

Planning Commission

c. Consider a request for a conditional use permit for an Indoor firing range in the C-3, Central Business District at 212 North Pennsylvania Avenue.

Background

On August 22, 2019 the City Commission initiated a public hearing before the Planning Commission to consider a text amendment to the Conditional Use Table to allow indoor firing ranges as a conditional use in the C-3 Central Business District. The request to the Commission was submitted by the Independence Gun Club who was represented by Police Chief Harrison.

On October 1, 2019 the Planning Commission conducted a public hearing amending Appendix B-Zoning of the City Code relating to “Indoor firing ranges.” On a 6-1 vote the following was motion was approved:

To recommend that the City Commission approve adding “Indoor firing ranges” to the permitted and conditional use table and allowing such use as a conditional use in the C-3 Central Business District with the following determinations:

- a. That such change is consistent with the intent and purpose of these regulations because it contains a retail element, and will attract people to the downtown;
- b. That the areas which are most likely to be directly affected by such change will include the C-3 Central Business district, which generally consists of the core downtown. The amendment will only allow indoor firing ranges with a conditional use permit which does provide an opportunity for property owners within the notification area to voice any concerns to both the Planning Commission and City Commission prior to approval and allows the City to impose conditions to address those concerns;
- c. The proposed amendment is made necessary because of new planning concepts in the C-3 Central Business District by adding a new use to the table of uses for indoor firing ranges, addresses higher downtown vacancy rates than existed when the Comprehensive Plan was adopted, by recognizing changes in Kansas legislation which now authorizes concealed carry without a permit, and providing for firearm training for public safety.

To recommend that the City Commission add the following definition to Article IV. Rules and Definitions:

Indoor Firing Range: means an indoor area or facility designated or operated primarily for the use of firearms.

On October 23, 2019 the City Commission accepted the recommendation of the Planning Commission and adopted Ordinance 4315.

Overview of the Request

On November 20, 2019 the Zoning Administrator received a request from Mark Leaman representing the Independence Gun Club to issue a conditional use permit for the following described property which is currently zoned C-3, central business district:

Lots 12 and 13, Block 30, Original Plat to the City of Independence, Montgomery County, Kansas.

The applicant intends to operate an indoor firing range and retail store in a downtown commercial building at 212 N. Penn Avenue.

Conditional Use Permit

Article IX of the Zoning Ordinance addresses purpose and authority for granting conditionals uses.

901.0. Purpose and authority.

901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety.

Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.

(Ord. No. 3863, § 1, 12-20-01)

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. *The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.*

The requested location is in an existing building in the C-3 zone which has zero lot lines.

- b. *The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.*

The requested location will provide additional activity to the downtown and provide an opportunity for gun safety and training opportunities in a controlled environment. However, the Planning Commission could include additional conditions to further protect the welfare of the public.

- c. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.*

It is unknown if this type of use will create substantial injury to the value of other downtown properties.

- d. *The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:*

1. *The location, nature and height of buildings, structures, walls and fences on the site, and*
2. *The nature and extent of landscaping and screening on the site.*

The requested location is in an existing building in the C-3 zone which has zero lot lines.

- e. *Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).*
The requested location is in an existing building in the C-3 zone which is exempt from the Off-street parking and loading regulations.

- f. *Adequate utility, drainage, and other such necessary facilities have been or will be provided.*
The requested location is in an existing building in the C-3 zone which is already constructed with existing utilities and drainage systems. Additional necessary facilities may include those that deal with safety, noise, air and other environmental concerns.

- g. *Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.*
The requested location is in an existing building in the C-3 zone which is exempt from the Off-street parking and loading regulations, therefore no entrance or exit drives will be required.

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject property shall be based on Section 902.2 previously outlined in this report. Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

Staff Recommendation

If the Planning Commission determines to approve the request for a conditional use permit for an indoor firing range at 212 N. Penn Avenue the following conditions are recommended for consideration:

1. Applicant shall comply with all applicable Federal, State and local statutes, laws, ordinances or codes, including but limited to:
 - a. Building codes,
 - b. Fire codes,
 - c. Zoning codes,
 - d. U.S. Department of Labor Occupational Safety and Health Administration (OSHA) regulations,
 - e. U.S. Environmental Protection Agency (EPA) regulations,
 - f. Kansas Department of Health and Environment (KDHE) regulations.

7. Eye and hearing protection shall be required within the shooting range enclosure whenever firing is conducted. OSHA compliant signs shall be posted requiring eye protection and hearing protection.
8. No outdoor shooting of any kind, regardless of whether said shooting is connected to the commercial use of the property, shall be allowed, permitted, or conducted on the property at any time under any conditions.
9. Fully automatic firearms are prohibited. Firearm use shall be limited to .45 caliber or less, provided that the facility is designed to meet all conditions listed.
10. The facility must be under its ownership's supervision and control while open and in use.
11. The indoor firing range shall not create a nuisance that interferes with others' rights to safety and enjoyment of their own property.
12. The business is to maintain at least a \$2,000,000 commercial liability policy.
13. The applicant shall submit to the City for approval prior to operation, and maintain as a condition for operation, a Range Safety Plan that establishes rules and regulations which must be complied with. Such rules and regulations shall be prominently posted at the facility and shall address the following at a minimum:
 - a. Firearm Handling Rules
 - i. Address how firearms will be handled on site in a safe manner.
 - ii. Guns shall be stored where they are not accessible to unauthorized persons.
 - b. General Range Rules
 - i. Range commands.
 - ii. Designated range officer.
 - iii. Downrange safety measures.
 - c. Specific Range Rules based on type of facility
 - i. Types of firearms permitted on site.
 - ii. Types of activities permitted on site.
 - iii. Caliber restrictions.
 - d. Administrative Rules and Regulations
 - i. Who is authorized to use the facilities? (members, public, law enforcement, etc.)
 - ii. How are authorized personnel identified?
 - iii. Who will enforce rules and penalties?
 - iv. What type of targets will be used?
 - v. Hours of operation?
 - vi. Barrier free accessibility shall be provided for use of the facility.

- vii. What shooting activities are allowed and not allowed?
 - viii. Alcohol and controlled substances shall not be permitted at the facility.
 - ix. What age restrictions will be utilized for the facility or what safety procedures will be in place for minors?
 - x. How will firearms be transported into the facility?
 - xi. What procedures will be utilized to protect patrons and employees from health hazards such as lead contamination that includes but is not limited to, lead contamination monitoring, disposal methods, etc. to ensure a safe environment?
 - xii. Will food be served on site?
14. The Independence Chief of Police or his or her designee shall be made available a minimum of two times a year at a time of their choosing to perform an inspection of the facility to make sure the firearm range safety plan is being followed and that the facility is safe for use.
15. The above-listed conditions of approval shall be tied to the current applicant and not transferrable to any future property owners.
- Staff's recommendation is based on the criteria set forth in 902.2, "a through g" of the zoning code.

Suggested Motion:

I move to recommend approving a conditional use permit for an Indoor firing range in the C-3, Central Business District at 212 North Pennsylvania Avenue with the conditions recommended by City staff.

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, January 7, 2019 at 5:30 p.m.

To receive comments on a request for a conditional use permit for an Indoor firing range in a C-3, Central Business District at 212 North Pennsylvania Avenue.

Legal Description:

Lots 12 and 13, Block 30, Original Plat to the City of Independence, Montgomery County, Kansas.

Common Addresses:

212 North Pennsylvania Avenue

Applicant/Owners:

Mark Leaman, Applicant

Shawn Schabel, Owner

Case Number:

2020/CUP/01

The hearing will be conducted in the Veterans Room, Memorial Hall, 410 N. Penn, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend and they will be heard. Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W. Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

Parcels within 200' of 212 N Penn



APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED 11-20-19
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:
MARK LEAMAN 3429 CR 3900 INDEP. KS. 67301
INDEP. GUN CLUB President

LEGAL DESCRIPTION OF LAND INVOLVED:

COMMON ADDRESS OF SAID LAND: 212 NORTH PENN.

PRESENT ZONING CLASSIFICATION: _____

STATEMENT OF INTENDED USE OF PROPERTY:
Indoor shooting range and retail store

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

11-20-19
Date

Mark Leaman
Signature of Applicant

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

Comments:

Chairman

Vice Chairman

Secretary

CITY OF INDEPENDENCE

REC#: 01070077 11/20/2019 1:55 PM
OPER: DONNA TERM: 002
REF#:

TRAN: 1.0000 VARIANCE
IRONWORKS WELDING & FAB-COND
USE PERMIT-SHOOTING RANGE
MISC FEES 200.00CR

TENDERED: 200.00 CHECK
APPLIED: 200.00-

CHANGE: 0.00