

DATE: November 26, 2019
TO: Independence City Planning Commission/Board of Zoning Appeals
FROM: Kelly Passauer, Zoning Administrator
SUBJECT: December 3, 2019 Planning Commission/Board of Zoning Appeals meeting

- a. **Consider approving minutes of the October 1, 2019 meeting.**

MINUTES

Independence Planning Commission
Independence Board of Zoning Appeals

Tuesday, October 1, 2019

Veterans Room

Memorial Hall

5:30 p.m.

Call to Order

The Planning Commission meeting was called to order by Vice Chair Steve McBride.

Planning Commissioner Present

Steve McBride, Philipp Umlauf, Barb Emert, Michelle Anderson, Tony Royse, Brent Littleton (outside) and Lisa Richard.

Planning Commissioners Absent

Mary Jo Meier and Andy McLenon (outside).

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors

Mark Leaman, Chad Rincuer, Mya Rincuer, Louis Ysusi, Ned Stichman and Dorcus Sutton.

Minutes

- a. Consider approving minutes from the September 3, 2019 meeting.

Tony Royse made a motion to approve the minutes of the September 3, 2019 meeting, Michelle Anderson seconded the motion. The motion carried 7-0.

Planning Commission

- b. Consider text amendments to Appendix B-Zoning of the City Code relating to:
 1. Appendix A. "Listing of Permitted and Conditional Uses" relating to "Indoor firing ranges",
 2. Article X. Special provisions applying to miscellaneous conditional uses; and
 3. Article IV. Rules and Definitions.

Vice Chair Steve McBride opened the public hearing. Lisa Richard stated that she contacted Kelly Passauer and she consulted with City Attorney Jeff Chubb about speaking with people about the text amendments and she understands it is legislative, and an application would be quasi-judicial.

Vice Chair Steve McBride asked if any of the Planning Commissioners had a conflict of interest, to which none indicated that they did.

Mark Leaman, President of the Independence Gun Club stated that their plan is to raise enough money for an indoor shooting range to be placed in a donated building.

Kelly Passauer reviewed the following staff report:

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.

City code 1604.2 provides the following regarding text amendments:

1604.1. Recommendations: Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. Whether such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

In order to allow their request, it would require adding “Indoor firing ranges” to the permitted and conditional use table and allowing such use as a conditional use in the C-3 district. If approved, a definition of “Indoor firing ranges” should be added to Article IV. Rules and Definitions.

It should be noted that if this text amendment is ultimately approved by the Commission, it would still require the Independence Gun Club to go through the conditional use permit process, which is similar to the rezoning process. A public hearing would need to be held before the Planning Commission, and their recommendation would be forwarded to the City Commission for final consideration. The recommendation from the Planning Commission could include additional conditions relating to noise, safety/security plan,

environmental, ventilation, wall/ceiling construction, prohibition of alcohol on premises, liability insurance, minors must be accompanied by adults, conformance with specified already established standards such as GSA, NRA, etc. If the City Commission approved the conditional use permit, they could also modify the conditions recommended.

If the Planning Commission wishes to approve adding “Indoor firing ranges” to the permitted and conditional use table and allowing such use as a conditional use in the C-3 district as requested, then it is recommended that the following determinations be included in the motion:

- a. That such change is consistent with the intent and purpose of these regulations;
- b. That the areas which are most likely to be directly affected by such change will include the C-3 which will 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;
- c. The proposed amendment is made necessary because of new planning concepts in the C-3 Central Business District.

In addition, if the Planning Commission wishes to approve this request, the following definition should be added to Article IV. Rules and Definitions:

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

Included for your reference are the following documents:

1. Request for Commission Action (RCA) to the City Commission for their August 22, 2019 meeting.
Public Hearing Notice.

Vice Chair Steve McBride asked if anyone in the audience would like to comment.

Dorcus Sutton stated that she was concerned about individuals transporting guns and ammunition through town and having such items in parked vehicles. She was also concerned on the type of population this would attract and asked who they were trying to defend and protect. She was concerned about adding activities to the City that are not family and children friendly. She stated that they are called firearms for a reason, “because they are deadly.” She was further concerned that having a shooting range downtown was not the best thing to attract businesses.

Mark Leaman responded that he understood her concern about the shooting range being downtown. He stated that they planned to bring a firm in to meet every local, state and federal code. He further stated that they had worked with the Police Chief and they would like to provide a location for law enforcement training, in addition to hunter safety and youth training, in addition to recreation.

Lisa Richard stated that she had visited with a downtown business owner who felt it might be good for the downtown to attract more people to the core area. She was concerned about noise, as there are people living downtown and businesses next door. She further stated that Comprehensive Plan talks about avoiding pockets of businesses that are not retail in which case this request may be inconsistent. She also stated that the downtown may have changed since the Comprehensive Plan was prepared, as it has slowed, and some buildings are boarded up and people are moving out and this could be an opportunity to bring more people in. She mentioned the possibility of setting up a special conditional use specifically for gun ranges, similar to what the City has for communication towers.

Kelly Passauer stated that the reason she did not take that approach in the staff recommendation was that she did not foresee several indoor gun ranges being developed in the future. Most of the special conditional uses set forth in the code are for uses that you anticipate having several of, such as daycares.

Lisa Richard indicated that the conditional use permit (CUP) does allow for setting conditions, such as limiting hours and setting specific noise decibel limits. She further indicated that they could include in the CUP the ability to modify the conditions in the future.

Mark Leaman stated that their intent was to not allow any ammunition to be brought into the facility, as they would have to purchase it from the facility. He also said he already spoke to the neighbors on both sides and there would be noise reduction panels installed. He further stated the majority of use would be in the evenings and weekends.

Brent Littleton stated that the Gun Club has benefits for practicing and they are rule oriented and police focused.

Tony Royse indicated that he thought downtown was not the place for a shooting range and it should be retail only.

Ned Stichman stated that he had previously thought about placing a firing range in the 8th and Main building at one time as a previous Police Chief indicated it was something that was needed. However, he was not sure if the former JC Penney building was the right location. He indicated that there used to be an indoor archery range downtown. He further stated that the Gun Club were responsible folks and he was not concerned about them, but it did open it up for others that may not follow the letter of the law. He further stated it was probably a good thing for downtown.

Lisa Richard discussed whether or not this use would be consistent with the Comprehensive Plan which indicates the downtown should be retail.

Philipp Umlauf stated that it would have a retail aspect to it as they are selling ammunition. He further stated that restaurants, banks, and insurance offices are not retail spaces.

Barb Emert stated that there are three dental offices downtown.

Vice Chair Steve McBride stated that we would love to have all retail, but in this day and age that may not be possible.

Jeff Chubb stated that if you pay to attend it is also retail.

Lisa Richard asked if the City would receive sales tax, to which Jeff Chubb stated that he assumed so.

Vice Chair Steve McBride moved that the text amendment be approved as recommended by staff because it contains a retail element and will attract people to the core downtown.

Brent Littleton stated that this group is wanting to make a significant investment in downtown, other communities have allowed it and there are laws in place to accomplish this.

Lisa Richard asked about those laws, to which Brent Littleton replied they were in Texarkana where he was raised.

Vice Chair Steve McBride indicated that they should be concerned about land usage and the comprehensive plan needed to be revised. He stated that he appreciated the comments.

Lisa Richard asked that the motion include why the Planning Commission should make this change, and address each item specifically including any new planning concepts.

Jeff Chubb suggested adding a new use, indoor firing range, addressed a higher vacancy rate than when the plan was originally adopted, also due to legislative changes, conceal carry is legal, indoor firing ranges also address training issues.

Vice Chair Steve McBride amended the motion as follows:

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.

Barb Emert seconded the motion. The motion carried 6-1, with Tony Royse voting against the motion.

The Planning Commission portion of the meeting was closed.

Board of Zoning Appeals

There was no Board of Zoning Appeals business on the agenda.

Adjournment

The meeting was adjourned with a motion by Philipp Umlauf, seconded by Brent Littleton. The motion carried 7-0.

Mary Jo Meier, Chair

Andy McLenon, Secretary