

ORDINANCE NO. 48-158

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. ZON2008-00065

Zone change from GI General Industrial ("GI"), to SF-5 Single-Family Residential ("SF-5") on property described as:

Beginning at the center line of Old Lawrence Road 376 feet South of the North line of the Southwest Quarter of Section 28, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East 261 feet; thence South 142 feet; thence West 261 feet; thence North to beginning EXCEPT part taken in Condemnation Case A-72140 for Highway 81 By-Pass AND EXCEPT for the north five feet and the east five feet.

Generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road.

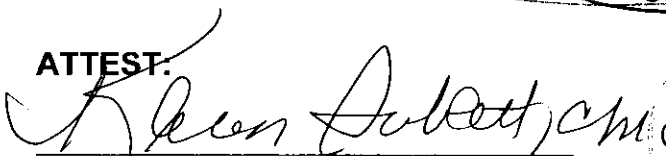
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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, January 13, 2009


Carl Brewer Mayor

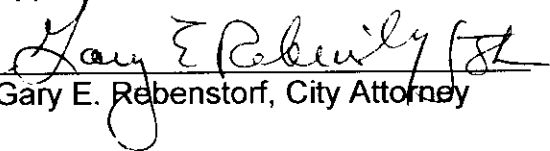
ATTEST:


Karen Sublett, City Clerk



(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

STAFF REPORT

MAPC December 4, 2008

DAB VI December 1, 2008

CASE NUMBER: ZON2008-00065

APPLICANT/AGENT: Adolph E. and Rogene L. Moeckl, c/o Jackie Moeckl

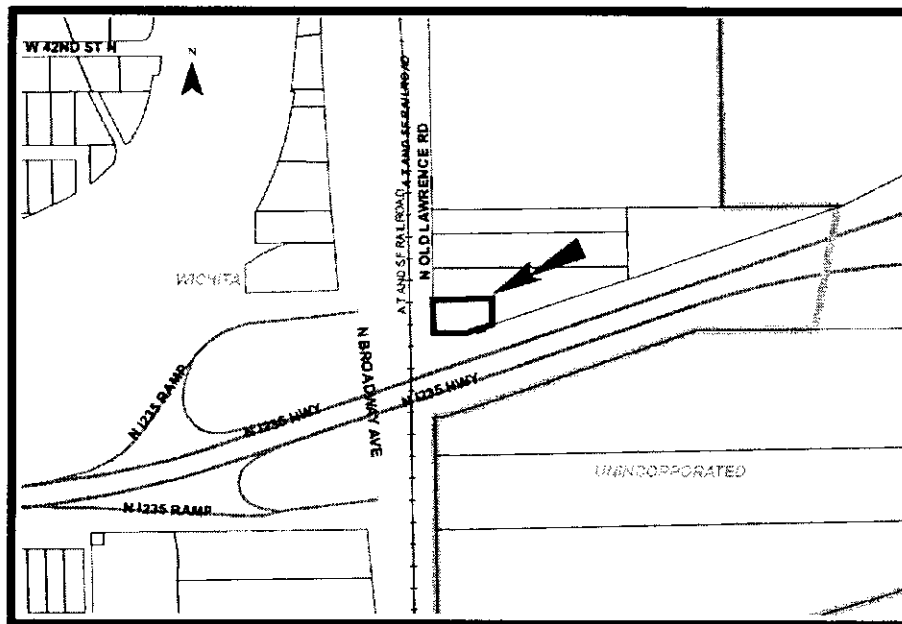
REQUEST: SF-5 Single-Family Residential ("SF-5")

CURRENT ZONING: GI General Industrial ("GI")

SITE SIZE: 0.72 acres

LOCATION: North of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road

PROPOSED USE: Residence



BACKGROUND: The applicant is requesting a zone change from GI General Industrial ("GI") to SF-5 Single-Family Residential ("SF-5"), in order to make the zoning conform to its existing residential use, a single-family residence built in 1930. The applicant has indicated the wish to retire to this site and renovate the residence. However, the renovation would be limited to 30 percent of current value as a nonconforming use, per Article VII of the Unified Zoning Code.

The property is remote and inaccessible. It is located on the east side of Old Lawrence Road, the original main road, the original name for Broadway and the original alignment of U.S. Highway 81. However, this roadway was marginalized first by the construction of an overpass that realigned Highway 81 in the 1940s and later by the rerouting of Highway 81 onto the same alignment as I-135 approximately one-half mile to the east in the 1970s.

The property was zoned "F" Heavy Industry in 1958 as part of the three-mile extraterritorial jurisdiction zoning.

Today, the property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is the I-235 interchange.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	GI	Outdoor storage
SOUTH:	unzoned, GI	I-235, agriculture
EAST:	GI	Outdoor storage, agriculture
WEST:	RR, GI	Vacant

PUBLIC SERVICES: The subject property has frontage along Old Lawrence Road, a two-lane local street. Public water and sewer service are not available currently.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for

"employment/industry center." This designation does not conform to the zoning requested.

RECOMMENDATION: SF-5 zoning in the midst of GI zoning allows low intensity, residential use within an area reserved for high intensity, industrial uses. The purpose of prohibiting residential use is to protect the industrial areas from complaints about nuisances associated with industrial activities and processes. In this case the site is remote and major transportation corridors surround the property on the west (rail line) and south (I-235), so the change would create requirements for setbacks, buffering and screening only for the adjoining property on the north and east. This impact is relatively small and the residential use preceded the industrial zoning and use. It would allow reinvestment in a use in existence since 1930. Based upon these circumstances and the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: the property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is I-235 interchange.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is suited for only certain GI type uses since municipal water and sewer services are unavailable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change would create requirements for setbacks, buffering and screening for the adjoining property on the north and east. The industrially-zoned areas could be subject to complaints about nuisances associated with industrial activities and processes. However, the residential use preceded the industrial zoning and use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate

for "employment/industry center." This designation does not conform to the zoning requested.

5. Impact of the proposed development on community facilities: The impact would be unchanged.