

ORDINANCE NO. 48-726

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. ZON2010-00005

Zone change from GC General Commercial to LI Limited Industrial on property described as:

Lot 1, Slaughter Addition, Wichita, Kansas, EXCEPT the South 225 feet thereof; TOGETHER WITH Lot 1, Wilson and Brown Second Addition, Wichita, Sedgwick County, Kansas, EXCEPT the South 225 feet thereof, generally located north of MacArthur Road, 3,000 feet east of Broadway Street (1100 E. MacArthur 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.

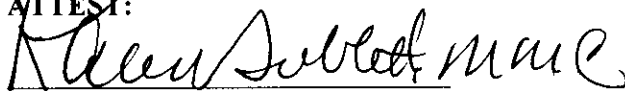
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS,

April 27, 2010


Carl Brewer - Mayor

ATTEST:

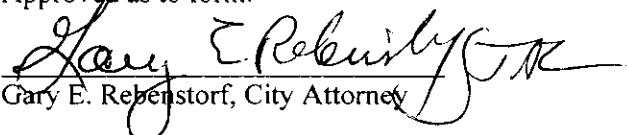


Karen Sublett, City Clerk

(SEAL)

OCA CODE 150004

Approved as to form:


Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
April 20, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00005 Associated with CON2010-00009 – Request City zone change from GC General Commercial to LI Limited Industrial and City Conditional Use for wrecking and salvage; generally located north of MacArthur Road and 3,000 feet east of Broadway Street (1100 E. MacArthur Road). (District III)

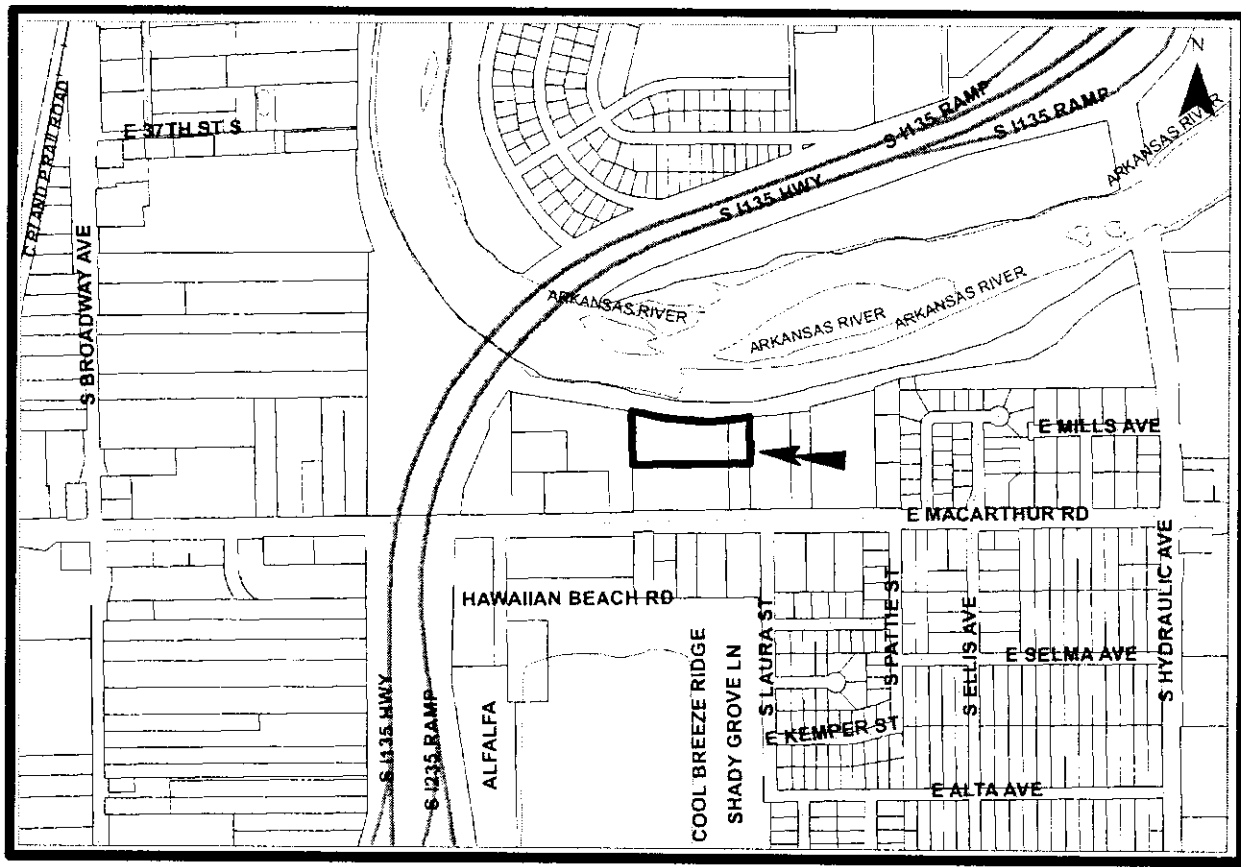
INITIATED BY: Metropolitan Area Planning Department *JS*

AGENDA: Planning (Consent)

MAPC Recommendation: Approve, subject to conditions (10-1).

MAPD Staff Recommendation: Approve, subject to conditions.

DAB Recommendation: Approve, subject to conditions (9-0).



BACKGROUND: This is a request for a zone change from GC General Commercial (“GC”) to LI Limited Industrial (“LI”) and a Conditional Use for Wrecking/Salvage Yard. The three-acre site is located north of MacArthur Road about two-thirds mile east of Broadway and one-fifth mile east of the I-135 overpass. The property adjoins the Arkansas River to the north. Currently, the application area is part of a larger site used as a contractor’s office and storage yard, which is a permitted use in the GC zoning district. The applicant would like to add Wrecking/Salvage on the north half of the site, which requires LI zoning and a Conditional Use.

Wrecking/Salvage Yard is a Conditional Use allowed in the LI subject to the Unified Zoning Code (“UZC”) supplementary use regulations of Article III, Section III-D.6.e., including:
(1) it cannot be abutting an arterial street, expressway or freeway, (2) in the opinion of the Planning Commission, will not adversely affect the character of the neighborhood, and (3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings in excess of five percent of the area of such fence (or wall).

The site plan shows the Conditional Use as occupying the northern part of a tract currently owned and operated as a landscape contractor’s office and storage yard. The south 220 feet abutting MacArthur Road would remain zoned GC and continue in this use.

A nonconforming salvage yard located on property zoned GC abuts the east property line of the application area. This site is operated as Auto Recyclers of Kansas, and it is staff’s understanding that if this request is approved, Auto Recyclers of Kansas will expand some of their operations to the subject site. Auto Recyclers of Kansas present nonconforming site was not included in the application for the zone change and Conditional Use, leaving part of the business nonconforming. Further to the east, there is a restaurant zoned GC and a manufactured home park zoned MH Manufactured Housing (“MH”). To the west, is a self-service warehouse zoned GC, bordered by a vehicle storage yard, also zoned GC. Two single-family residences on property zoned SF-5 Single-Family Residential (“SF-5”) are located directly south of the site along MacArthur Road, and another residence is on property zoned GC. An open field zoned GC appears to be overflow storage for the contractor business. A new senior apartment project is under construction on property zoned LC Limited Commercial (“LC”) to the southeast of the intersection of MacArthur Road with Laura Street, and another manufactured home park on property zoned LC and MH is located south and southeast of MacArthur Road. The Arkansas River is located directly north of the site, including the Wichita-Valley Center Riverside Levee.

Analysis: At the District III Advisory Board (“DAB”) meeting held March 3, 2010, the DAB voted (9-0) to approve subject to staff recommendations, including limiting operation’s to dismantling, storage and shipping of the salvage materials. Concerns discussed by DAB members included rewarding past bad behavior, environmental concerns due to proximity near the river, noise and screening. At the MAPC meeting held March 18, 2010, the MAPC voted (10-1) to approve subject to recommendations as recommended by the DAB. Concerns included screening and if the fence encroaching into the floodway on the site plan would need to be moved. No citizens were present to speak on the case, although one neighbor had sent a letter of opposition. No protests have been received.

The recommendations of MAPC are to **APPROVE** the request subject to the following conditions:

1. The Conditional Use shall permit the dismantling, storage and shipping of motor vehicles, appliances and other industrial scrap materials.
2. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e., including the use of approved fencing or wall materials, and the approved site plan. The site plan shall be revised to provide screening on all sides. The site plan shall be revised to include setbacks, utility easements and demonstrate how the site will be accessed.
3. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.
4. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.

5. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.
6. No scrap vehicles or scrap metal/appliances waiting to be processed shall be visible from ground-level view from any public right-of-way or abutting properties.
7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including bales of the just mentioned) waiting to be processed and the containers they are stored in shall organized and be installed in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.
8. The applicant shall maintain at all times an active program for the eradication and control of rodents.
9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.
14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and Conditional Use subject to the recommended conditions; place the ordinance on first reading.
2. Return the application to the MAPC for reconsideration.
(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)