Agenda Item #_____

City of Wichita
City Council Meeting
**September 18, 2001**

Agenda Report #_____

**TO:** Mayor and City Council Members

**SUBJECT:** **ZON2001-00046 – Amendment to Protective Overlay #14 (Z-3221) to waive requirement for masonry screening wall on property zoned "LI" Limited Industrial. Generally located west of the intersection of South Hillside and Ross Parkway (2853 S. Hillside). (District #III)**

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning

**MAPC Recommendation:** Approve (10-0) as applied for by applicant.

**Staff Recommendation:** Approve, subject to staff comments.

**DAB Recommendation:** Approve, subject to staff comments (6-0).

**BACKGROUND:** The applicant requests an amendment to Protective Overlay (PO) #14 which would waive the requirement for a masonry-screening wall. The PO, requiring the masonry-screen wall, was created as a part of a zone change (Z-3221) from "SF-6" Single Family and "LC" Limited Commercial zoning to "LI" Limited Industrial zoning.

The application area is located on the west side of S. Hillside, just west of the S. Hillside and Ross Parkway intersection. The 2.2-acre site is occupied by Precision Metalcraft, an aircraft part manufacturer. The application area is bounded to the north by property zoned "LC" Limited Commercial, and "SF-5" Single Family, the land uses to the north are a single-family residence and a bakery. The application area is bounded to the south by property zoned "LC" Limited Commercial, and "SF-5" Single Family; the land uses to the south are vehicle repair, and single-family residences. The application area is bounded to the west by a heavily vegetated drainage way, and the Joyland Amusement Park; the property to the west of the application area is zoned "SF-5."

The application area was rezoned in 1997 from "LC" and "SF-6" to "LI," the zone change case is Z-3221. At the time of the zone change, only the east 300 feet of the application area property was developed. The zone change request was approved subject to protective overlay restrictions (PO #14) which state:

1. The uses allowed on the portion of the property west of the east 300 feet shall be limited to machine shop, warehouse, and accessory parking. All other uses permitted in the "LI" district are allowed on the east 300 feet of the property.
2. There shall be no delivery service allowed on the portion of the property west of the east 300 feet between the hours of 11:00 PM and 6:00 AM.
3. The required screening, where adjacent to residential zoning, shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height.

Research into the 1997 zone change at this location indicates that the masonry screen wall portion of the PO, which the applicant agreed to at that time, is a direct response to noise concerns by the residential neighbors, specifically the residential neighbors to the south of the application area. The existing PO, PO #14, states that the masonry wall requirement, where adjacent to residential zoning, shall be constructed when the western portion of the property is developed. The western portion of the property is now being developed, and the applicant is now requesting to amend the PO, to waive the masonry screen wall requirement.

Planning staff recommends that PO #14 item 3 be amended to read:

> "Screening shall be in accordance with the Unified Zoning Code, except where adjacent to residential uses along the south property line. Screening adjacent to residential uses along the south property line shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height."

This amendment would have the effect of keeping the masonry screen wall commitment with the residential neighbors, without the burden of providing a masonry screen wall where no residential use exists.

MAPC heard the request on August 23rd, 2001. At that hearing the agent for the applicant indicated a desire to eliminate item 3 of PO #14 altogether, so as to completely waive any requirement for a masonry screen wall. No members of the public chose to speak for or against the application at the MAPC hearing. The MAPC voted (10-0) to approve the Amendment to Protective Overlay #14, as applied for by the applicant, eliminating item 3 from PO #14.

DAB III heard the request on September 4th, 2001. At that hearing neither the applicant nor members of the public chose to speak for or against the application. DAB III members discussed the application and specifically the 1997 zone change of the application area, the concerns of neighbors to the south of the application area at the time of the zone change, and the commitment made to the neighbors for a masonry screen wall to mitigate industrial uses and associated noises on the residential neighbors. The DAB III members voted (6-0) to approve the staff recommended amendment to item 3 of PO #14.

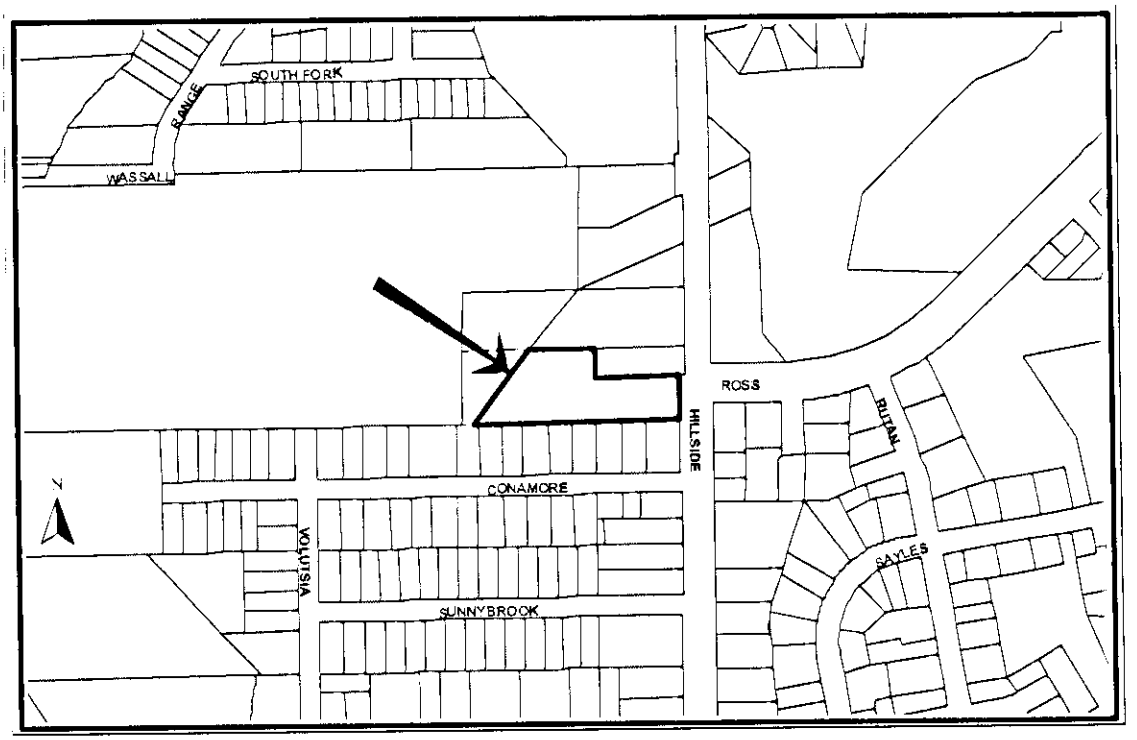
**Recommended Action:**

1. Concur with the findings of the MAPC and approve the Amendment to Protective Overlay #14 as requested by the applicant, eliminating item 3; approve the first reading of the ordinance.

2. Concur with the findings of the Planning Staff and approve the Amendment to Protective Overlay #14, specifically the revision of item 3 as recommended by the Planning Staff; approve the first reading of the ordinance.

3. Return the application to the MAPC for reconsideration.

   (An override of the Planning Commission's recommendation required a 2/3-majority vote of the membership of the governing body on the first hearing.)



1st Read 9-18-01 ZC Dept

(_____) Published in The Wichita Eagle on _ SEP 28 2001

ORDINANCE NO. 45-057

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2001-00046**

Request for amendment to Protective Overlay #14 (Z-3321) to waive requirement for masonry screening wall on property zoned "LI" Limited Industrial, on property legally described as:

Lot 1, Precision Metalcraft Addition, Sedgwick County, Kansas. Generally located west of the intersection of south Hillside and Ross Parkway (2853 S. Hillside).

**SUBJECT TO THE FOLLOWING PROTECTIVE OVERLAY RESTRICTIONS AS AMENDED HEREIN:**

1. The uses allowed on the portion of the property west of the east 300 feet shall be limited to machine shop, warehouse, and accessory parking. All other uses permitted in the "LI" district are allowed on the east 300 feet of the property.
2. There shall be no delivery service allowed on the portion of the property west of the east 300 feet between the hours of 11:00 PM and 6:00 AM.
3. Screening shall be in accordance with the Unified Zoning Code, except where adjacent to residential uses along the south property line. Screening adjacent to residential uses along the south property line shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height.

**Except to the extent amended herein, all of the remaining provisions of Protective Overlay #14 remain in full force and effect.**

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED AT WICHITA, KANSAS,** SEP 25 2001

**ATTEST:**

Pat Burnett, City Clerk

Bob Knight, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 5

# STAFF REPORT

MAPC 9-10-01
DAB 8-23-01

CASE NUMBER: ZON2001-00046

APPLICANT/AGENT: Bobby Boorigie (owner); Robin Roberts, Evans Building Company, Inc. (agent)

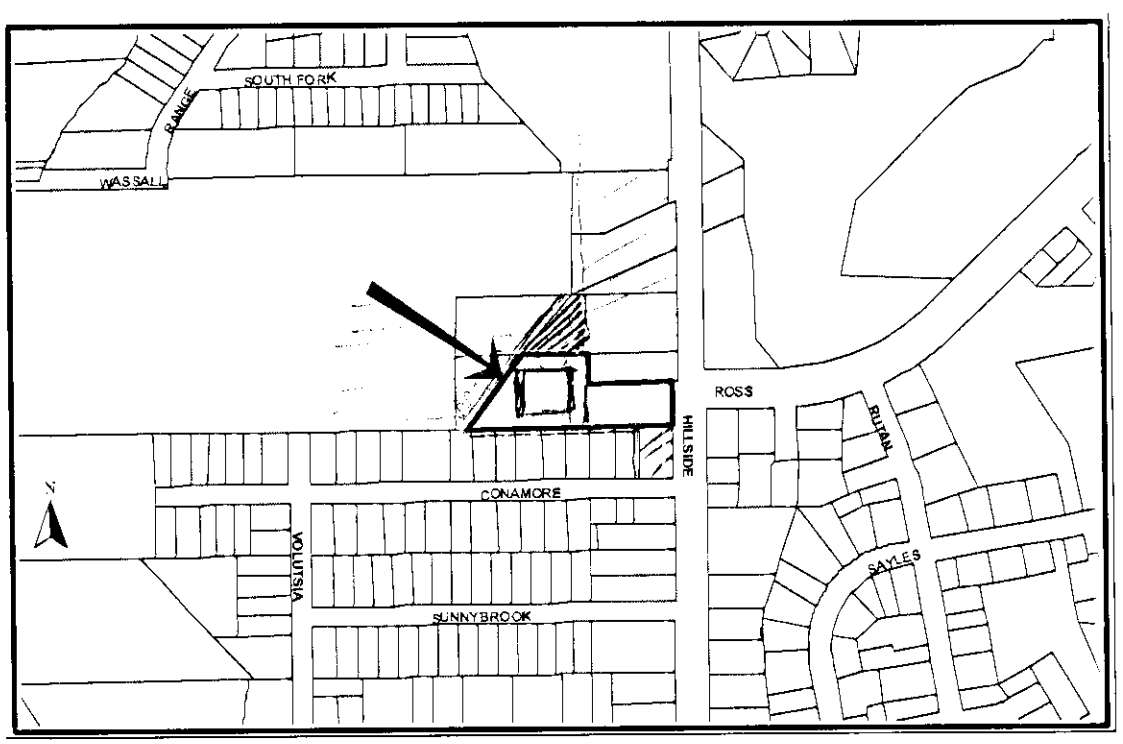
REQUEST: Amendment to Protective Overlay #14 (Z-3221) to waive requirement for masonry screening wall

CURRENT ZONING: "LI" Limited Industrial

SITE SIZE: 2.2 acres

LOCATION: East of the intersection of S. Hillside and Ross Parkway (2853 S. Hillside)

PROPOSED USE: Continued machine shop/manufacturing




FILE COPY

**BACKGROUND**: The applicant requests an amendment to Protective Overlay (PO) #14 which would waive the requirement for a masonry-screening wall. The PO, requiring the masonry-screen wall, was created as a part of a zone change (Z-3221) from "SF-6" Single Family and "LC" Limited Commercial zoning to "LI" Limited Industrial zoning.

The application area is located on the east side of S. Hillside, just east of the S. Hillside and Ross Parkway intersection. The 2.2-acre site is occupied by Precision Metalcraft, an aircraft part manufacturer. The application area is bounded to the north by property zoned "LC" Limited Commercial, and "SF-5" Single Family, the land uses to the north are a single-family residence and a bakery. The application area is bounded to the south by property zoned "LC" Limited Commercial, and "SF-5" Single Family; the land uses to the south are vehicle repair, and single-family residences. The application area is bounded to the west by a heavily vegetated drainage way, and the Joyland Amusement Park; the property to the west of the application area is zoned "SF-5."

The application area was rezoned in 1997 from "LC" and "SF-6" to "LI," the zone change case is Z-3221. At the time of the zone change, only the east 300 feet of the application area property was developed. The zone change request was approved subject to protective overlay restrictions (PO #14) which state:

1. The uses allowed on the portion of the property west of the east 300 feet shall be limited to machine shop, warehouse, and accessory parking. All other uses permitted in the "LI" district are allowed on the east 300 feet of the property.
2. There shall be no delivery service allowed on the portion of the property west of the east 300 feet between the hours of 11:00 PM and 6:00 AM.
3. The required screening, where adjacent to residential zoning, shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height.

Research into the 1997 zone change at this location indicates that the masonry screen wall portion of the PO, which the applicant agreed to at that time, is a direct response to noise concerns by the residential neighbors, specifically the residential neighbors to the south of the application area. The existing PO, PO #14, states that the masonry wall requirement, where adjacent to residential zoning, shall be constructed when the western portion of the property is developed. The western portion of the property is now being developed, and the applicant is now requesting to amend the PO, to waive the masonry screen wall requirement.

**CASE HISTORY**: The application area was rezoned from "SF-6" and "LC" to "LI" on April 1, 1997, under the restrictions of PO #14.

**ADJACENT ZONING AND LAND USE:**

| | | |
|---|---|---|
| NORTH: | "LC;" "SF-5" | residence, bakery |
| SOUTH: | "LC;" "SF-5" | vehicle repair, residences |
| EAST: | "LC;" "SF-5" | vehicle repair, residences |
| WEST: | "SF-5" | drainage way, Joyland Amusement Park |

**PUBLIC SERVICES:** The property is located along S. Hillside, a four-lane arterial street.

The property currently has a 20-foot utility easement running north to south, through the middle of the property.

Public water and sewer services are available.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita and Sedgwick County Unified Zoning Code (April 19, 2001) requires screening on all properties (except those developed with single or two-family residences) adjoining residential zoning districts, except when separated by a major barrier. This screening can be accomplished by fencing, evergreen vegetation, or landscaped earth berms. Screen fencing construction standards require standard wall/fencing materials, such as brick, stone, concrete masonry, stucco, concrete, or wood.

**RECOMMENDATION:** The masonry screen wall requirement in PO #14, which the applicant agreed to at the time of the 1997 zone change, was in response to residential neighbor noise concerns. The masonry screen wall requirement was intended to mitigate noise from an industrial use, this was a zone change request from residential to industrial zoning. To now relax the masonry wall requirement, where the application area abuts residential neighbors, would demonstrate a lack of commitment by the city and the applicant to the residential neighbors in this case. However, planning staff feels that the PO could be better tailored to mitigate the industrial use and to not create an undue burden on the applicant. For this reason, and based upon information available prior to public hearings, planning staff recommends that PO #14 item 3 be amended to read:

> "Screening shall be in accordance with the Unified Zoning Code, except where adjacent to residential uses along the south property line. Screening adjacent to residential uses along the south property line shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height."

This amendment would have the effect of keeping the masonry screen wall commitment with the residential neighbors, without the burden of providing a masonry screen wall where no residential use exists. This amendment would require the applicant to place a masonry screen wall only on that part of his southern boundary where residential uses exist.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The western portion of the applicant's southern boundary adjoins residential zoning with residential uses, the proposed amendment would have the effect of mitigating industrial use on the residential neighborhood, protecting the residential neighborhood's character.

2. The suitability of the subject property for the uses to which it has been restricted: The application area has operated in an acceptable manner as an industrial use, the effects of the expansion of that industrial use will be mitigated by the proposed amendment.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Removal of the masonry wall requirement where the application area adjoins a drainage way, amusement park, and bakery will not have a detrimental affect on those properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested amendment to PO #14, as recommended by staff, exceeds existing screening requirements, thereby further mitigating the effects of industrial uses on a residential neighborhood.

5. Impact of the proposed development on community facilities: The proposed amendment will have no impact on community facilities.