

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 31st – 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. 23rd 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. 31st St given by the City Commission included two items:

- 1) A comparative analysis of a secondary site under consideration at 711 W. 23rd St. with the site at 1021 E. 31st 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. 23rd Street and a comparative table of the two properties are included for discussion.

Comparative Table		
	1021 E. 31 st Street	711 W. 23 rd St.
Site Characteristics:		
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 st St. - 12,015	23 rd 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. 23rd 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 31st 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 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. 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 31st 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 31st 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 31st 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 31st 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. 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.

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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.

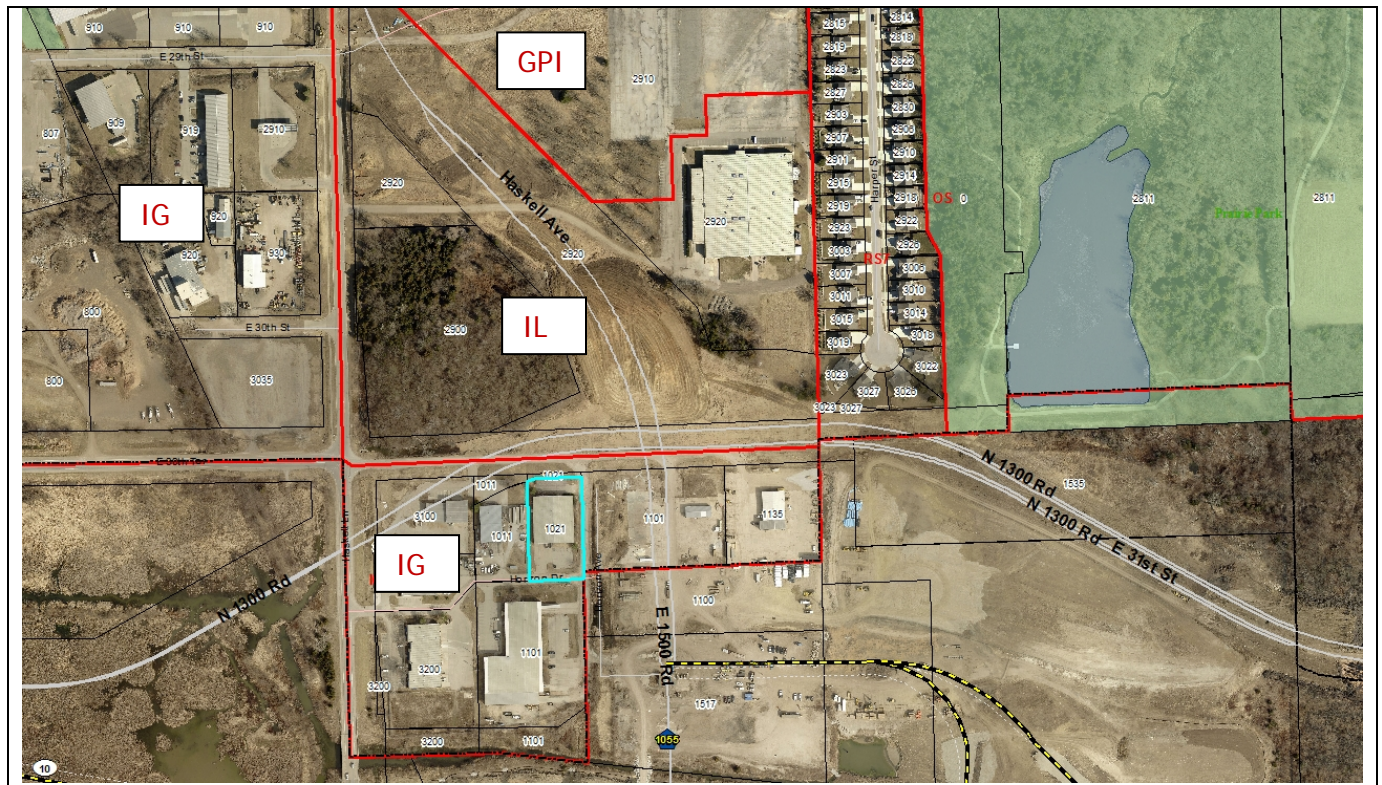


Figure 1. Zoning and land use in the area. Subject property is outlined.

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 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

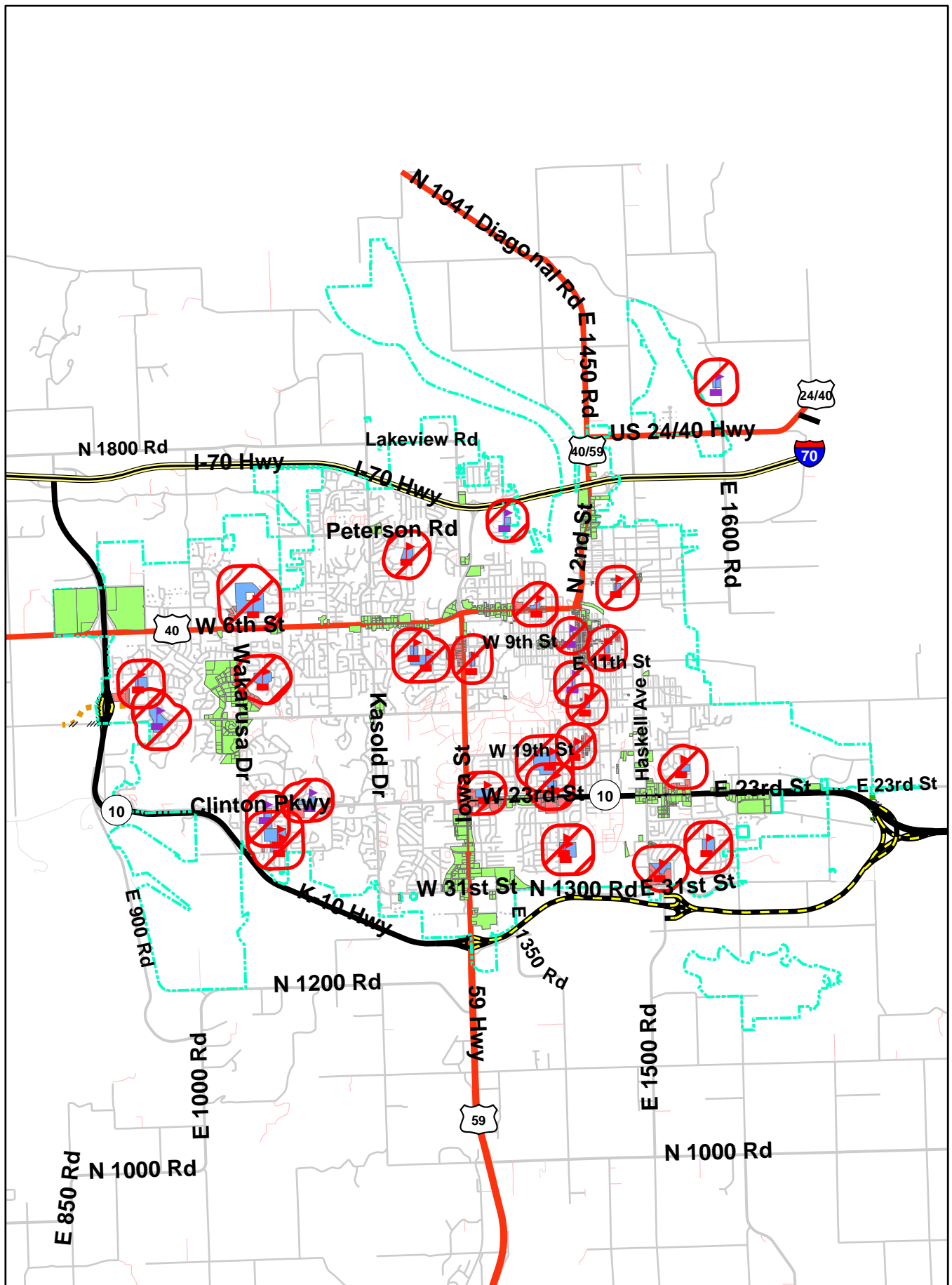
Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

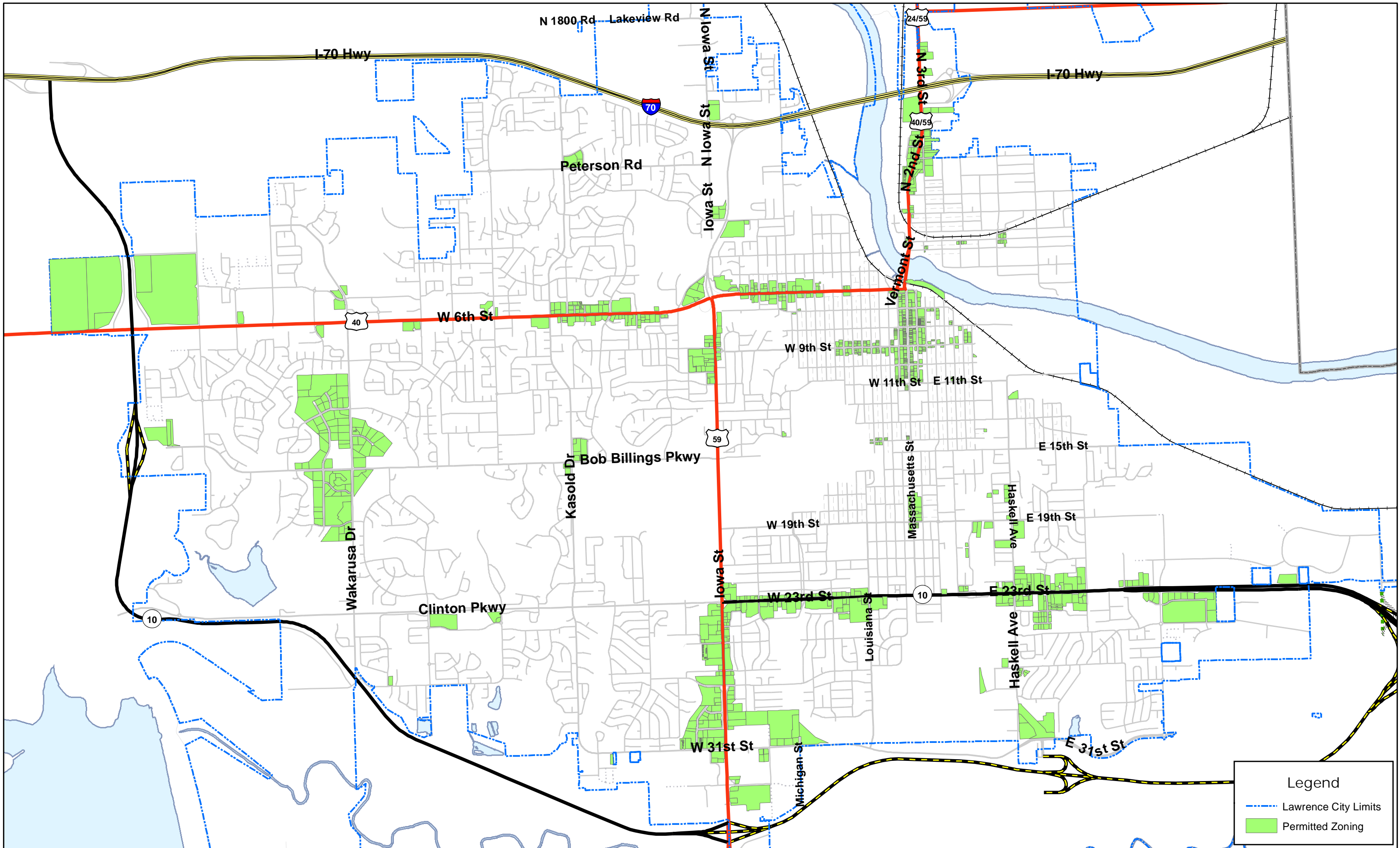
The proposed rezoning is not changing the allowed use of the property in a manner that would be detrimental to public health, safety and welfare. The proposed rezoning allows the applicant to develop a business that is compatible with the area.

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.

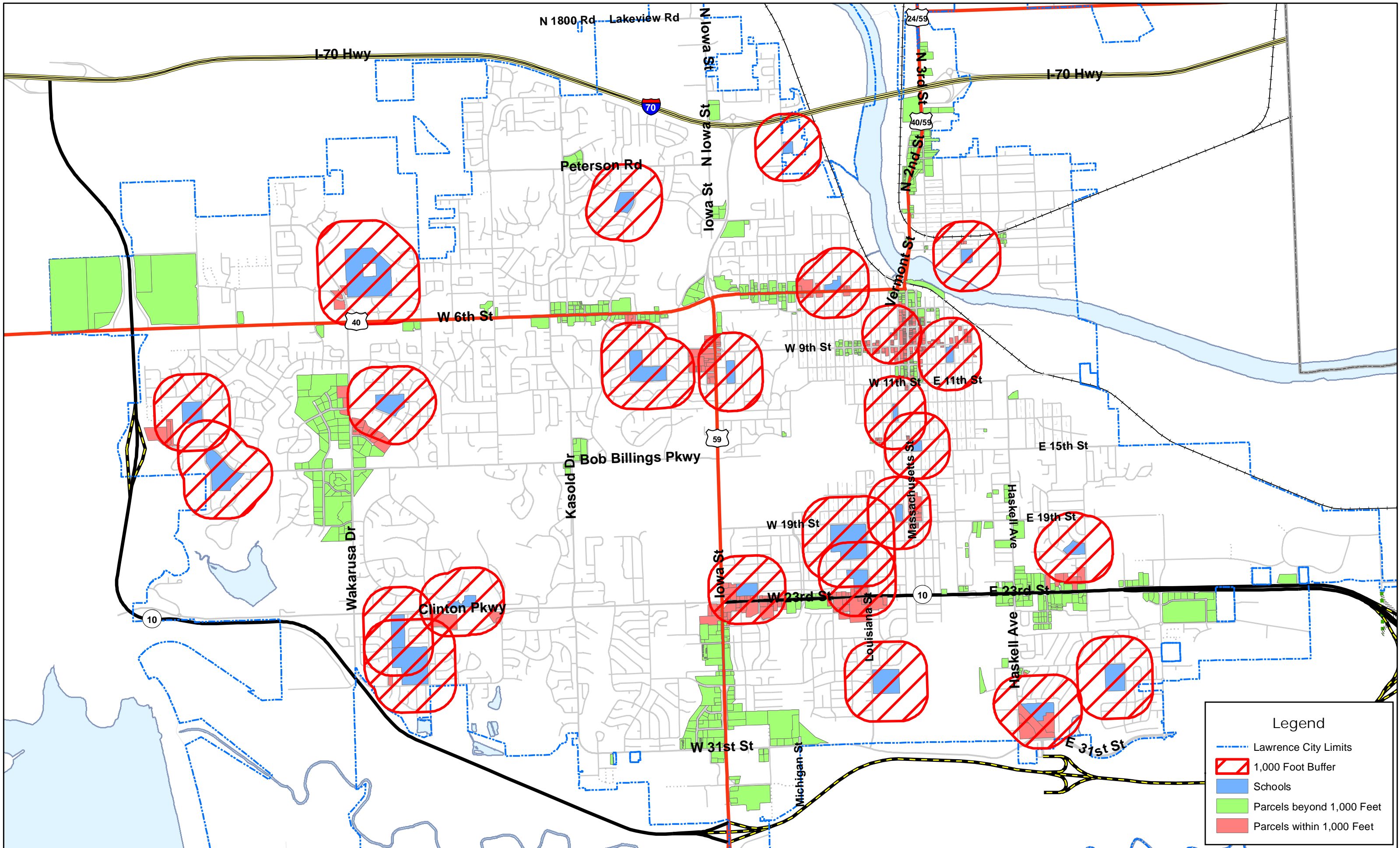


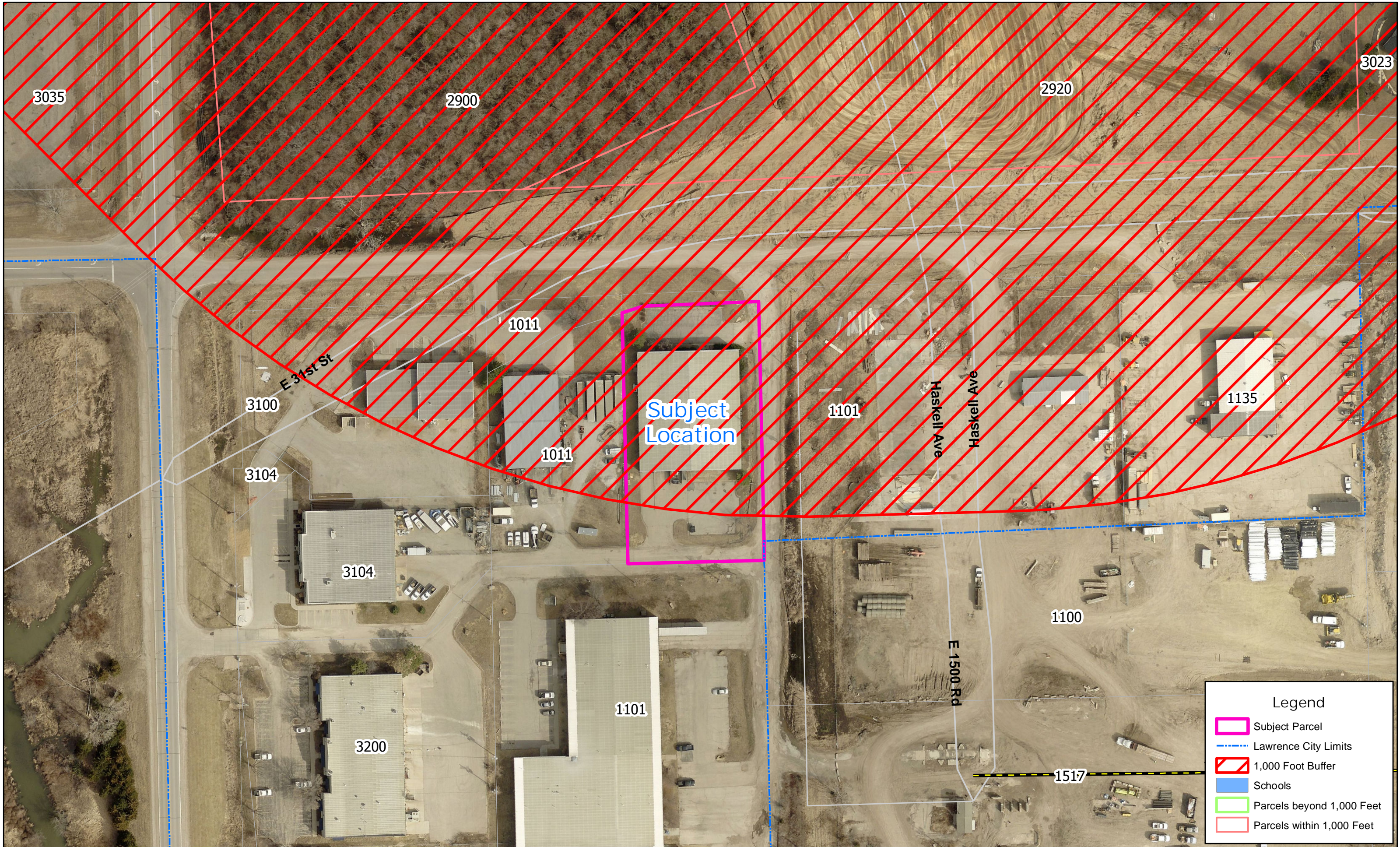


Legend







Lawrence City Limits

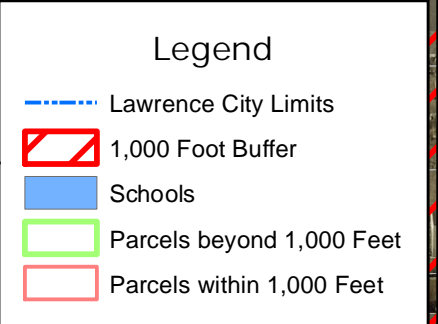
Permitted Zoning

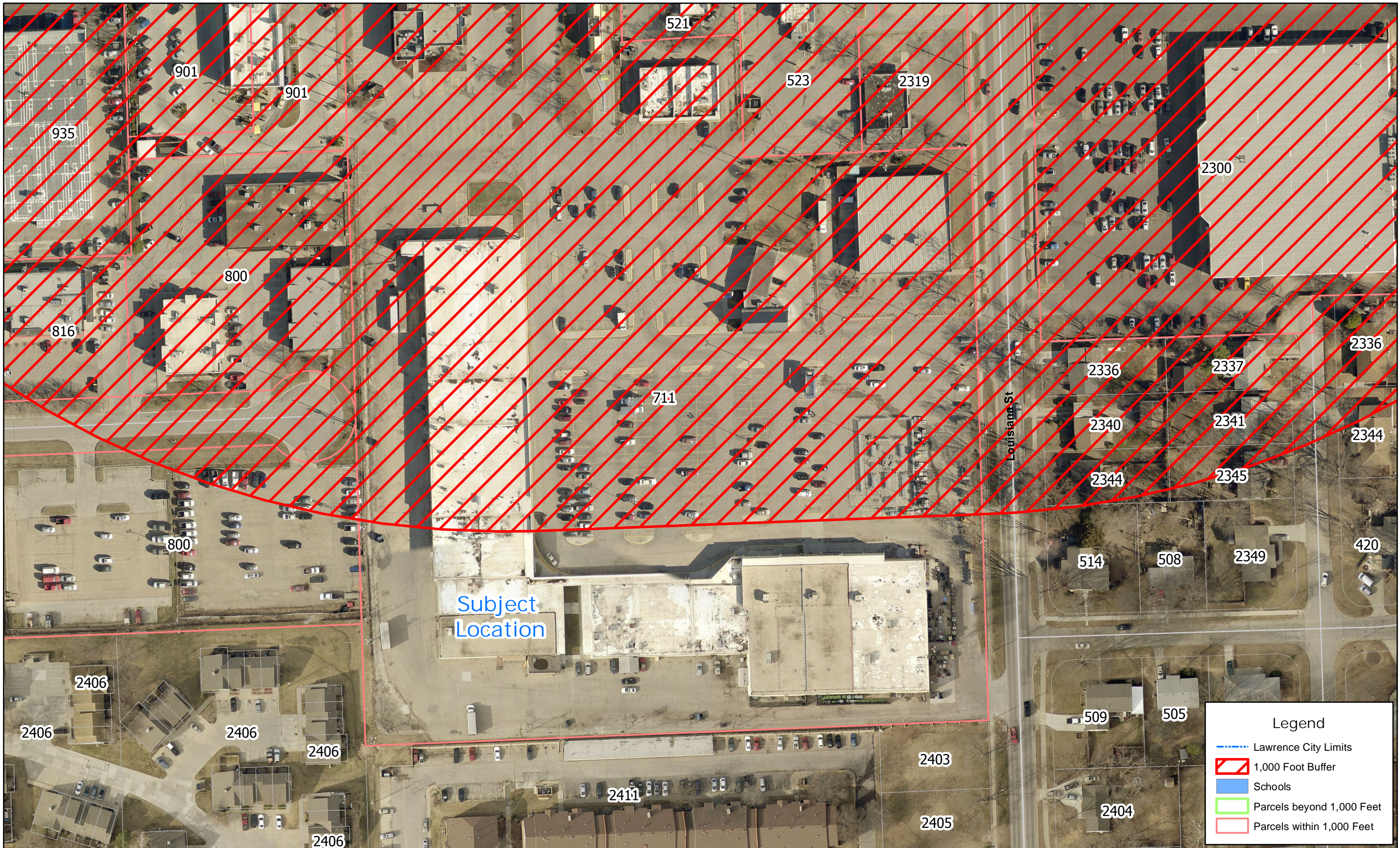




Legend

-  Subject Parcel
-  Lawrence City Limits
-  1,000 Foot Buffer
-  Schools
-  Parcels beyond 1,000 Feet
-  Parcels within 1,000 Feet





Subject
Location

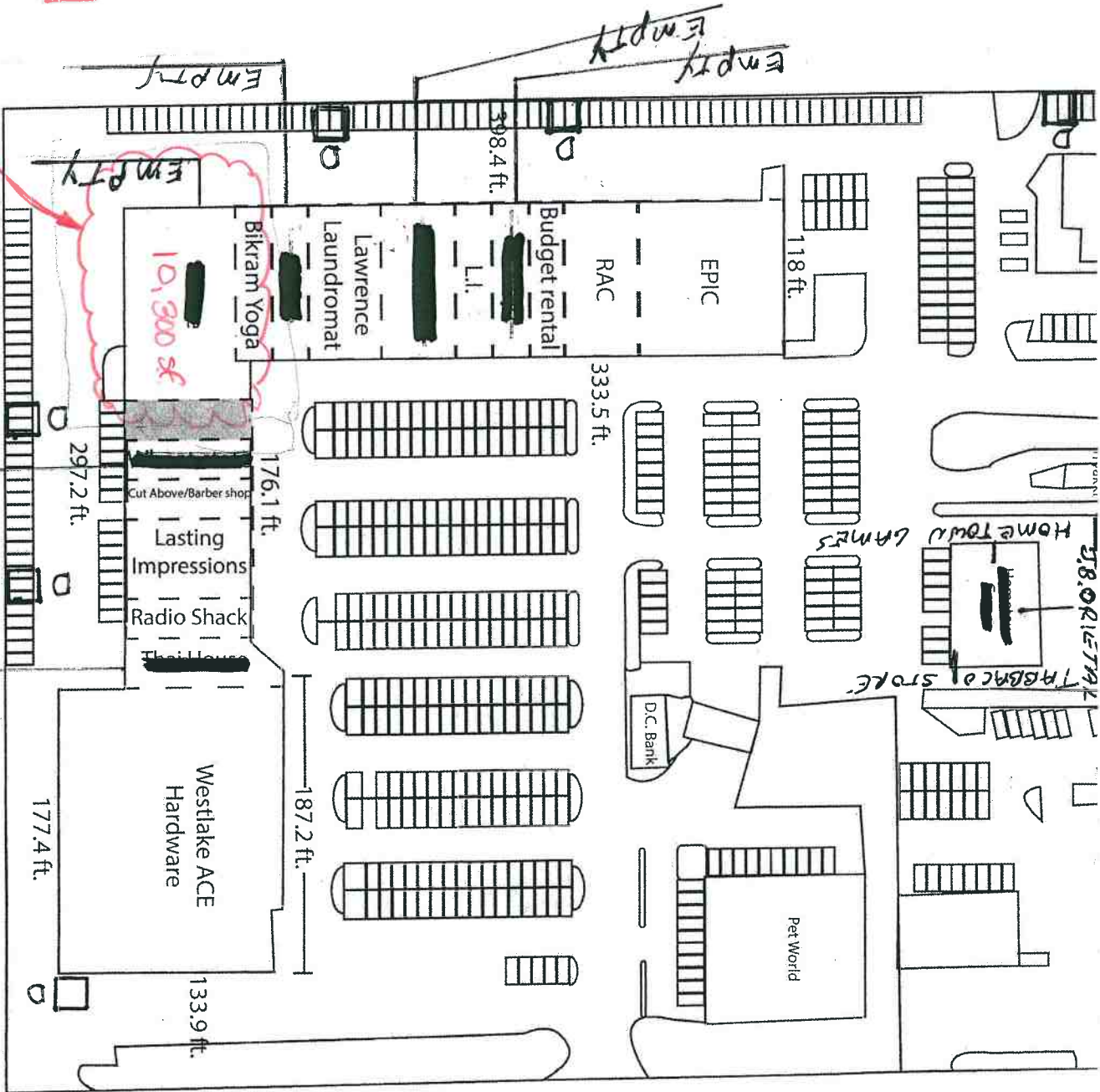
Legend

- Lawrence City Limits
- 1,000 Foot Buffer
- Schools
- Parcels beyond 1,000 Feet
- Parcels within 1,000 Feet

711 W. 23rd St

SHOOTER'S GUN CLUB - PROPOSED GUN RANGE
INTERIOR CHANGES

ONLY: 10 LAUNES
CLASSROOM
LOBBY/DESK AREA
GUN SMITH AREA



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 23rd 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.

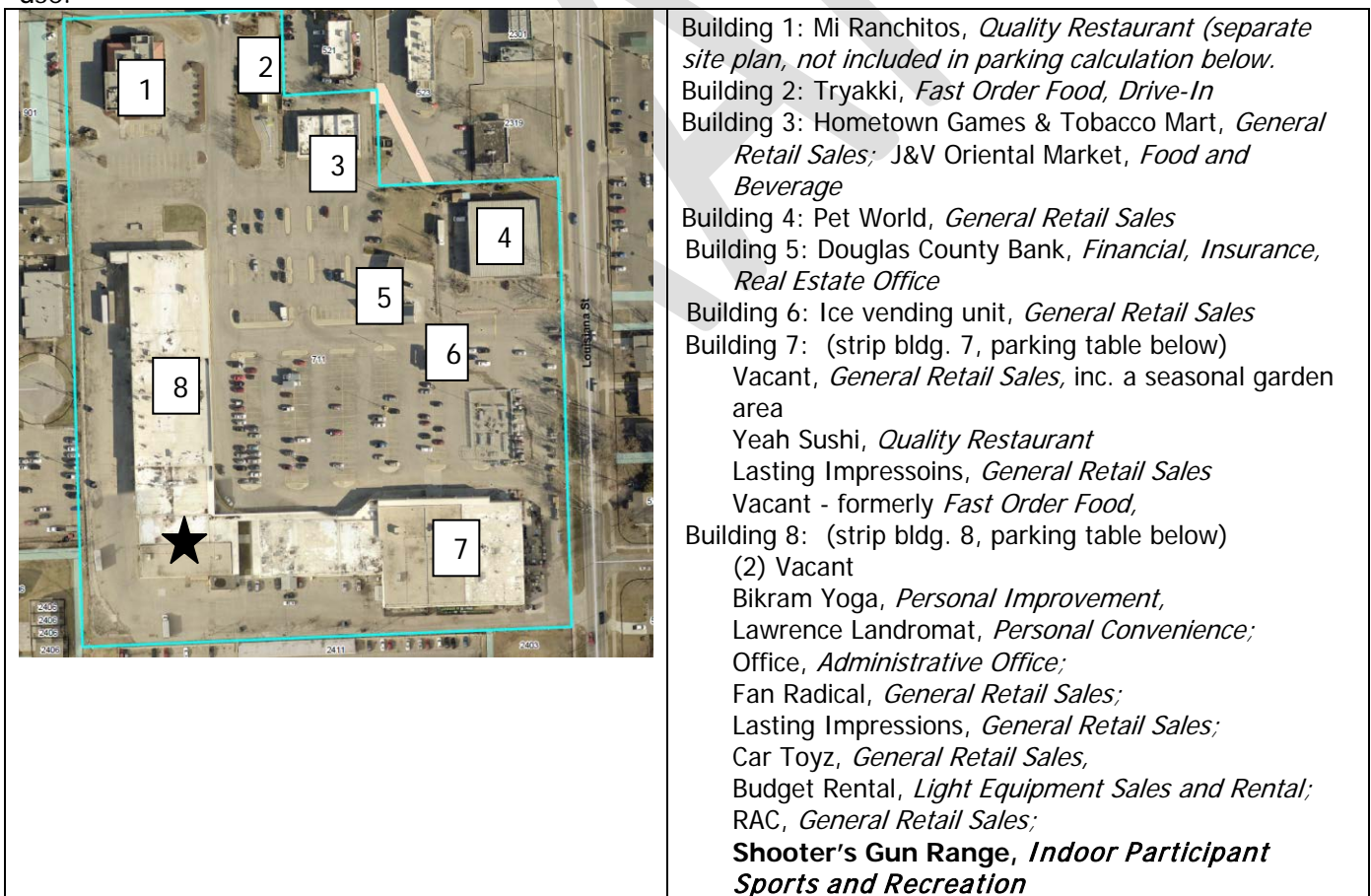


Figure 1. Layout of The Malls Shopping Center. Proposed location of Shooters Gun Range marked with a star.

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
Bldg. 3 General Retail and Food and Beverage Hometown Games Tobacco Mart	4,500	1/300 sq ft	4,555 / 300 = 15 spaces	15
Bldg. 4 Pet Store (<i>General Retail</i>)	10,284	1/300 sq ft	10,284 sq ft / 300 = 35 spaces	35
Office 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

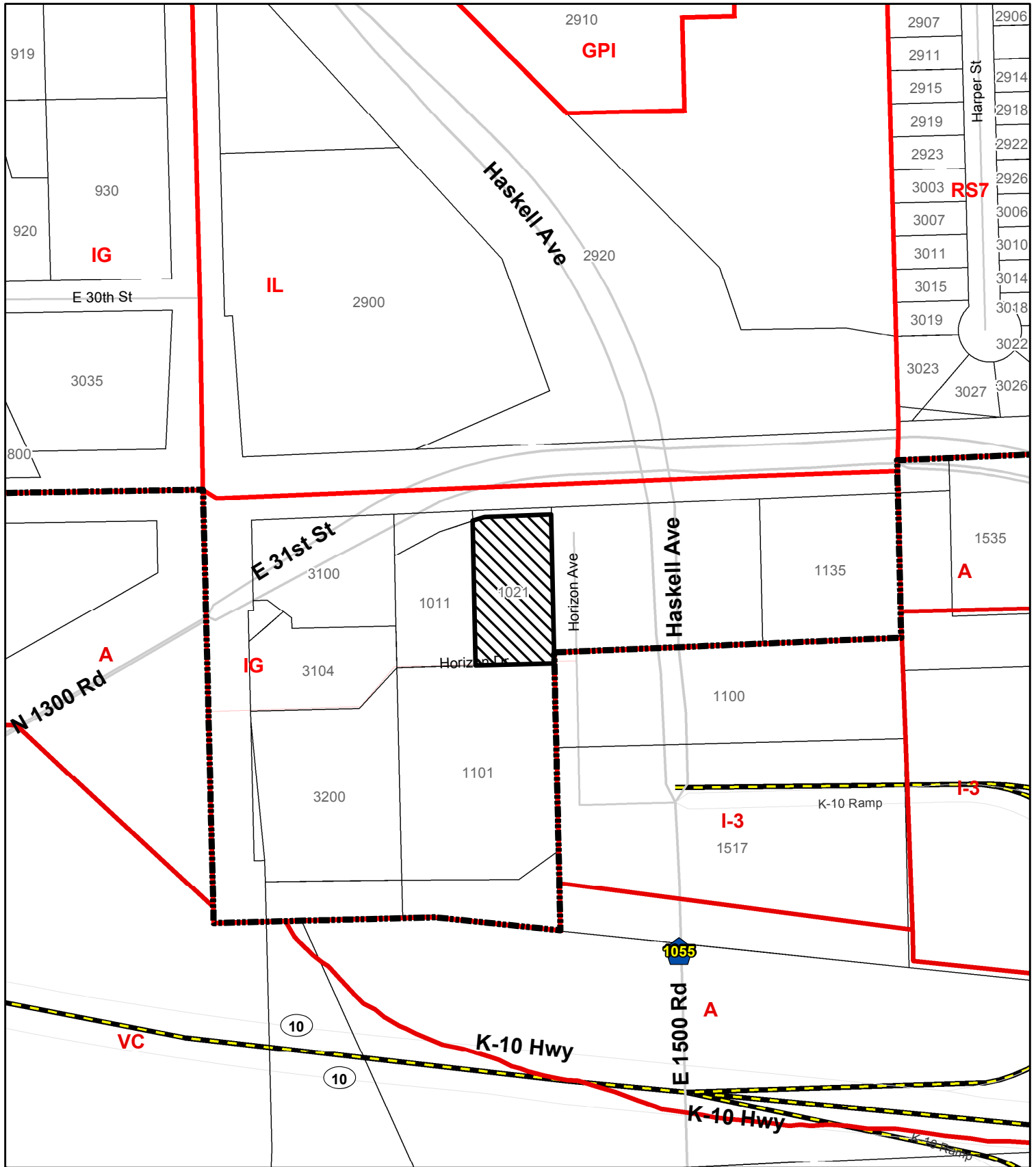
(Fast Order Food)		service area PLUS 1 per employee on largest shift	area 5 employees = 5 spaces	
Ice House Vending (Food and Beverage)	200	1/300 sq ft	200 sq ft/300 = 1 space	1
439 (REQUIRED)				
(when seasonal sales in parking area) * 477 (PROVIDED)				
*521 spaces provided on previously approved plans; 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 31ST 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 31st 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

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

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. Sells¹ 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

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.

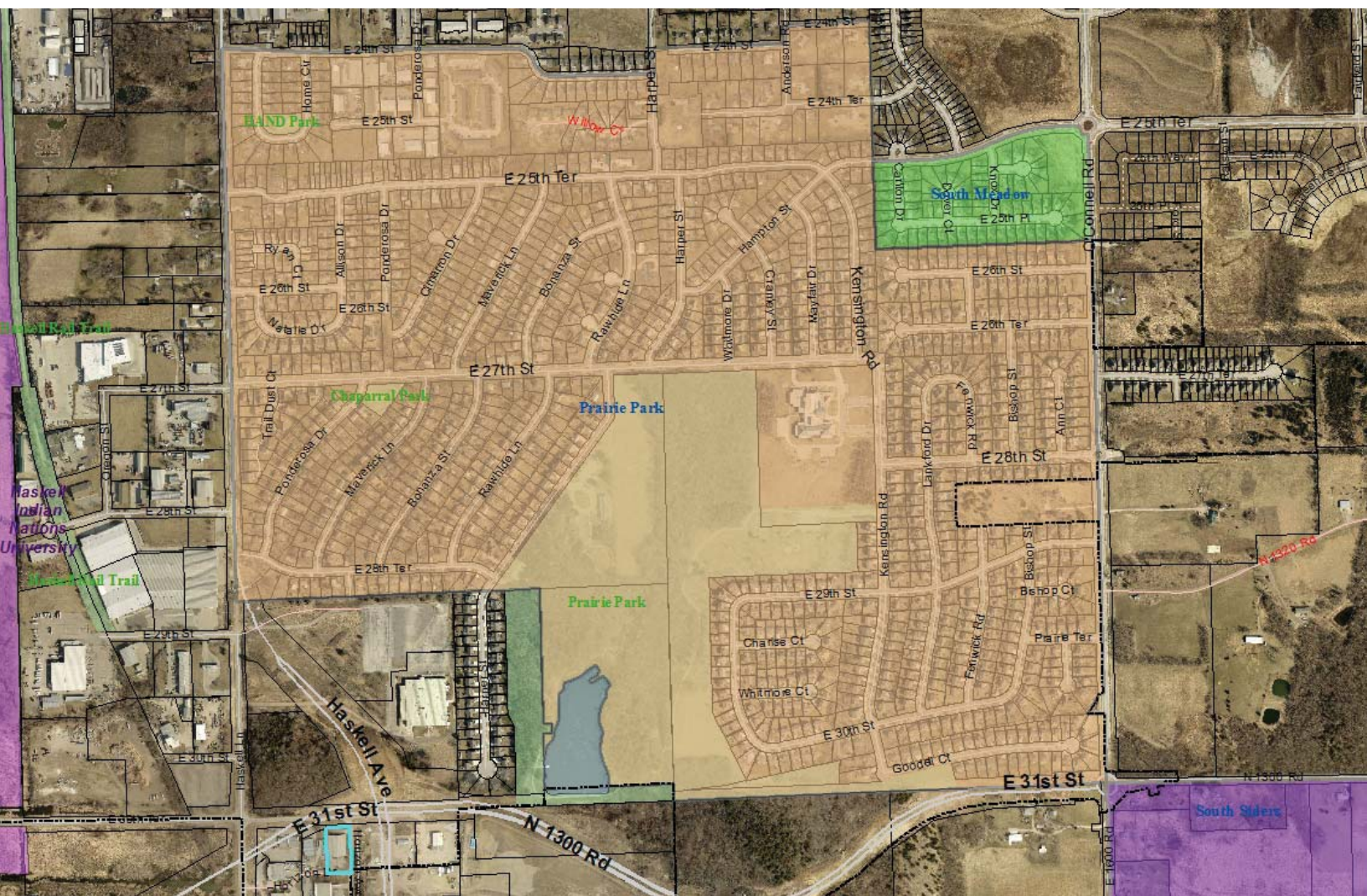
Sells prefers the location on 31st Street, which is on the southern edge of town, away from residential neighborhoods.

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/>



Lawrence Public Schools USD 497
110 McDonald Drive
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>; Rick Doll <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



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

ATF P 5310.1
October 2006

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>

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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.

