

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

PC Staff Report  
7/22/13

**ITEM NO. 3: IG TO IL; 5.09 ACRES; 2200 EAST HILLS DRIVE (SMS)**

**Z-13-00191:** Consider a request to rezone approximately 5.09 acres from IG (General Industrial) District to IL (Limited Industrial) District, located at 2200 East Hills Drive. Submitted by GHB Investors, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the request to rezone approximately 5.09 acres, from IG (General Industrial) to IL (Limited Industrial), based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following conditions:

1. The development shall be limited to no more than 50,000 sq. ft. of commercial (retail) development.
2. The permitted uses of the subject property are restricted to those listed below (highlighted in yellow identified by applicant & highlighted in teal suggested by staff) at the end of this report.

**Reason for Request:**

*We have owned this lot for approximately 25 years and despite continued attempts to develop or sell the lot as presently zoned, we have not been successful. We attribute the lack of success to the following factors:*

1. *Size of the lot – Smaller lots have not sold well in East Hills Business Park presumably because they do not meet the needs of the users that have to date located or considered locating in EHBP.*
2. *Terrain – The lot slopes approximately 35 feet from east to west which limits its use for large manufacturing or office buildings.*
3. *Location of the lot adjacent to K-10 – The East Hills Restrictive Covenants impose greater building setback requirements, greater setbacks for parking, loading and vehicle maneuvering areas and prohibit any outside storage on lots adjacent to K-10. These requirements make the lot less desirable for manufacturing uses.*

**KEY POINTS**

- The property would maintain an industrial zoning if changed from IG to IL.
- The IL zoning would permit certain commercial uses on a lot within the East Hills Business Park.
- The proposal is consistent with *Horizon 2020*.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- None
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**PLANS AND STUDIES REQUIRED**

- *Traffic Study* – Not required for rezoning
- *Downstream Sanitary Sewer Analysis* – not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not submitted. Rezoning can be conditioned to include no more than 50,000 sf of retail uses.

**ATTACHMENTS**

- Attachment A - Applicant proposed use restrictions

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None

**Project Summary:**

Proposed request is for rezoning from IG to IL in order to expand the potential uses on this property, including certain commercial uses. The site has remained vacant for 25 years, contains only five acres and has challenging topographical features. The property owner has self-restricted the uses to be allowed in the IL District. At the end of this report, staff discusses additional commercial uses that the Planning Commission may wish to consider in this conditional rezoning request.

**1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response: *East Hills Business Park was among the early large industrial developments in Lawrence. It has attracted a variety of users ranging from heavy manufacturing to office to educational, all of which are permitted in IG zoning. Each of the existing buildings in East Hills is located on a large generally flat lot leaving mostly smaller, less level lots still available. One of the key strategies in Chapter 7 of Horizon 2020 states "Encourage site availability, site improvements, and community amenities which best respond to the market demands for industrial and business development while maintaining the community objectives for the type and quality of such development."*

*Applying this strategy to our request for rezoning responds to the lack of market demand for this lot while zoned IG by broadening the permitted uses. The rezoning of our lot to IL increases the potential uses from those permitted in IG zoning and will, we believe, better respond to the market demands. We feel that IL zoning, with some limitation of permitted uses, is a logical zoning for this lot.*

Staff Discussion: The Future Land Use Map of *Horizon 2020* (Map 3-2), identifies this property as Office Research, Industrial/Warehouse/Distribution. By changing the zoning from IG to IL, the property remains zoned for industrial uses.

Chapter 7 – Industrial & Employment-Related Land Use describes the existing industrial areas in the community which include East Hills Business Park. The plan states *"EHBP serves as the eastern gateway to the community and the City should continue to examine future development plans for this area to ensure they reflect the image and quality the community seeks in gateway development."* Commercial or industrial uses proposed for this property will be subject to adopted design standards. Rezoning the property to the IL District with the restricted uses offered by the property owner expands the opportunity for development of uses that may serve the employment base in the business park.

**Staff Finding –**

Changing the zoning of this property from IG to IL remains in conformance with *Horizon 2020* by maintaining an industrial zoning and providing expanded opportunities to develop this gateway property.

**2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING**

Current Zoning and Land Use: IG (General Industrial) District; Vacant

Surrounding Zoning and Land Use: North & West: IG District; undeveloped lots in East Hills and former Farmland property Business Parks.

East: A (County) District; Old Franklin Cemetery  
South: PID [LRM Industries]; concrete and asphalt plants.

**Staff Finding –**

The surrounding property is generally industrial or agricultural in nature. The developing East Hills Business Park is to the north and east. Existing concrete and asphalt plants are located across K-10 highway to the south. New road construction is currently underway in the future Farmland property business park to the west. Rezoning the property from the IG District to IL District retains the property in the overall industrial property inventory and expands the potential uses that could be developed to serve the employment base in the business parks.

**3. CHARACTER OF THE NEIGHBORHOOD**

Applicant's Response: *The neighborhood is industrial with East Hills Business Park being zoned IG, Farmland Business Park being zoned IG and IM and the land immediately south across K-10 (East 23<sup>rd</sup> Street) zoned PID. EHBP has industrial, office and educational uses along with several vacant lots, Farmland Business Park is vacant and the land south of K-10 has an asphalt and concrete plant and farther west a moving and storage business.*

**Staff Finding –** The property is in an industrial corridor at the eastern gateway to the city on K-10. Changing the zoning to a less intense industrial district maintains the existing industrial character along the highway and, at the same time, expands the potential for development of this property that has been vacant since East Hills was developed in the 1980s.

**4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY**

Applicant's Response: *None.*

Staff Discussion: This property abuts the property included in the Southeast Area Plan, but is not included in a specific sector plan. The Southeast Area Plan identifies the property along the south side of K-10 highway for industrial uses. This site is located east of the property included in the Farmland Redevelopment Plan which also identifies the highway as an industrial corridor. The proposed zoning to the IL District retains the potential for industrial development, while also expanding the opportunity to provide commercial service uses to businesses and employees in the area.

**Staff Finding** – The proposed zoning change is consistent with the future land uses identified in the nearby Southeast Area Plan and Farmland Redevelopment Plan.

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

Applicant's Response: *The fact that the lot has remained vacant for over 25 years indicates that the lot is not suitable for many of the uses permitted in the existing IG zoning. It is our belief that the terrain has been a major factor in the lot not being attractive to industrial users.*

Staff Discussion: Industrial uses often require large, relatively flat sites to provide single story footprint buildings. The majority of the developed lots in EHBP are 10 acres or larger. This site has approximately 40 feet of fall from East Hills Drive to the west side of the property and contains only 5 acres. The combination of slope and lot size impacts the type of buildings that are feasible to construct on this site.

Many of the industrial uses permitted in the IG District are suited to larger lots with less topographical features. Rezoning to the IL District would expand the potential uses and types of development that might better take advantage of the natural terrain.

**Staff Finding** – The subject property is currently suitable for small scale industrial development as the majority of the surrounding property is zoned and developed with industrial uses. However, other properties in the vicinity provide larger sites with less topographic challenges. Expanding the permitted uses to include smaller footprint structures may increase the opportunities to develop this lot.

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

Applicant's Response: *The lot has remained vacant for over 25 years.*

Staff Discussion: The property has never been developed.

**Staff Finding** – The property has never been developed and has had an industrial zoning designation since the property was annexed in 1986. This indicates that the market finds the lot challenging under its current zoning designation.

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

Applicant's Response: *It is not anticipated that any of the nearby properties will be detrimentally affected by the rezoning. We have contacted representatives from the City of Lawrence and Douglas County and met with the Board of Directors of The Economic Corporation of Lawrence and Douglas County (formerly Douglas County Development Inc.), and none of them have objected to the proposed rezoning subject to a review of the final list of permitted uses.*

Staff Discussion: The proposed zoning is a low-intensity industrial district. The *Land Development Code* requires buffer yards, building and parking lot setbacks and other opportunities to design a site in order to not detrimentally affect nearby properties. Development proposals will be subject to either the Commercial or Industrial Design Standards as well.

**Staff Finding –** The change in zoning is proposed to a less intense industrial zoning district. Some of the more intensive uses permitted in the IG District will be eliminated and potentially smaller-scale uses will be allowed if the property is rezoned to the IL District. With the protections provided in the *Land Development Code* and the existing EHBP covenants, nearby properties should not be negatively impacted by approval of this request.

**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**

Applicant's Response: *The gain to the public health, safety and welfare if this rezoning were approved would be that the entrance lot to East Hills would be more likely to be developed which would provide a structure easily visible to the public as opposed to the existing buildings which have very limited visibility from K-10. This visibility would potentially make the remaining lots more likely to be developed. The existing East Hills Protective Covenants ensure that any development on the lot will be appropriately designed. Denial of the application will likely result in the lot remaining vacant for the foreseeable future.*

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Staff Discussion: If this application is denied, the property owners would not have the opportunity to market the property for development under the broader range of uses permitted in the IL District. With the additional large lots now available in the former Farmland business park, this lot may continue to remain undeveloped. Development of this entry location to East Hills is desired to enhance the gateway development along the K-10 corridor.

**Staff Finding –** If this property is not rezoned, it may continue to remain undeveloped which does not result in a substantial gain to the public. The property owners would then not be able to market the site for smaller scale uses that could be compatible with the existing industrial uses in the area.

**9. PROFESSIONAL STAFF RECOMMENDATION**

The subject property is zoned for high-intensity industrial uses though it has never been developed. The proposal is to rezone to the IL District which is a low-intensity industrial district. The applicant has proposed the elimination of a number of uses that are currently permitted in the IG District and would be allowed in the IL District. Attachment A provides the Nonresidential Use Table and highlights the uses allowed in each district and the 21 uses the property owner proposes to eliminate.

If this request is approved, the following uses would be additional uses not currently available in the IG District.

<b>ADDITIONAL USES ALLOWED IF PROPERTY IS ZONED IL</b>	
Category	Uses
COMMUNITY FACILITIES	Lodge, Fraternal & Civic Assembly
MEDICAL FACILITIES	Health Care Office or Clinic
RECREATION FACILITIES	Participant Sports & Recreation, Indoor
	Participant Sports & Recreation, Outdoor
RELIGIOUS ASSEMBLY	Campus or Community Institution
	Neighborhood Institution
EATING AND DRINKING ESTABLISHMENTS	Accessory Bar
	Fast Order Food
	Fast Order Food, Drive-In
	Restaurant, Quality
OFFICES	Financial, Insurance & Real Estate
RETAIL SALES & SERVICES	Business Equipment
	Food & Beverage
	Mixed Media Store
	Personal Convenience
	Personal Improvement
	Repair Service, Consumer
TRANSIENT ACCOMMODATIONS	Hotel, Motel, Extended Stay

Several of these uses, especially a stand-alone fast order food, drive-in; a food & beverage store; or general retail sales uses could generate a substantial increase in traffic to the site. The intersection of East Hills Drive and K-10 has been identified as a challenging intersection and improvements are currently underway to construct an east-west street connecting EHPB to the signalized intersection at O'Connell Road. Once this street is completed, employees and visitors to East Hills will have a safe way to access K-10 and should relieve some of the safety concerns at this particular intersection. The Planning Commission may wish to consider placing conditions on the rezoning to further limit the uses allowed on this site.

Fast Order Food or Restaurant uses could provide nearby services to the many employees in the area. In staff's opinion, these uses would be most appropriate if incorporated into a multi-use/tenant development. The Commission should weigh the gateway corridor values with the value of expanded development options on this property. A stand-alone drive-thru restaurant located at the entrance to the established business park may not meet the values expected for this gateway location.

Section 20-1107(a) of the Development Code requires a retail market impact analysis for zoning requests that could result in 50,000 square feet or more of retail uses. The additional uses permitted in the IL District could potentially support this type of development on the 5 acre site.

In cases where a particular use or user is not known at time of rezoning, staff has processed the request and advised the applicant that the rezoning would be conditioned with a cap on the potential retail square footage in place of submission of such a market study. Therefore, the rezoning recommendation will include this condition in addition to the restriction of uses identified by the applicant.

In addition, staff recommends that *Fast Order Food, Drive-In* be eliminated from the list of permitted uses and that the Commission specifically discusses the merits of including or restricting *Food & Beverage (grocery store)* and *General Retail Sales* uses in this district. There is a benefit to permitting some commercial uses at this location that could specifically serve the needs of nearby employees. However, the uses identified may also be oriented more to the drive-by traffic along the highway which could create more traffic and related safety concerns at this particular intersection.

Staff recommends approval of the request to rezone approximately 5.09 acres, from IG (General Industrial) to IL (Limited Industrial), based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following conditions:

1. The development shall be limited to no more than 50,000 sq. ft. of commercial (retail) development.
2. The permitted uses of the subject property are restricted to those listed below (highlighted in yellow identified by applicant & highlighted in teal suggested by staff):

		IL
<i>A = Accessory</i> <i>P = Permitted</i> <i>S = Special Use</i> <i>* = Standard Applies</i> <i>- = Use not allowed</i>		
Household Living	Accessory Dwelling	-
	Attached Dwelling	-
	Cluster Dwelling	-
	Detached Dwelling	-
	Duplex	-
	Manufactured Home	-
	Manufactured Home, Residential-Design	-
	Mobile Home	P
	Mobile Home Park	-
	Multi-Dwg Structure	-
	Non-Gnrd Flr Dwelling	-
	Work/Live Unit	P*
	Zero Lot Line Dwelling	-
	Home Occupation, Type A or B	-

  

Group Living	Assisted Living	-
	Congregate Living	-
	Dormitory	-
	Fraternity or Sorority House	-
	Group Home, General (11 or more)	-
	Group Home, Limited (10 or less)	-

Community Facilities	Cemetery	P*	
	College/University	P	
	Cultural Center/ Library	-	
	Day Care Center	P*	
	Day Care Home, Class A	-	
	Day Care Home, Class B	-	
	Detention Facilities	S	
	Lodge, Fraternal & Civic Assembly	P*	
	Postal & Parcel Service	P	
	Public Safety	P	
	School	-	
	Funeral and Interment	P*	
	Temporary Shelter	S/A*	
	Social Service Agency	P	
	Community Meal Program	S/A*	
	Utilities, Minor	P*/S*	
	Utilities and Service, Major	S	
Medical Facilities	Community Mental Health Facility	-	
	Extended Care Facility, General	-	
	Extended Care Facility, Limited	-	
	Health Care Office, Health Care Clinic	P	
	Hospital	-	
	Outpatient Care Facility	-	
Recreational Facilities	Active Recreation	P	
	Entertainment & Spectator Sports, General	-	
	Entertainment & Spectator Sports, Limited	-	
	Participant Sports & Recreation, Indoor	P	
	Participant Sports & Recreation, Outdoor	P	
	Passive Recreation	P	
	Nature Preserve/ Undeveloped	P	
	Private Recreation	-	
	Religious Assembly	Campus or Community Institution	P*
Neighborhood Institution		P*	
Animal Services	Kennel	P	
	Livestock Sale	P	
	Sales and Grooming	P	
	Veterinary	P	
Eating & Drinking Establishments	Accessory Bar	A*	
	Accessory Restaurant	-	
	Bar Or Lounge	-	
	Brewpub	-	
	Fast Order Food	P*	
	Fast Order Food, Drive In	P	
	Nightclub	-	
	Private Dining Establishments	-	
	Restaurant, Quality	P*	



Office	Administrative and Professional	P*
	Financial, Insurance & Real Estate	P*
	Other	P*
Parking Facilities	Accessory	A*
	Commercial	P
Retail Sales & Service	Building Maintenance	P
	Business Equipment	P
	Business Support	P
	Construction Sales and Service	P
	Food and Beverage	P*
	Mixed Media Store	P*
	Personal Convenience	P*
	Personal Improvement	P*
	Repair Service, Consumer	P*
	Retail Sales, General	P*
	Retail Establishment, Large	-
	Retail Establishment, Medium	-
	Retail Establishment, Specialty	-
Sexually Oriented Businesses	Sexually Oriented Media Store	-
	Physical Sexually Oriented Business	-
	Sex Shop	-
	Sexually Oriented Theater	-
Transient Accommodation	Bed and Breakfast	-
	Campground	-
	Hotel, Motel, Extended Stay	P
Vehicle Sales & Service	Cleaning (Car Wash)	P
	Fleet Storage	P
	Gas and Fuel Sales	P
	Truck Stop	-
	Heavy Equipment Repair	P
	Heavy Equipment Sales/Rental	P
	Inoperable Vehicles Storage	P
	Light Equipment Repair	P
	Light Equipment Sales/Rental	P
	RV and Boats Storage	P

Industrial Facilities	Explosive Storage	-
	Industrial, General	P
	Industrial, Intensive	-
	Laundry Service	P
	Manufacturing & Production, Ltd.	P
	Manufacturing & Production, Tech.	P
	Research Service	P
	Scrap and Salvage Operation	U
Wholesale, Storage & Distribution	Exterior Storage	A*
	Heavy	S
	Light	P
	Mini-Warehouse	P
Adaptive Reuse	Designated Historic Property	S*
	Greek Housing Unit	-
Agriculture	Agricultural Sales	P
	Agriculture, Animal	-
	Agriculture, Crop	P
Communications Facilities	Amateur & Receive-Only Antennas	A*
	Broadcasting Tower	P
	Communications Service Establishment	P
	Telecommunications Antenna	A*
	Telecommunications Tower	S*
	Satellite Dish	A*
Mining	Mining	-
Recycling Facilities	Large Collection	P
	Small Collection	P
	Processing Center	S