

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. 31st 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. 31st 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.

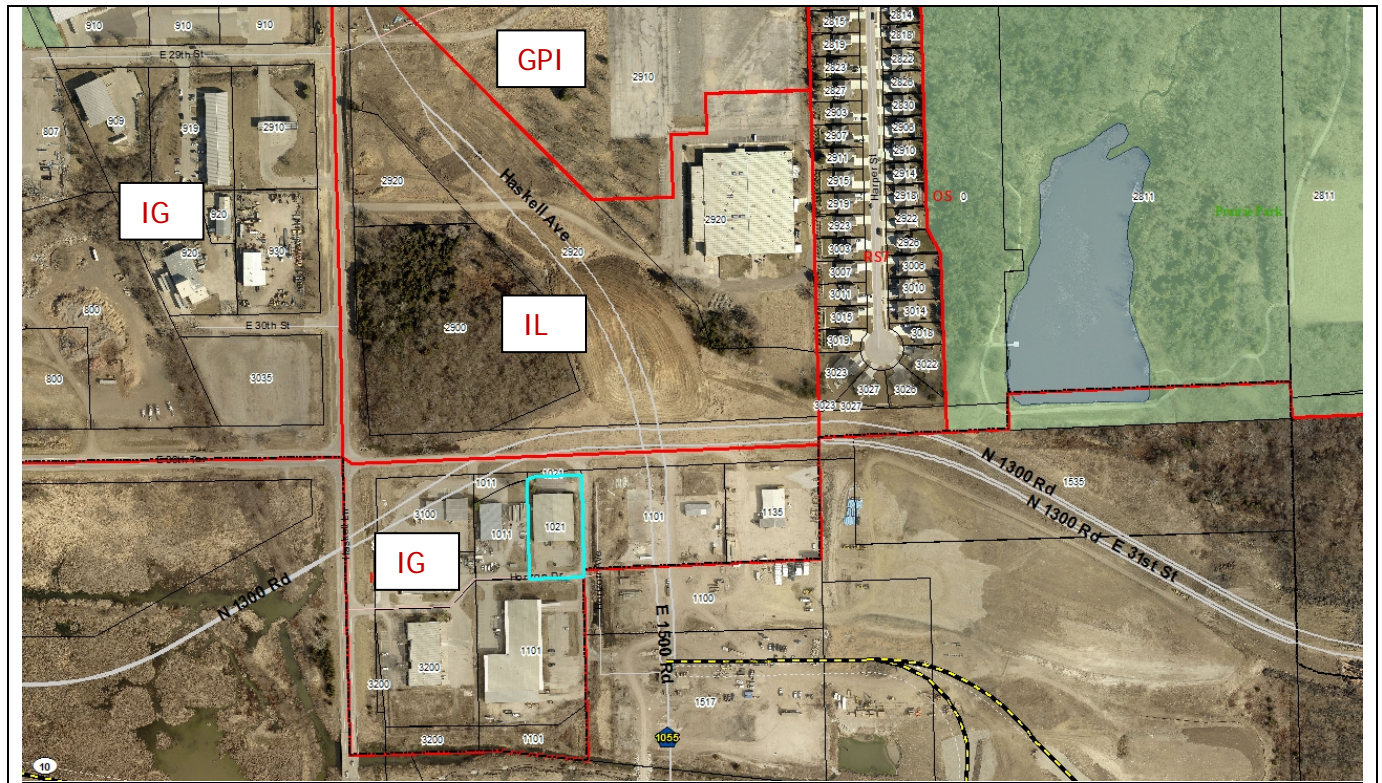


Figure 1. Zoning and land use in the area. Subject property is outlined.

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 Use: 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 31st 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 31st Street were platted and developed in the 1980's and 1990's. The recent extension of E. 31st 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.

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.