Area Plans for lake-oriented commercial development.

The proposed use would be compatible with other land uses in the area currently; however, the warehouse use could be incompatible with the residential development that is recommended in the Area Plan for the adjacent property.

The land is suitable for the proposed use, which could be easily served without any sanitary sewer provisions or, if an office was included, could be served with an on-site sewage management system. The use could be served with rural water and an on-site sewage management system. Fire protection measures and the adequacy of the road network and any improvements that are needed would be determined through the site planning process for the particular use/design that is proposed.

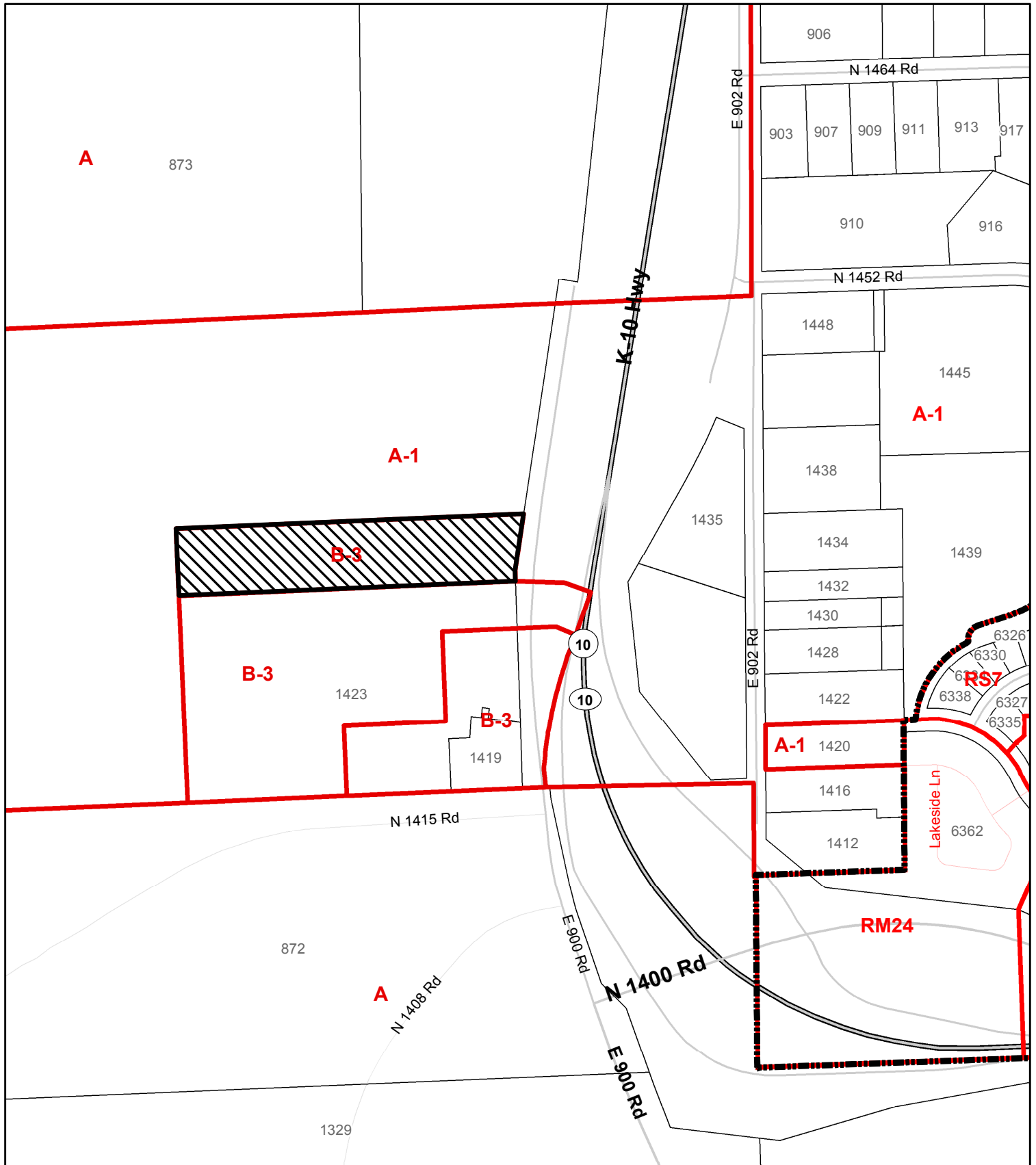
As the rezoning request is not consistent with the recommendations in the Comprehensive and Area Plans, staff recommends denial of this rezoning request.



## USES PERMITTED IN B-2 ZONING DISTRICT

- Agriculture
- Single Family Dwelling
- Residential Design Mfg Homes
- Churches, Temples, etc
- Colleges and Schools
- Rural Home Occupations
- Nonprofit Libraries or Museums, Art Galleries
- Public Parks And Playgrounds
- Child Care Home
- Child Care Center
- Parking Lot and Storage Garage
- Display Room for Merchandise to be Sold on Order where Merchandise is Stored Elsewhere
- Dressmaking, Bakery, Appliance And Bicycle Repair, Etc.
- Filling Stations
- Frozen Food Locker
- Animal Hospital or Clinic
- Offices, Including Clinics
- Personal Services: Barber Shops, Banks, Dry Cleaning, Restaurants, Taverns, Undertaking Establishments, Etc.
  - Self Service laundry
- Retail Stores Including Florists and Greenhouses
- Amusement Place, Skating Rink, Swimming Pool or Dance Hall in Completely Enclosed Building; Theater
- Bottling Works, Dyeing and Cleaning Works or Laundry, Plumbing and Heating Shop, General Service and Repair Establishments, Etc.
- Bowling Alley/Billiard Parlor
- Drive-In Restaurants
- Food Storage Lockers
- Hotels, Motels, or Motor Hotels
- Material Storage Yards in Connection with Retail Sales
- Outdoor Advertising Sign
- Printing or Engraving Establishments
- Public Garage
- Wholesale Establishment or Warehouse in a Completely Enclosed Building so Long as Floor Area Devoted to Such Uses Shall Not Exceed 20,000 Sq Ft
- Used Car Lot





**Z-15-00608: Rezone 6.178 acres from County B-3 District to County B-2 District  
Located North of Judy's Junction in 1400 Block of E 900 Road**

# Memorandum

## City of Lawrence

### Douglas County

### Planning & Development Services

**TO:** Planning Commission

**FROM:** Mary Miller, Planner

**Date:** February 17, 2016

**RE:** Item No. 4: TA-15-00346 – Text Amendment to the Land Development Code to add Urban Agriculture as a permitted use and establish standards

**Attachments:**

Attachment A: Results from Lawrence Listens Survey

Attachment B: Public communication received since the December meeting

Attachment C: Draft language for Development Code

Attachment D: Draft language for other portions of City Code

**Staff Recommendation:**

Staff recommends the approval of the Text Amendment, TA-15-00346, revising the Development Code and Chapters 3, 5, and 18 of the City Code to establish Urban Agriculture as a permitted use with standards and forwarding it to the City Commission with a recommendation for approval.

### Background

The Planning Commission held a public hearing on TA-15-00346, the Text Amendment to establish Urban Agriculture as a permitted use, at their December 14, 2015 meeting and returned the amendment to staff with directions for revisions. City staff added survey questions to the 'Lawrence Listens' feature on the City's website to obtain more public input on the topic of Urban Agriculture and on-site slaughter. The majority of the respondents were supportive of Urban Agriculture. Most of the respondents indicated that on-site slaughter would be acceptable provided provisions were in place to shield the use from view. The results of this survey are included in Attachment A.

The following table lists the Planning Commission's directions from their December meeting and the revisions made to the draft language:

Planning Commission Direction	Revision
Address the 'agricultural crops' versus weeds issue in the Weed Ordinance.	<p>Chapter 18 of the City Code has been revised to clarify that agricultural crops are not included in the weed provisions. The draft language is included with this memo as an attachment.</p> <p>The proposed standards for Crop Agriculture in the Development Code also clarifies this and cites the applicable section of the City Code.</p>
Clearly define an <i>Urban Farm</i> and note what makes it different from other crop or animal agricultural uses.	The definition of <i>Urban Farm</i> was revised to clarify that an Urban Farm includes the same agricultural uses (with some additional accessory uses) as Crop Agriculture and Animal Agriculture, but it is at a larger scale than would be permitted under the standards for Crop or Animal Agriculture.
Provide information on the Property Maintenance Code rewrite	As the Property Maintenance Code rewrite may be complete before the Urban Agriculture text amendment is adopted, Planning Staff has developed language that will be included in the Property Maintenance Code when adopted. This language is provided with this amendment for consideration and action.
Define agricultural implements, equipment and materials.	This term has been added to the definition table and defined.
Add 'permaculture, aquaponics, hydroponics' to the definition of Urban Garden.	The term 'Permaculture', 'hydroculture', and 'aquaculture' were added to the definition of Urban Agriculture.
Look further into the issue of 'on-site slaughter' of small agriculture animals.	This item was specifically included on the Lawrence Listens survey to get more public input. The majority of the respondents to the survey were agreeable to on-site slaughter provided there were standards keeping it from view. Staff also researched other communities further. Communities vary in their approaches to on-site slaughter. Those that permit it require it to be done out of public view.
Develop a formula that would allow	Revised standards for on-site sales limit the

On-site Sales with limitations	hours of operation, regulate the location of the sales area, and tie the size of the retail sales area to the size of the lot.
Suggested that the language should be minimalistic and that it could be revised as problems arise.	Attempted to simplify and minimize the standards while maintaining enough regulations to insure compatibility with nearby land uses.

### DEVELOPMENT CODE DRAFT LANGUAGE SUMMARY OF REVISIONS

The following is a summary of the revisions being proposed to the draft language provided to the Commission in December. (New language is shown in **bold** and deleted language is shown as ~~struck-through~~.)

#### 1) Weeds

Section 20-548(3)(ii) revised:

The site shall be kept free of debris or high grass or weeds, taller than 12 inches, **(Crop Agriculture plants are not considered weeds as defined in Section 18-302(f) of the City Code and are exempt from the weed provisions in Section 18-304 of the City Code.)**

#### 2) On-Site Agricultural Sales

The definition of On-Site Agricultural Sales was revised to clarify that only un-processed products may be sold:

##### ***"ON SITE AGRICULTURAL SALES***

*The sale of **unprocessed** agricultural products, such as plants, produce, eggs or honey, grown or produced on site. This term also applies to agricultural products grown or produced off-site that are sold in conjunction with products produced on-site if they are produced on a site that is maintained by the operator of the sales site."*

The standards for On-Site Agricultural Sales were revised to allow agricultural products grown off-site to be sold as part of the on-site sales:

***"On-site sales' refers to products grown or produced on the premises and products that are grown or produced on another site within the City that is maintained by the operator of the sales site when sold in conjunction with products grown on the premises."***

Standards being recommended include a time frame between 8 AM and 8 PM. Stands used for display or sale must be located at least 20 ft from the curb or roadway and must be removed when sales are not in progress. The following limits are recommended for the retail sales area:

- a. ***Sales area of up to 100 sq ft permitted for lots up to 7,000 sq ft in area.***

- b. *Sales area of up to 150 sq ft permitted for lots up to 10,000 sq ft in area.*
- c. *Sales area of up to 300 sq ft permitted for lots larger than 10,000 sq ft in area.*

The standards for the temporary sign advertising the on-site sales were revised to note that the sign must be at least 20 ft from the curb or roadway or placed flat on a wall or door-or displayed in a window.

The 20 ft standard for the sales and the signage is intended to simplify the regulations. It is often not clear where the right-of-way line is on a property, so the location is based on the distance from the road. If the stand or sign is in the right-of-way, 20 ft should be enough of a separation so the use doesn't cause a distraction or reduce visibility.

### 3) Urban Farms.

The definition was revised to clarify what constitutes an Urban Farm:

***An Urban Agricultural use which is operated primarily for commercial purposes. An Urban Farm is distinguished from other Urban Agriculture uses by scale.***

- a. ***An Urban Farm may have a larger retail sales area, more employees and/or more agricultural animals than permitted for Crop Agriculture and/or Small and Large Animal Agriculture.***
- b. ***An Urban Farm can include other uses such as an educational/training component and/or Agricultural Processing.***
- c. ***An Urban Farm may use Large-Scale Agricultural Implements, Equipment and Materials.***

In addition, the standards were revised to simplify the Special Use Permit (SUP) process for an Urban Farm. Existing Urban Farms will be considered to have an Automatic Special Use Permit (SUP) provided they register with the Planning Office by January 1, 2017. Changes will be processed per the Special Use Permit requirements in Section 20-1306 of the Development Code.

### ***Special Use Permit for Urban Farms in Residential Districts***

- a. ***An Urban Agriculture use is considered an Urban Farm when it includes uses permitted as Crop Agriculture and/or Small or Large Animal Agriculture but exceeds the standards set by the Code for these uses. These standards include, but are not limited to, the maximum number of animals per size of lot, the maximum permitted size of the on-site sales area, hours of on-site sales, ~~number of employees~~, and accessory activities on the site such as educational sessions.***
- b. ***An Urban Farm that was in existence in a residential zoning district prior to the adoption of these regulations (date) the use will be considered to have an automatic Special Use Permit. It will be***

*necessary for owners/operators of Urban Farms to register the use with the Planning Office by Jan. 1, 2017 to qualify for the automatic Special Use Permit. Any alteration or expansion of the Urban Farm use are subject to the Special Use Amendment procedures of Section 20-1306 with the provisions included in the following section.*

- c. *Given the nature of an Urban Farm use, an aerial photo may be used as the basis of the Special Use Permit plan. The plans are not required to be developed by a design professional, but must clearly show the details/dimensions necessary to insure setbacks are met, required screening is provided, and that parking areas and drive aisles meet the parking standards in Article 9.*

Major changes would require the submittal of a SUP application and plan for Planning Commission consideration and public hearing and City Commission action. Minor Changes to the SUP can be approved by the Planning Director. Minor Changes are those that (1) will not alter the basic relationship of the proposed development to surrounding properties; (2) will not violate any of the standards and requirements of this Development Code; and (3) will not circumvent any conditions placed on the original approval. In addition to these parameters, Section 20-1306(l)(6) of the Development Code lists several changes that are always considered minor.

The revised language notes that the Special Use Permit may use an aerial photo provided by the Planning Office as the base drawing for the plan.

These changes were made to provide a more simplified SUP process for the Urban Farm use.

#### 4) Animal Agriculture.

The revised language notes that pigs are not allowed as Urban Agriculture. The revised language clarifies that Vietnamese Potbellied Pigs are allowed as pets per the requirements in Chapter 5 of the City Code.

The December draft language recommended allowing on-site slaughter for small animals, with the exception of sheep and goats. The revised language allows on-site slaughtering of all Small Agriculture Animals for personal use subject to the following standard:

**"Small agricultural animals may be slaughtered and butchered on-site for personal use provided this occurs a minimum of 20 ft from the property line and outside of the public view or within an enclosed structure."**

This would address many of the concerns expressed in the Lawrence Listens Survey. Some survey responses expressed an interest in training for those interested in on-site slaughter. The Food Policy Council indicated they may be able to arrange for training and education on this and other agricultural uses.

## CHANGES TO OTHER CHAPTERS OF THE CITY CODE

- Chapter 3, *Regulation of Animals*, was revised in association with the changes to the Development Code.
- Chapter 18, *Trees*, was revised to clarify that crops grown as part of an Urban Agriculture use are not considered weeds.
- Chapter 9, *Health and Sanitation* incorporates the *2015 International Property Maintenance Code* by reference in Article 6. This article was revised to clarify that agricultural implements, equipment, and materials that are in use may be located on the exterior portion of the premises and provides standards for the storage of these items when not in use.

These revisions are included with this memo as an attachment.



**LAWRENCE LISTENS SURVEY RESULTS AND RESPONSES**  
**RESPONDENTS: 46**

**1. Lawrence currently allows crop agriculture-the management & maintenance of an area of land to grow & harvest food crops and/or non-food ornamental crops for personal or group use, consumption, sale or donation. Do you support this use in the front yard or right-of-way as it is regulated today?**

97.8% yes

2.2% no

**2. Would you be supportive of adding Small animal Agriculture as a use, with standards, to allow beekeeping and the keeping of small animals for agricultural purposes, such as pygmy goats, rabbits, and fish?**

93.5% yes

6.5% no

**3. Would you be supportive of adding Urban Farm as a use? This type of use is considered more of a market farm rather than a farm for personal use or a community garden. Agricultural processing may be permitted as an accessory use on Urban Farms.**

90.9% yes

9.1% no

**4. Agricultural processing can include the on-site slaughtering of small animal agriculture for personal use only. Would you want to see any restrictions for on-site processing which could include fencing, screening or use of an enclosed space for processing?**

(37 answers, 9 skipped—responses listed below are divided into 2 groups: specific comments with concerns followed by comments in support)

4 Comments oppose on-site slaughter.

5 Comments oppose regulation on on-site slaughter

Remainder support on-site slaughter with regulations.

**COMMENTS IN OPPOSITION:**

- *no slaughtering of animals*
- *I support sustainable, plant-based urban agriculture. I do not support animal agriculture.*
- *I do not support the on-site slaughter of any animals. I believe it is too hard to regulate to 1) ensure it's done correctly so the animal doesn't suffer needlessly, 2) ensure safe food handling to avoid contamination, 3) ensure hygienic disposal*

*of remains and 4) ensure the practice does not disturb the peace for the neighbors.*

- *Animal slaughtering should not be allowed in the city limits because there are those people who would not comply with sanitary regulations.*

#### NO REGULATIONS

- *I don't think any restrictions are necessary if it's for personal use.*
- *no, I think it is fine.*
- *No*
- *No*
- *No*

#### SPECIFIC COMMENTS

- *I would prefer an enclosed space for processing. I would also like to see regular monitoring to ensure best practices in animal husbandry and processing. My only concern with allowing small animal agriculture is the possibility of inexperienced people taking on this challenge, which could result in the improper care of these animals.*
- *I certainly don't want to see or smell it, but if it's for personal use only, I can't imagine that the volume would be all that great. I probably encounter more dead animals on the street and in my yard than I would encounter in a personal use slaughter house.*
- *Enclosed space or sufficient screening.*
- *I think this would have to be an as needed precaution, or implemented after complaints.*
- *I would be interested in seeing what other communities which allow Urban Farms have in terms of regulations and inspections. What challenges they have faced, unintended consequences of Urban Farms, etc. We don't need to reinvent the wheel. I myself would be extremely supportive of urban farms, but I also realize many Lawrencians may not be interested in having a small scale farm next to them; and Lawrence is for everyone, not just those of us who grew up on a farm and think that manure smells like money.*
- *I would think we need to have screening or an enclosed space.*
- *Screening would be a smart idea*
- *I do not support requiring use of an enclosed space, but I would support requiring fencing for animal processing areas (not the entire yard).*

- *I would prefer the fewest restrictions possible, but given that some individuals may be offended by seeing where their food actually comes from and how it is processed directly it might be best to incorporate a low-impact screening requirement into the policy (e.g., low cost and low maintenance).*
- *It would be best if there was screening for butchering.*
- *I would say using fencing would be a good thing to do.*
- *All the above please! I don't mind the use but I don't want people to have to watch, hear, smell, animal slaughter.*
- *Yes, Enclose or screen the slaughtering/processing from view.*
- *I believe that some type of screening or enclosure should be required. I also believe that there should be regulation regarding humane slaughtering practices as well as biological waste disposal..*
- *screening or enclosed space for processing*
- *Screening would probably be a good idea*
- *I do not want to see it*
- *The less constraints put on the farmer or gardener the better. The most that the ordinance should ask of a person slaughtering an animal is that the act take place out of ordinary public view( from the street or sidewalk). slaughtering a small animal for food is an ordinary and necessary part of peoples lives the world over. People have the right to feed themselves without the imposition of other peoples morality. Currently Lawrence citizens catch, slaughter and eat fish within the city limits from fishing ponds like Mary's Lake. Ordinary people maim , trap, poison and kill mice and other "vermin" of the home and yard. And chicken keepers slaughter hens that are past their prime so that they may be made into stew to nourish their families. Even though all of these acts is presumably in violation of city code preventing willing harm to animals, somehow it is only this latter act that ruffles feathers, so to speak. I urge that the powers that be take a brave and progressive step to allow animal slaughter, so that people can act with there own self determination to feed themselves and there families.*
- *Yes. There would need to be proper privacy fencing and an included space.*
- *Probably some screening.*
- *Yes, I would want restrictions so that slaughtering activities could not be seen or heard) from outside the area in which they were occurring.*
- *enclosed processing*
- *I would be in favor of an enclosed area, or an outdoor area which is not in the view of the immediate public.*

- *Enclosed or out of sight from sidewalks/street*
- *Yes*
- *Yes, certain restrictions should apply.*
- *yes*

**5. Would you be supportive of allowing On-Site Agricultural Sales for the sale of products grown or raised on the site, similar to a farm-stand?**

93.5% yes

6.5% no

**6. Do you have any other comments for the city related to the expansion of agricultural uses permitted in the city?**

(20 answers, 26 skipped—responses listed below are divided into 2 groups: specific comments with concerns followed by comments in support)

SPECIFIC COMMENTS:

- *Not without proper health department inspections, for slaughter of animals.*
- *I support sustainable, plant-based urban agriculture. I do not support animal agriculture.*
- *As with chickens the number of animals allowed should be regulated as well as requirements to deal with animal feces clean-up regularly so neighbors are not subject to the smell. If the smell cannot be regulated then I am not in favor of any additional agriculture uses in the city.*
- *Keep it neat.*
- *Some of the questions were worded or framed so that a yes or no answer may mean something different to the surveyor than what it means to the respondent. For example; Would you be supportive of adding Urban Farm as a use? This type of use is considered more of a market farm rather than a farm for personal use or a community garden. Agricultural processing may be permitted as an accessory use on Urban Farms. The last draft of the Urban agriculture amendment listed urban farm as a use, simultaneously listing all the uses covered by an urban farm as separate uses. I am all for the uses permitted under urban farm but am opposed to the urban farm use category. It makes much more sense to list all the uses of urban agriculture and the zoning districts in which they are allowed then to redundantly group uses together (urban farm) and hold them to different standards. I think it is too restrictive and will be a barrier to urban agriculture. So I am not sure how to answer this as a yes or know question. It may be confusing to other readers as well and may cause the information gathered by the surveyor to not reflect the true opinion of the respondent.*
- *"Lawrence currently allows crop agriculture-the management & maintenance of an area of land to grow & harvest food crops and/or non-food ornamental crops for personal or group use, consumption, sale or donation. Do you support this use in the front yard or right-of-way as it is regulated today?"*

*Doesn't the new text amendment elaborate on this topic? Would marking "yes" on this survey question indicate that I don't want it to change at all?*

- *I answered no to on-site sales as many neighbors have such limited abilities to handle increased vehicle and foot traffic. Sidewalks are poorly maintained which create a hazard for pedestrian traffic to on-site sales. There is limited street space and visibility to keep bicycle traffic safe as they come to and from on-site sales. This would aspect would have to be so heavily regulated and maintained by the urban farmer in order to assure safety of their consumers and maintain the sanctity of the neighborhood (while respecting the property of their neighbors). It's just not worth the effort. We have plenty of spaces where urban farming products can be sold with ease and safety already taken into account.*
- *No*
- *Coyotes now inhabit Lawrence and they would be happy to feed on small animals and slaughtering remains in urban yards. Do we really need to add this potential problem to living in Lawrence just to please a handful of people?*

COMMENTS IN SUPPORT:

- *I'm all for it. And excited about it.*
- *The first question does not say how front yards or right of way are currently regulated. If it is allowed as long as it does not block vision for pedestrians or vehicles then I'm in favor.*
- *Thank you for all your hard work on the new policies!*
- *I think this would be great for those that want to grow and have small animals to help with food for their family and community. I do not think this would be a issue inside of the city.*
- *Our community garden would feel more connected to the neighborhood if we were allowed to sell produce on-site like a farm stand. We'd have the chance to interact more with neighbors, describe what we do, and make a little money back for operations.*
- *This is a trend nationally, which Lawrence needs to embrace.*
- *Russia has better food security than the US because they grow so much of their own food. Food production is a very important function and it's better for the environment than "lawns" and should be encouraged.*
- *I would recommend investigating how other cities that have implemented Urban Agriculture have been successful, particularly in regards to meat processing.*
- *I support the "Foods not Lawns" initiative, and I'm glad to see Lawrence heading in that direction.*
- *I think urban agriculture is great!*
- *None*
- *I feel it would be a good thing to allow a farm stand style sales. It would bring neighbors together and allow people who could not travel the opportunity to get fresh*

*produce. It would also allow the gardener an opportunity to pay back some of their expenses.*

**From:** Jackie Carroll [<mailto:jackie2ku@gmail.com>]  
**Sent:** Monday, February 15, 2016 5:22 PM  
**To:** AD - Schnoes, Helen  
**Subject:** Re: Urban Ag Survey: Lawrence Listens

Hi Helen,

I thought today was the last day for the Lawrence Listens question, but it looks like it closed at midnight last night and I really wanted to submit a response! Hopefully you don't mind me sending you my comments directly.

I am supportive of all aspects of urban ag represented in the survey except for questions #2 & #4, Small Animal Agriculture, especially (but not limited to) on-site processing. I don't think it's progressive, healthy, responsible, etc to promote the slaughter of animals whether in a rural or urban setting.

Looking at the responses on the question, many/most residents include some version of "shield the children," ie, "I don't want to see/hear/smell it." I'm not sure how the city would be able to ensure these things and if they're hidden from our senses too well, how is the city supposed to uphold any of the regulations it sets?

I understand that many cite finances for raising meat animals, but no one can argue that there are ample plant-based sources of protein in town that come at a lower price (& fewer overall resources) than raising an animal for food. When it comes to sustainability, plant-based diets are significantly more responsible. I am quite passionate about this subject, so don't hesitate to let me know if you have any questions.

Thanks for your work!

Best,  
Jackie Carroll



Changes made since last Planning Commission meeting in **bold**  
*Numbering of sections will be updated with final draft*

## Definitions

### 20-1701 GENERAL TERMS

Bee Hotel:	Places for solitary pollinator bees to make their nests. These bees live alone, not in hives, and typically do not make honey. A bee hotel is similar to a birdhouse.
Colony	An aggregate of worker bees, drones, and a queen living together in a hive or other dwelling as one social unit. <i>When used in this article, the term 'colony' refers to bees that live in a beehive.</i>
Community Garden	An area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or for sale or donation. A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group. A community garden may include common areas (such as tool storage sheds) maintained and used by the group.
Community Supported Agriculture	A member organization in which individuals or households become members by purchasing a share or agreeing to volunteer work for a share of the agricultural producer's output. The share is committed to in advance and the member then receives, in return, food items from the producer on a regular schedule throughout the season and sometimes all year.
Fowl	For the purposes of this Article, 'Fowl' shall mean only ducks and female chickens.
<b>Market Garden</b>	<b><del>A garden managed and maintained by an individual or group as a business, where food and non-food crops are primarily grown to be sold.</del></b>
Personal Garden	A garden that is maintained by the property owner(s) or other person(s) with an interest in the property, typically on the same property as a dwelling unit. Food and non-food items are raised primarily for personal or family consumption and enjoyment.

### 20-1702 USE CATEGORIES IN GENERAL

### 20-1773 AGRICULTURAL PROCESSING

A manufacturing process that increase the value of primary agricultural commodities. (This term does not include commercial slaughtering.)

### 20-1774 AGRICULTURAL SALES

The sale of feed, plants, grain, fertilizers, pesticides and similar goods. Typical uses include nurseries, hay, feed and grain stores.

#### **20-1775 AGRICULTURE, ANIMAL**

Activities that primarily involve raising, producing or keeping of animals to provide food, wool, and other products. Also referred to as Animal Husbandry.

- (1) *Small Animal Agriculture* is limited to small animals which are more appropriate in a denser urban setting, such as bees, crickets, worms, rabbits, small goats, small sheep, fowl, and aquatic animals/organism such as crayfish and fish. Domesticated animals such as cats and dogs are not considered *Small Animal Agriculture*. These are regulated through Article 2 of Chapter 3 of the City Code.
- (2) *Large Animal Agriculture* is limited to larger animals that are more commonly considered livestock and require more area such as cattle, horses, and goats/sheep that are taller than 24" at the withers (shoulders).

#### **20-1776 AGRICULTURE, CROP**

The management and maintenance of an area of land to grow and harvest food crops and/or non-food ornamental crops, such as flowers, for personal or group use, consumption, sale, or donation. *Crop Agriculture* uses include, but are not limited to, personal gardens, community gardens, market gardens, rooftop gardens, tree farms, and hay meadows. Standard structures used for *Crop Agriculture* include hoop houses, cold-frames, greenhouses, equipment or planting sheds, composting and waste bins, and rain barrel systems.

#### **20-1777 FARMERS MARKET**

A temporary food market at which local farmers and producers sell products such as fruit and vegetables, meat, cheese, and bakery products directly to consumers.

#### **20-1778 ON SITE AGRICULTURAL SALES**

The sale of **unprocessed** agricultural products, such as plants, produce, eggs or honey, grown or produced on site **the premises**. This term also applies to agricultural products grown or produced off-site that are sold in conjunction with products produced on the premises if they are produced on a site that is maintained by the operator of the sales site.

#### **20-1779 URBAN AGRICULTURE**

The growing, processing and distribution of plant and animal products — by and for the local community — within an urban environment. Urban Agriculture includes, but is not limited to: aquaculture, horticulture, permaculture, hydroculture, agroforestry, beekeeping, gardening, and animal husbandry. Complementary activities associated with Urban Agriculture include the distribution of food, the collection and reuse of food waste and rainwater, and public outreach activities such as education and employment. Urban Agriculture does not include such commercial activities as commercial dog kennels, dog breeding facilities, or livestock sales.

#### **20-1780 URBAN FARM**

**An Urban Agricultural use which is operated primarily for commercial purposes. An *Urban Farm* is distinguished from other Urban Agriculture uses by scale.**

- (1) **An *Urban Farm* may have a larger retail sales area, more employees and/or more agricultural animals than permitted for *Crop Agriculture* and/or *Small and Large Animal Agriculture*.**

- (2) An Urban Farm can include other uses such as an educational/training component and/or Agricultural Processing.
- (3) An Urban Farm may use Large-Scale Agricultural Implements, Equipment and Materials.

#### STANDARDS:---Article 5

#### 20-547 ANIMAL AGRICULTURE, SMALL

##### (1) General

##### (i) Structures

- a. Structures shall comply with the Accessory Structure Standards in Section 20-533 except where expressly stated.
- b. Any coop, shelter, or enclosure shall be maintained in a clean and sanitary fashion to prevent the unreasonable accumulation of waste or other noxious substances, the emanation of noxious odors, or the presence of vermin.
- c. The facilities used to house the animals shall be of adequate design to keep the animal confined and reasonably safe from predators, and provide enough shelter and room to provide humane conditions as defined in Section 3-102 of the City Code.

##### (ii) Slaughter

- a. **Small agricultural animals may be slaughtered and butchered on-site for personal use provided this occurs a minimum of 20 ft from the property line and outside of the public view or within an enclosed structure.**
- b. **Commercial slaughtering is not permitted except in USDA licensed locations.**

##### (iii) Maintenance

The site shall be maintained in accordance with the adopted City Property Maintenance Code. At a minimum, the property shall be maintained in a clean and sanitary fashion to prevent the unreasonable accumulation of waste or other noxious substances, the emanation of noxious odors, or the presence of vermin.

##### (iv) Excluded Animals

**Pigs are not considered *Small Agricultural Animals* and may not be kept within the city as an Urban Agricultural use. Vietnamese Pot-Bellied Pigs are considered domesticated pets and are subject to Chapter 3, Article 1 Section 3-104(D) of the City Code.**

**(2) Standards that apply in the CO, CD, CS, CC, and CR District**

*Small Animal Agriculture* permitted in these commercial districts is limited to beekeeping, **insects**, and **fish aquatic organisms**. This restriction does not apply to pet stores or similar uses in these districts.

**(3) Bees**

**(i)** Africanized honey bees are not permitted.

**(ii)** Up to 2 colonies may be located on a lot of  $\frac{1}{4}$  acre or less; 4 colonies on lots between  $\frac{1}{4}$  and  $\frac{1}{2}$  acre; 6 colonies on lots of  $\frac{1}{2}$  to full acre. 8 colonies are permitted on any property larger than an acre (except that additional colonies are permitted when they are set back at least 200 ft from all property lines.)

**a.** For every 2 colonies permitted on a tract there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 9  $\frac{5}{8}$  inch depth 10-frame hive body with no supers, the part of the beehive that is used to collect honey, attached as required from time to time for swarm management.

**b.** Each such nucleus colony shall be moved to another tract or combined with another colony on the subject tract within 30 days after the date made or acquired.

**(iii)** Every person owning a hive, stand, box or apiary on property other than their residence shall identify such hive, stand box or apiary by a sign or other prominent marking stating in letters at least one inch high on a contrasting background the name and phone number of the owner of such equipment

**(iv)** The following locational requirements apply to all hives:

**a.** No hive shall exceed 20 cubic feet in volume.

**b.** Hives are permitted only in the side and rear yards, unless roof-mounted.

**c.** No hive shall be located closer than 3 ft from any property line.

**d.** No hive shall be located closer than 10 ft from a public sidewalk or 25 ft from a principal building on an abutting lot. (Hives must be relocated as needed as abutting lot develops.)

**e.** If a hive is within 10 ft of a property line and is located less than 10 ft off the ground, a flyway barrier is required.

**(v)** A flyway barrier, when required, shall be at least 6 ft tall and extend 10 feet beyond the colony location on each side. It can be solid, vegetative, or any

combination of the two that forces the bees to cross the property line at a height of at least 6 ft.

- (vi) The beekeeper shall promptly requeen the colony if the colony exhibits unusual defensive behavior without due provocation.
- (vii) A constant supply of water shall be provided for all hives within 25 ft of each hive between March 1 and October 31 of each year.
- (viii) Bee hotels are not subject to these regulations.

(4) **Fowl**

- (i) Fowl may be kept on a property only as an accessory use to a permitted primary use.
- (ii) The maximum number of **Permitted** fowl is limited to:
  - a. One fowl per 500 sq ft of lot size, rounded down; and
  - b. No more than 20 fowl, regardless of the size of the lot.
- (iii) Any person who owns, keeps, or harbors fowl, i.e. chickens and ducks, shall provide a coop or other similar shelter.
  - a. Any coop or shelter shall be screened or walled in a manner that allows the Permitted Fowl to be reasonably protected from predators.
  - b. Any coop or shelter shall be a minimum of 3 sq ft in size per fowl if the fowl have an enclosed outdoor run, or 10 sq ft in size per fowl if the fowl do not have an enclosed outdoor run.
  - c. Any coop or shelter shall be constructed in a manner that is consistent with the requirements of this section. In the event that the coop or shelter qualifies as an accessory structure then all requirements **regarding placement and setbacks for accessory structures in Section 20-533** must be met.
  - d. In no event shall any coop or shelter be located nearer than 5 foot from any neighboring property line.
  - e. Any coop or shelter shall be maintained in a clean and sanitary fashion to prevent the unreasonable accumulation of waste or other noxious substances, the emanation of noxious odors, or the presence of vermin.
  - f. A roost shall be provided for each chicken, with a minimum length of 10 inches per chicken and a minimum size of 8 sq inches. A roost is not required for ducks.
  - g. For every three chickens, a minimum of one laying box space, with a minimum size of one square foot, shall be provided. Each laying box shall contain adequate clean bedding material such as hay or other soft material. A laying box is not required for ducks.

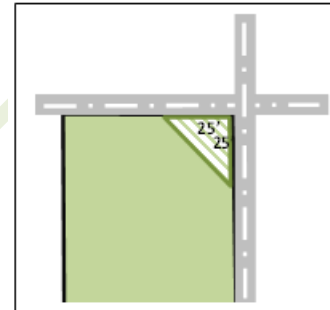
(5) **Goats and Sheep**

- (i) Goats and sheep may be kept on a property only as an accessory use to a permitted primary use.
- (ii) Only small goats and sheep are permitted as *Small Animal Agriculture*. Breeds which would be considered small goats ~~are~~ include Pygmy Goats, Nigerian Dwarf Goat and Miniature Dairy Goats. Breeds which would be considered small sheep include Harlequin Sheep, North American Shetland Sheep, and Chevoit Sheep.
  - a. Breeds are limited to those that do not exceed 24" at the withers.
- (iii) Male goats over the age of four weeks must be neutered.
- (iv) The following standards regulate the number of goats or sheep that may be kept on a property.
  - a. A minimum of 2 goats or 2 sheep may be kept on a property. A single goat or a single sheep is not permitted.
  - b. 2 goats or 2 sheep may be kept on a property with a minimum of 10,000 sq ft of area.
  - c. Up to 4 goats and sheep may be kept on a property with a lot area of 20,000 sq ft or more.
  - d. Nursing offspring of goats and sheep permitted through the provisions of this Code may be kept until weaned, no longer than 12 weeks from birth, without violating the limitations of this sub-section
  - e. The maximum number of goats and sheep that can be kept on an *Urban Farm* would be established through the Special Use Permit process.
- (v) The following standards apply to any structure used to house goats and sheep:
  - a. Goats and sheep shall be housed in a **predator resistant, covered** structure with an open air enclosure.
  - b. The structure shall be located a minimum of 50 ft from any off-site dwelling.
  - c. The structure shall be located in the rear yard and a minimum of 15 ft from adjacent properties.
  - d. The structure shall provide a minimum of 10 sq ft of living area per goat or sheep.

- e. A fenced open air enclosure shall be provided which has a minimum area of 150 sq ft per goat or sheep.

## 20-548 CROP AGRICULTURE

- (1) Crops may be grown within the public right-of-way adjacent to the property without the need to obtain a use of right-of-way permit; however, the use is temporary and may need to be abandoned when street or infrastructure improvements are proposed.
- (2) The following locational requirements apply to all crops:
  - (i) Crops may not exceed 3 ft in height when located within 8 ft of the roadway to avoid interference with visibility for driveways and other access points.
  - (ii) **If a sidewalk on the property is more than 8 ft from the roadway, crops may not exceed 3 ft in height between the sidewalk and the roadway.**
  - (iii) Crops may not exceed 3 ft in height within 3 ft either side of a sidewalk to allow for visibility.
  - (iv) Crops may not be planted within 1 ft on either side of the sidewalk and may not be allowed to grow onto the sidewalk.
  - (v) Crops taller than 3 ft are not permitted within the sight distance triangle (area created by connecting the endpoints of two 25 ft lines, measured along the curb line, from the intersection of two adjacent streets). See figure.
- (3) The following maintenance requirements apply to all *Crop Agriculture* uses:
  - (i) The site shall be designed and maintained so as to prevent the free flow of stormwater, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, sidewalks, or alleys.
  - (ii) The site shall be kept free of debris or high grass or weeds, taller than 12 inches, (***Crop Agriculture* plants are not considered weeds as defined in Section 18-302(f) of the City Code and are exempt from the weed provisions in Section 18-304 of the City Code.**)



## 20-549 FARMERS MARKETS

The following standard applies in the RS and RM and GPI zoning districts.

- (1) Farmers Markets may occur through approval of a site plan when accessory to one of the following uses: *Schools, Religious Institutions, Cultural Center/Library, Day Care Center, College/University, Lodge, Fraternal & Civic Assembly; Social*



*Service Agency, and Adaptive Reuse of a Registered Historic Property, provided adequate parking is provided.*

## **20-550 ON-SITE AGRICULTURAL SALES**

### **(1) GENERAL STANDARDS**

**(i)** Only **unprocessed items**: eggs, honey, or whole, uncut (except as necessary for harvesting), fresh produce and/or horticultural products may be donated, sold on-site, or distributed through Community Supported Agriculture (CSA) pick-ups as On-Site Agricultural Sales.

**a.** **On-site sales refers to products grown or produced on the premises and products that are grown or produced on another site with the City that is maintained by the operator of the sales site when sold in conjunction with products grown on the premises.**

**(ii)** **On-Site Agricultural Sales may occur between 8 AM and 8 PM.**

**(iii)** Exterior display of product is permitted during sale hours.

**(iv)** Any stands used for the display or sale of products shall be located a minimum of **20 ft** from the curb or roadway and shall be temporary; being removed and stored when sales are not in progress.

**(v)** The sales area may include a retail sales area (stand and/or display area) as noted below:

**a.** **Sales area of up to 100 sq ft permitted for lots up to 7,000 sq ft in area.**

**b.** **Sales area of up to 150 sq ft permitted for lots up to 10,000 sq ft in area.**

**c.** **Sales area of up to 300 sq ft permitted for lots larger than 10,000 sq ft in area.**

**(vi)** One temporary, unilluminated sign advertising only food or horticultural products may be displayed during sales.

**a.** **The sign must be located a minimum of 20 ft from the curb or roadway or it may be placed flat on a wall or door or displayed in a window.**

**b.** **The sign face may not exceed 2 sq ft in area and the sign may not be more than 3 ft in height.**

**c.** ~~**The sign may not be located within the public right-of-way.**~~

### **(2) Urban Farms**

- (i) *On-Site Agricultural Sales* are permitted on Urban Farms in Residential District subject to area and locational standards established with the Special Use Permit.
  - a. Urban Farms in residential districts which were in existence prior to the adoption of these regulations and are operating under an automatic SUP shall comply with the general *On-Site Agricultural Sales* standards in this section.

## 20-551 URBAN FARM

### (1) Special Use Permit for *Urban Farms* in Residential Districts

- (iii) An Urban Agriculture use is considered an *Urban Farm* when it includes uses permitted as Crop Agriculture and/or Small or Large Animal Agriculture but exceeds the standards set by the Code for these uses. These standards include, but are not limited to, the maximum number of animals per size of lot, the maximum permitted size of the on-site sales area, hours of on-site sales, ~~number of employees~~, and accessory activities on the site such as educational sessions.
- (iv) An *Urban Farm* that was in existence in a residential zoning district prior to the adoption of these regulations (date) will be considered to have an automatic Special Use Permit. **It will be necessary for owners/operators of *Urban Farms* to register the use with the Planning Office by Jan. 1, 2017 to qualify for the automatic Special Use Permit. Any alteration or expansion of the *Urban Farm* use are subject to the Special Use Amendment procedures of Section 20-1306 with the provisions included in the following section.**
- (v) Given the nature of an *Urban Farm* use, an aerial photo may be used as the basis of the Special Use Permit plan. The plans are not required to be developed by a design professional, but must clearly show the details/dimensions necessary to insure setbacks are met, required screening is provided, and that parking areas and drive aisles meet the parking standards in Article 9.

### (3) Accessory Uses Permitted by Right

#### (i) Agricultural Processing

- a. The primary agricultural product being processed must be grown or produced on the premises.
- b. Potentially offensive external effects shall be mitigated to insure compatibility with nearby land uses.
- c. Off-Street Parking is required at the same rate as the *Limited Manufacturing and Production* use in Article 9.

#### (ii) Education/Training/Outreach Programs.

**(iii) Employment**

- a. An Urban Farm in a residential district may have employees that exceed the Home Occupation limit.

DRAFT

## CHANGES TO OTHER SECTIONS OF THE DEVELOPMENT CODE

### Section 20-602(e)(6)(viii)

Covered Accessory Structures (Buildings) are items such as garages, greenhouses, storage Buildings, wood sheds, covered decks, *coops for fowl, or other agricultural structures*, and covered porches. Covered Accessory Structures that are six feet or less in Height are allowed in required Side and Rear Yards, and covered Accessory Structures greater than six feet in Height are allowed in the required Rear Yard where an Alley abuts the Rear Lot Line, but no covered Accessory Structure is allowed in a required Front Yard.

### Section 20-533 General Standards For Accessory Structures

The standards of this subsection apply to all accessory uses and structures.

#### (1) Time of construction

Accessory Structures shall be constructed in conjunction with or after the Principal Building. They shall not be built prior to the construction of the Principal Building.

- (i) **No principal building is required for structures that are accessory to a Crop Agriculture or Urban Farm use.**

#### (2) Subordinate Nature

- i. Accessory Uses shall be a subordinate part of a Principal Use and be clearly incidental to a Principal Use.
- ii. Accessory Structures shall be of secondary importance and subordinate in size and Scale to the Principal Building on a site.

#### (3) Density and Dimensional Standards

Unless otherwise expressly sated, the Setback, Height, and Building coverage standards of the Base District apply to both principal and Accessory Structures (See Density and Dimensional Standards, Article 6). Accessory Structures in residential districts shall be located to the rear of the front Building line and may be located as close as 5' to interior and Rear Lot Lines. Setbacks from interior Side Lot Lines shall not apply to accessory Buildings placed on lots that abut Alleys. An Accessory Structure may be located up to the rear property line when the Lot abuts an Alley and when the doors to the Building do not open directly onto the Alley. There shall be no Setback required between an Accessory Structure and an Alley when Access to the Structure is parallel to the Alley, except that no part of the Structure shall overhand or otherwise encroach onto the Alley.

- (i) **These setback requirements apply to structures used for Urban Agriculture unless a different setback is specified in Section XXXX.**

#### (4) Building Coverage

- (i) A detached Accessory Structure may not have a larger footprint than the Building footprint of the Principal Building.
- (ii) The combined footprint of all Accessory Structures may be equal to the footprint of the Principal Building or 20% of the Lot Area provided the total footprint of all Structures does not exceed the maximum Building coverage as permitted by Sec. 20-601(a) or (b) for the corresponding Zoning District.

- (iii) **Seasonal *Crop Agriculture* structures used to extend the growing season such as cold frames, low tunnels, and hoophouses that are exempt from building permit requirements are exempt from these Building Coverage regulations.**

## **PARKING**

### 20-902 Off-Street Parking Schedule A

Use Category	Minimum Number of Vehicle Parking Spaces Required	Minimum Number of Bicycle Parking Spaces
Agricultural Sales	1 per 500 square feet of Building area + 1 space per acre of outdoor storage or assembly	1 per 10 auto spaces
Agriculture, Small Animal	<i>None</i>	<i>None</i>
Agriculture, Large Animal	<i>None</i>	<i>None</i>
Agriculture, Crop	<i>None</i>	<i>None</i>
On-Site Agricultural Sales	<i>None</i>	<i>None</i>
Farmers Market	<i>Schedule D</i>	<i>5 or 1 per 5 auto spaces, whichever is greater</i>
Urban Farm	1 per employee on largest shift	1 per 5 auto spaces

## PERMITTED USE TABLE: LEGEND

A: Use must be accessory to another use on the site

P: The use is permitted in this zoning district. Site planning may be required.

S: The use is permitted when approved with a Special Use Permit.

\*: Use specific standards in Article 5 apply to the use. (The section numbers will be added when the language has been approved and numbering finalized.)

20-402 Residential District Use Table		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	Use Standards
Urban Agriculture	Agriculture, Crop	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	
	Agriculture, Small Animal	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	
	Agriculture, Large Animal	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	
	On-Site Agricultural Sales	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	
	Farmers Market	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	
	Urban Farm	S*	S*	S*	S*	-	-	-	-	-	-	-	-	-	-	
Retail Sales & Services	Agricultural Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

20-403 Non-Residential District Use Table		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	Use Standards
Urban Agriculture	Agriculture, Crop	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	
	Agriculture, Small Animal	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	
	Agriculture, Large Animal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	On-Site Agricultural Sales	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	
	Farmers Market	P	P	P	P	P	P	P	P	P	P	S	S	S	A	-	
	Urban Farm	-	-	-	-	-	-	-	-	-	P*	P*	P*	-	-	-	
Retail Sales & Services	Agricultural Sales	-	-	-	-	-	P	P	P	-	P	-	P	-	-	-	

## PROPOSED REVISIONS TO CHAPTER 3 *REGULATION OF ANIMALS*, CITY CODE

(*new language is shown below in bold print. Deleted text is shown as struckthrough.* Regulations in Section 5, Fowl have been moved to the Development Code and the exemptions moved to the exemption section in this chapter.)

### ARTICLE 1. GENERAL REQUIREMENTS CONCERNING ANIMALS

#### 3-104 ANIMALS EXCLUDED FROM PROHIBITION

(A) Animals excluded from prohibition are:

- (1) Domestic dogs, except those hybridized with wild canines.
- (2) Domestic cats, except those hybridized with wild felines.
- (3) Domesticated rodents.
- (4) Domesticated European ferrets.
- (5) Rabbits, except that no more than three (3) rabbits shall be permitted in a residentially-zoned district **unless they meet the definition of a Small Animal Agriculture use, as defined in Section 20-1775 in the City Land Development Code, Chapter 20 of the City Code.**
- (6) Birds, except for species protected by state or federal law and ~~species prohibited by Article 5 of this chapter, subject to the provisions in subsection (14), 3-108 and 3-109. (Ord. 8378, Ord. 8942)~~
- (7) Nonvenomous snakes less than eight (8) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property.
- (8) Nonvenomous lizards.
- (9) Turtles, except for species protected by state or federal law.
- (10) Amphibians
- (11) Fish.
- (12) Invertebrates.
- (13) Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian.
- (14) Any animal in the ownership of a person designated and licensed as an animal rehabilitator or falconer by the Kansas Wildlife and Parks Department.
- (15) Any animal in the ownership of a person temporarily transporting such animal through the city.



- (16) Any animal in the ownership of a bona fide medical institution or accredited educational institution.
- (17) Any animal exhibited for sale, show or other temporary purpose at the Douglas County Fairgrounds.
- (18) Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals.
- (19) Domesticated Hedgehogs. (Ord. 8214)
- (20) Vietnamese Potbellied Pigs subject to Chapter 3, Article 1, Section 3-104(D) of the Code of the City of Lawrence, Kansas. (Ord. 8696)
- (21) **Animals that fit the definition of a Small or Large Animal Agriculture use in Section 20-1775 of the City Land Development Code are permitted when kept as part of an Urban Agriculture use in compliance with the standards in the Development Code.**
- (22) **The owning, keeping, or harboring of animals permitted as Small Animal Agriculture in the Development Code by Retail Establishments, Construction Sales and Services, Agricultural Sales, or Agricultural, Animal uses located in industrial or commercial zoning districts, for the purposes of retail or wholesale sales.**
- (23) **The owning, keeping or harboring of animals permitted as Small Animal Agriculture in the Development Code by educational institutions.**
- (24) **Any animal permitted as Large or Small Animal Agriculture may be kept or harbored, on a temporary basis, during any fair, show, or exhibition at the Douglas County Fairgrounds.**
- (25) **The temporary possession of fowl, as defined in the Development Code, by the United States Postal Service or commercial package or parcel delivery service until such time as the fowl are delivered to the addressee.**
- (B) Persons legally owning goats, kids, sheep, rabbits or hares, horses, cows, mules or donkeys one hundred fifty (150) feet away from any building used for human habitation pursuant to Section 3-101 of the 1990 Code prior to December 30, 1992, shall be allowed to continue such use, provided ownership remains with the same person on the same property. Provided, the City Commission may suspend enforcement of this subsection, or establish reasonable conditions for the enforcement thereof, for property annexed into the City after December 30, 1992. (Ord. 8214) **This section does not pertain to animals kept as part of a Small or Large Animal Agriculture use permitted in the Land Development Code as Urban Agriculture.**

- (C) The Municipal Court Judge may order the confiscation of a prohibited animal if the animal poses an immediate danger to the public or itself. Upon the conviction of a person for owning an animal as prohibited by this Chapter, the Municipal Court Judge shall order the animal confiscated and transferred to an appropriate licensed animal rehabilitation or care facility. The Municipal Court Judge may order the release of the animal to the owner provided that the animal will not be kept within the City limits. (Ord. 6389)
- (D) Owners of Vietnamese potbellied pigs shall ensure that male Vietnamese potbellied pigs over the age of four weeks shall be neutered and females over the age of 120 days shall be spayed. Additionally, adult Vietnamese potbellied pigs shall not exceed 150 pounds and Vietnamese potbellied pigs over the age of 120 days shall be vaccinated against pseudo rabies. Within 120 day of birth or 120 days of permanently entering the City of Lawrence, the owner shall provide to the Lawrence Humane Society verification by a licensed veterinarian that the pig is a purebred Vietnamese Potbellied Pig and a certificate of immunization. The registration may be accomplished by a microchip process. The following sections of Chapter 3 of the City of Lawrence Municipal Code applying to dogs, cats and other animals shall also apply to Vietnamese potbellied pigs; 3-105, 3-105A, 3-106, 3-107, 3-202, 3-202A, 3-202B, 3-202C, 3-203, 3-204, 3-205, 3-206, 3-207, 3-208, 3-209, 3-301, 3-302, 3-303, 3-304 and 3-305. (Ord. 8696)
- (E) **Owners of goats and sheep, shall ensure that male goats over the age of four months are neutered. Goats and sheep over the age of 120 days shall be vaccinated against rabies and leptospirosis. The owners of goats and sheep shall maintain proof of current vaccination.**

### 3-105 CRUELTY TO ANIMALS

- (B) Exceptions: Nothing in subsection A of this Section shall:
  - (1) Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine, or any action taken by a law enforcement officer pursuant to the interests of public health and safety. (Ord. 7123)
  - (2) Be interpreted as prohibiting any act done in self-defense or done to defend another person. (Ord. 7123)
  - (3) **Be interpreted as prohibiting slaughter of animals allowed as Small Animal Agricultural in the City Land Development Code, when carried out in compliance with provisions in Section 20-547.**

### 3-204 IMPOUNDING, REDEMPTION AND DISPOSITION

- (C) **Impoundment, redemption, and disposition of Small- and Large-Agriculture Animals, as defined in Section 20-1775 of the Land Development Code shall comply with the KS Department of Agriculture regulations for livestock as follows:**
  - 1. **No person shall permit an agricultural animal to run at large in the city. Any agricultural animal found at large shall be**

impounded until redeemed by its owner. Owners or their authorized agents, if known, shall be notified within 24 hours of impoundment that they have 10 days within which to claim such animals and to pay all actual costs for taking up, keeping, and feeding of such animals. If not redeemed within 10 days, the animal may be advertised in the newspaper or taken to a livestock market and sold to the highest bidder for cash. The proceeds, after deducting the amount of the costs of impoundment, shall be paid to the owner of the agriculture animal or the owner's authorized agent. If the owner or the owner's authorized agent is not known or cannot be located, the proceeds remaining after the payment of actual costs shall be paid to the county treasurer. Such funds shall be deposited by the county treasurer in the county's special stray fund provided for in K.S.A. 47-239, and amendments thereto. Nothing in this section shall be construed to prohibit the destruction of a critically injured or ill animal for humane purposes.

## ~~ARTICLE 5. CHICKENS AND DUCKS~~

### ~~3-501 PURPOSE.~~

~~The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate the keeping of chickens and ducks within the City limits. (Ord. 8731)~~

### ~~3-502 DEFINITIONS.~~

~~The following words, terms, and phrases, when used in this Article, shall have the following meanings, except where the context clearly indicates otherwise: (Ord. 8378, Ord. 8731)~~

~~(A) "Fowl" shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. For the purposes of this Article, Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.~~

~~(B) "Permitted Fowl" shall, for the purposes of this Article, mean ducks and female chickens.~~

### ~~3-503 KEEPING OF FOWL PROHIBITED; EXCEPTIONS.~~

~~(Ord. 8378, Ord. 8731)~~

~~(A) Except as provided in subsection 3-507 no person shall own, keep, or harbor, on a temporary or permanent basis, any Fowl within the City.~~

### ~~3-505 UNLAWFUL ACTS.~~

~~(Ord. 8378, Ord. 8731)~~

~~(A) Except as otherwise permitted by this Article, it shall be unlawful to own, keep, or harbor Fowl within the City limits.~~

~~(B) It shall be unlawful to own, keep, or harbor, within the City limits, Permitted Fowl in numbers exceeding those permitted by Section 3-503.~~

~~(C) It shall be unlawful to violate any of the regulations regarding coops, roosts, and laying boxes as established at Section 3-504.~~

~~3-506 MUNICIPAL OFFENSE.~~

~~(Ord. 8378, Ord. 8731)~~

~~It shall be a municipal offense to engage in any of the unlawful acts listed at Section 3-505 of this Article. Any person engaging in any of the unlawful acts listed at Section 3-505 of this Article, shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a fine not to exceed \$500.00, incarceration not to exceed 30 days, or both a fine and incarceration.~~

~~3-507 EXEMPTIONS.~~

~~The provisions of this Article shall not apply to the following: (Ord. 8731)~~

~~(A) The owning, keeping, or harboring of Fowl or Permitted Fowl in those zoning districts where the Land Development Code permits such uses as a matter of right or as Small Agriculture Animal as part of an Urban Agriculture use.~~

~~(B) The owning, keeping, or harboring of Permitted Fowl hatchlings by Retail Establishments, Construction Sales and Services, Agricultural Sales, or Agricultural, Animal uses, located in industrial or commercial zoning districts, for the purposes of retail or wholesale sales.~~

~~(C) The owning, keeping, or harboring of Permitted Fowl by educational institutions;~~

~~(D) The temporary possession of Permitted Fowl by the United States Postal Service that are deposited with the United States Mail until such time as the Permitted Fowl are either delivered to the addressee or the addressee retrieves the Permitted Fowl from the Postal Service.~~

~~(E) The temporary possession of Permitted Fowl by a commercial package or parcel delivery service until such time as the Permitted Fowl are delivered to the addressee.~~

~~(F) Any Fowl or Permitted Fowl that may be kept or harbored, on a temporary basis, during any fair, show, or exhibition at the Douglas County Fairgrounds.~~

~~3-508 SEVERABILITY.~~

~~If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8731)~~

**PROPOSED CHANGES TO CHAPTER 9 HEALTH AND SANITATION**  
**ARTICLE 6 THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE**

(new language is shown in **bold** print. Underlined or ~~struckthrough~~ text is part of the current revisions to the Maintenance Code and are not being proposed with this amendment.)

**SECTION 202 OF THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE:** *(definitions)*

**202.2.1 URBAN AGRICULTURE IMPLEMENTS, EQUIPMENT, OR MATERIALS.** (Tools, movable structures, and soil amendments used for small-scale, primarily manual labor, agricultural production. Typical items include, but are not limited to:

- 1) **Non-powered implements** such as buckets, baskets, compost bins or barrels, fencing, ladders, landscape stones, low tunnels, rakes, shovels, trellising, and rain barrels;
- 2) **Powered implements** such as chain saws, chipper-shredders, mowers, rototillers, garden tractors; and
- 3) **Materials** such as mulch, compost, hay or straw bales, top soil, etc.

**SECTION 301 OF THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE:** *(sanitation)*

**301.1.1 Urban Agriculture.** Sites containing Urban Agriculture uses shall be maintained in a clean and sanitary fashion to prevent the unreasonable accumulation of waste or other noxious substances, the emanation of noxious odors, or the presence of vermin.

**SECTION 302.10 OF THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE:** *(exterior property storage)*

**302.10 Exterior Property storage.** No person shall allow on any yard, any porch (unenclosed), deck or balcony, or any other exterior property area of a premises, any of the following items, or an accumulation thereof: garbage, rubbish, bulky waste, salvage materials, tree waste, household appliances, vehicle parts, plumbing fixtures or similar items that are not manufactured and intended for storage within a yard, porch (unenclosed), deck or balcony, unless otherwise allowed by the City's Land Development Code.

**Exceptions:**

1. Firewood that is neatly stacked, provided that such storage shall not be located within the front yard as defined by the City's Land Development Code.
2. Lumber or construction materials that are neatly stacked and are actively being used to improve the property on which they are located.
3. Landscape materials such as edging stones, patio pavers, bricks, mounded or bagged soil, mulch, gravel or similar garden bed materials that are neatly stacked and are actively being used to improve the property on which they are located.

4. Exterior storage areas that are permitted as an accessory use to a principal use in certain nonresidential zoning districts and that have an approved site plan for such use as provided by the City's Land Development Code.
- 5 **Urban Agriculture Implements, Equipment or Materials that are being used in the day-to-day operation of a permitted Crop or Animal Agriculture use may be located within the exterior property area of a premise.**
  - a. **Urban Agriculture Implements, Equipment or Materials that are not being used in the day-to-day operations shall be stored within the side or rear yard, as defined by the City's Land Development Code. These items may not be stored in front of the front plane of the principal structure or within street right-of-way.**
  - b. **Stored Urban Agriculture Implements, Equipment or Materials shall be screened from view of adjacent properties or rights-of-way with vegetation, fencing, walls, or a combination of these measures; or shall be located within an enclosed structure.**
  - c. **Alternative storage locations and screening may be approved for Urban Agriculture Implements, Equipment or Materials with the Special Use Permit for an Urban Farm.**

**302.12 Furniture.** It shall be unlawful for any person to allow on any yard, porch (unenclosed), deck, balcony or other exterior property area of any premises, furniture, other than outdoor furniture, as that term is defined in this Chapter.

**302.13 Upholstered furniture.** It shall be unlawful for any person to allow on any porch (unenclosed), deck, balcony, or other exterior property area of any premises, upholstered furniture, including but not limited to upholstered chairs, upholstered couches, mattresses, or similar items. This section does not apply to outdoor furniture or to a porch (enclosed) as those terms are defined in this Chapter.

**302.14 Trees, tree limbs and tree waste.** No person shall allow in their yard any tree waste, or any dead or substantially dead tree (or dead or damaged tree limbs) that create a hazardous or unsafe condition.

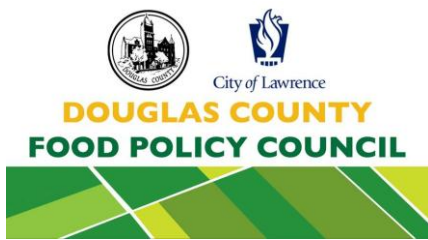
**PROPOSED REVISIONS TO CHAPTER 18 TREES, CITY CODE**

*(new language is shown in **bold print**)*

ARTICLE 3. WEEDS

18-304 WEEDS TO BE REMOVED.

- (A) It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.
  
- (B) Nothing in this article shall be construed to subject trees, shrubbery, flowers, ornamental plants, **crops grown as part of an Urban Agriculture use, as defined in the City Land Development Code**, and properly maintained gardens to the provisions of this Article. The City shall bear no responsibility for the cutting or abatement of trees, shrubbery, flowers, ornamental plants or other vegetation which are not reasonably distinguishable at the time of abatement from other vegetation which is to be abated due to excessive growth.



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**Memo to:** Lawrence-Douglas County Planning Commission

**From:** Helen Schnoes, Douglas County Food Systems Coordinator  
Eileen Horn, Lawrence and Douglas County Sustainability Coordinator

**Subject:** TA-15-00346 (Text Amendment for Urban Agriculture)

**Date:** February 22, 2015

On behalf of the Douglas County Food Policy Council, we once again thank you for supporting a thorough, thoughtful, and engaging process as you have considered the best way to integrate urban agricultural uses into the Land Development Code. We look forward to replicating our positive exchanges and iterative process later this year as we follow the Issue Action Report in creating a Food Plan to incorporate by reference into Horizon 2020.

**We stand behind the proposed text amendment before you today.** Community input has fueled this text amendment's development—including an online survey in August, a public forum in September, a Lawrence Listens campaign over the past month, repeated food policy council meetings, and the comments you heard at your October and December meetings. It remains clear that allowing home food production and urban agriculture can improve how a family accesses healthy food, how a grower generates supplemental income, and how a farmer launches an enterprise. Urban agriculture also aligns with the long-range planning goal of protecting high-quality agricultural soils.

We thank you for the guidance you provided in December, and the conscientious edits that the Planning Department and Mary Miller have made in the draft before you today. We believe this draft strikes the proper balance at the heart of all planning decisions—how to empower our citizens to live healthy and fulfilling lives, while not impinging on the lifestyle of their neighbors. It recognizes that how urban agriculture unfolds in Lawrence is unique to this community. **We thus commit to working with City of Lawrence Communications and Planning staff to create a number of educational materials around the new policies.**

We believe that the language of the draft text amendment **achieves the goal of limiting restrictions** initially to observe how the public adopts some of the newly permitted activities. In particular, we appreciate the changes in the definition of the Urban Farm and the “grandfathering” of current residents whose current activities qualify as an Urban Farm. As the Special Use Permit remains for an Urban Farm, **we offer our professional assistance in both supporting future applicants as they navigate the process, and reviewing applications with you and the Planning Department staff.**

We ask you to honor the process that has led us to this moment, and **vote to approve.** By spring, we shall perhaps see—to indulge in a metaphor—the fruits of our efforts over the past months come to bear, with residents embracing the expansion of allowed urban agricultural practices. As we said in December, this will show the creativity, ingenuity, and resourcefulness of our citizens to pursue new businesses, secure their family's access to healthy foods, and build a stronger local food system.

Thank you for your consideration and efforts to support urban agriculture in Lawrence.

Helen Schnoes and Eileen Horn  
Staff Liaisons, Douglas County Food Policy Council



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Subject: Re: February 22, 2015 Planning Commission Agenda Items

Thanks everybody for a good collaborative process to craft this text amendment. I just returned from the New Urbanism/Smart Growth conference in Portland OR, and just now read the present draft of the amendment. I skimmed it all, and looked more closely at the issues that Sustainability Action has previously expressed concerns about. It all seems quite good, and potentially well harmonized with Chapter 9, the Property Maintenance Code.

There are two things that I have a question about.

- 1) I don't see any definition of "agriculture crops", though there are references to "crop agriculture plants", and to "tree farms" being part of "crop agriculture". If this is the case, a lack of a definition of "crops" (the heart of this matter) strikes me as a serious oversight. The concern for me and other permaculture practitioners is that most of our crops are tree crops. The question was raised at a previous sub committee meeting (or maybe even at a previous Planning Commission meeting) that trees should be allowed to be grown in the right of way and in the sight distance triangle as long as branches are pruned up to allow visibility under the canopy.
- 2) The parking requirement for urban farms is one bicycle space for every five required auto spaces. Given the nature of typical urban growers who tend to ride bicycles more than the average citizen, I think that more bicycle spaces should be required.

Other than that, I think you have done a great job.

thank you,  
Michael Almon  
Sustainability Action