

**City of Wichita
City Council Meeting
July 12, 2016**

TO: Mayor and City Council

SUBJECT: ZON2015-00052 – City Zone Change from Single-Family Residential and General Commercial to Limited Industrial with a Protective Overlay on Property Generally Located West of South Greenwich Road, Between East Kellogg Street and Interstate Highway I-35 and on the West Side of South Trig Street (District II)

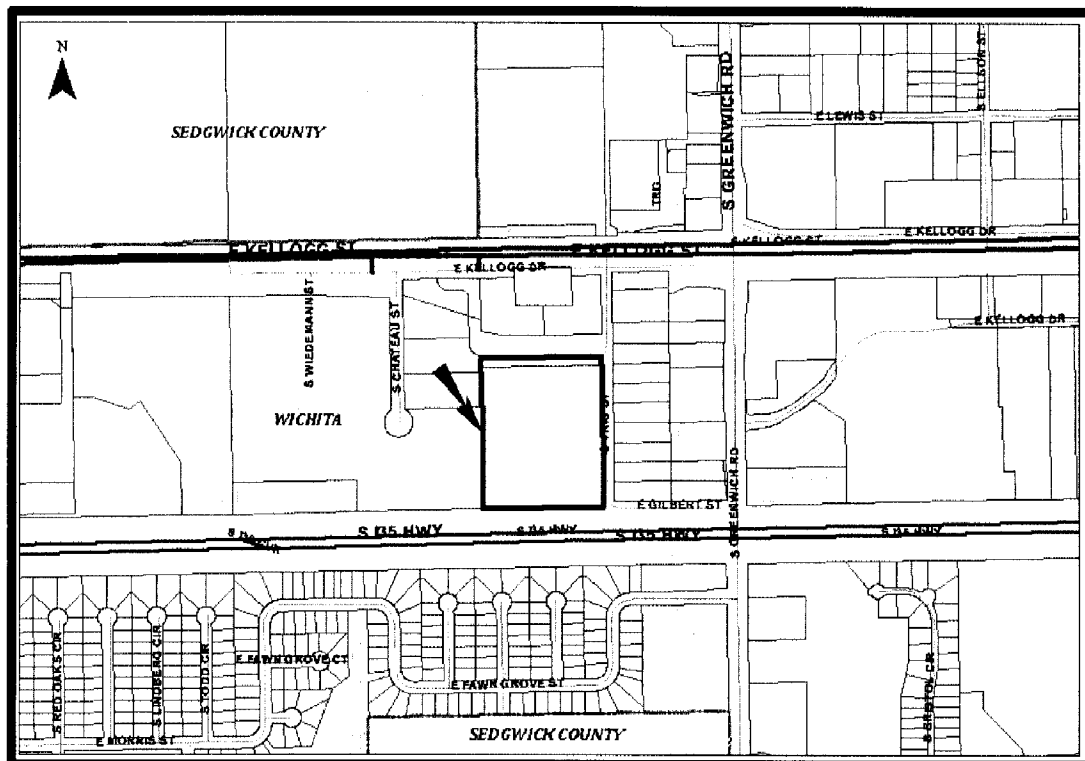
INITIATED BY: Metropolitan Area Planning Department 

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval of the request (8-1-1).

DAB Recommendation: District Advisory Board II recommended approval of the request (6-0-1).

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant is requesting LI Limited Industrial (LI) zoning with a Protective Overlay (PO-307) on the 11.21-acre, unplatted SF-5 Single-Family Residential (SF-5) and GC General Commercial (GC) zoned site. The site is located a block west of South Greenwich Road, between East Kellogg Street and Interstate Highway I-35, on the northwest side of the Gilbert and Trig Streets intersection. East Kellogg Street/US-54 is located approximately 380 feet north of the site. The site is undeveloped and based on historical aerials appears to have been undeveloped since the 1970s.

The applicant has bulldozed most of the site's trees, brush and weeds and left them piled where they went down on the east side of the site. Currently construction on the East Kellogg Street improvements has accelerated and it appears that the west portion of the SF-5 zoned site and/or the west abutting GC zoned property is being used to stock pile dirt from the Kellogg Street improvements. Stock piling dirt (outdoor storage) is not permitted in the SF-5 zoning district, but is permitted in the LI and GC zoning district. Graders and dump trucks have been observed in the area of the site crossing a City owned drainage easement for access to the west portion of the site. The Kellogg Street improvements have required the temporary crossing of the City owned drainage easement, as approved by Public Works. Permanent access to the west side of the site would require the applicant to construct a permanent bridge over the drainage easement and reach an agreement with the abutting west property owner to cross over their land or purchase the needed land from the abutting west property owner. Planning is not aware of any dialogue with the City or the abutting west property owner that would provide permanent access to the site from the west. Trig and Gilbert Streets are currently the only access to the site and there are no plans for improvements to these sand and gravel residential streets. The completion of this phase of Kellogg Street improvements is set at 2019-2020.

As noted a large GC zoned City owned drainage easement abuts the north side of the site. A GC zoned western clothing store is located north of the drainage. Further north of the site, across Kellogg Street, is the long established (1940) LI zoned Beech Aircraft manufacturing complex. GC zoned undeveloped land and what appears to be unimproved parking abuts the west side of the site. As earlier stated this GC zoned land appears to be used for temporary access to the site and may have stock piles of dirt on it. The GC zoned Nissan and Mazda car sales lots are located further west. Six SF-5 zoned single-family residences (built 1954 and early 1970s) are located east, across Trig Street, of the site, as is a GC zoned single-family residence (built 1954) and undeveloped GC zoned land. A GC zoned Green Lantern car wash, undeveloped GC zoned land, a LC Limited Commercial (LC) zoned small commercial strip building, and SF-5 zoned vacant lots and two single-family residences are located a short block east of the site, along the west side of Greenwich Road. The noted SF-5 zoned single-family residences in area are the remnants of 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953.

Based on design for the improvements to this portion of Kellogg Street and its intersection with Greenwich Road, Trig Street provides the preferred access to the site. Gilbert Street provides access to Greenwich Road. However, the Gilbert Street – Greenwich Road intersection's close proximity to the I-35 overpass triggers public safety concerns in regards to sight restrictions. Public Works recommends that Gilbert Street be closed to commercial/industrial truck traffic. Trig Street will intersect with the Kellogg Street frontage road, which will be a one way street east to the noted intersection. If the zoning is approved, Trig Street will have to be paved per City standards. The City has no plans to pave Trig Street and has not been presented with a petition to pave Trig Street. Currently the six SF-5 zoned single-family residences located on the east side of Trig Street generate almost all of the traffic onto Trig Street, with the exception of cut through traffic using Trig Street to avoid the Kellogg Street – Greenwich Road intersection. The completion of this phase of Kellogg Street improvements is set at 2019-2020.

The closest LI zoned properties to the site are located east and north of the site. Approximately 740 feet east of the site, across Greenwich Road are LI zoned properties with a covenant COV-6 and a Community Unit Plan CUP DP-196 overlays, which have provisions for uses, screening, outdoor storage, signs, lighting, building height, landscaping, etc. The long established (1940) LI zoned Beechcraft airplane manufacturing complex is located approximately 720 feet north of the site, across Kellogg Street.

Analysis: At the January 21, 2016, Metropolitan Area Planning Commission (MAPC) meeting the applicant requested and was granted a deferral until the February 4, 2016, MAPC meeting. At the February 4, 2016, MAPC meeting the east, across Trig Street, adjacent single-family residences opposed the LI zoning request. Their concerns included having industrial truck traffic on the sand and gravel residential Trig and Gilbert Streets, which are the only streets they have to get to and from their homes. The protesters contended that neither Trig nor Gilbert Streets were built for industrial traffic, which would damage the roads, creates dust in dry weather and pose a public safety problem to their families. The neighbors noted that Trig and Gilbert Streets were already used as a way for vehicular traffic to avoid the Greenwich Road – Kellogg Street intersection, located a block east of their homes. The neighbors were also concerned that outdoor storage would bring down the value of other properties in the area, as well as frustration in not knowing what the LI zoning would allow. After discussions with the protesters, the applicant and staff, the MAPC expressed concerns that there was not enough information available to approve or deny the request. The MAPC deferred a recommendation (9-0-1) on the request for 90 days, until the May 19, 2016, MAPC meeting. The MAPC also instructed staff and the applicant to present the request to the District Advisory Board (DAB II) prior to the MAPC meeting.

At the May 9, 2016, DAB II meeting the adjacent single-family residences restated their opposition to the proposed LI zoning. The neighbors also noted that since the February 4, 2016, MAPC meeting the construction on the East Kellogg Street improvements has accelerated and has increased their concerns of the immediate and future impact of the proposed LI zoning on their properties. The neighbors expressed concerns about the site draining more water off the site and onto Trig Street and their yards. They noted that the stock piling of dirt on the subject property has increased the dust in the area and that industrial truck traffic was still using Trig Street to get in and out of the site. They noted that if the applicant had left a portion of the trees up on the east side of the site that trees could have provided a buffer between their homes and the dirt stock piles and the graders and trucks moving the dirt on and off the site. They noted that the trees, bushes and grass had not been piled up but left where they had been dozed over.

The applicant's response to the stock piling of dirt on the site was that they had a three-year contract with Sherwood Construction, a contractor working on the Kellogg Street improvements for the stock piling of dirt and the parking of their equipment on the site. The applicants stated that they would not use Trig Street until the improvements to Kellogg Street were complete and the property was platted. The applicants stated that at the time of platting the entrance to their site would be determined and that they would pay for the paving of Trig Street from the Kellogg frontage road to their entrance. The applicant also stated that they would contact Sherwood Construction to tell them not to use Trig Street to get to the site. The applicant also told the neighbors that they would begin and finish the construction of an eight-foot tall berm the length of the east side of their property in 60 days to screen the site from the neighbors and discourage vehicular traffic from cutting through the their site to Trig Street and Gilbert Street. The DAB's recommendation was to approve, 6-0-1, the LI zoning subject to the provisions of the PO (Exhibit A).

At the May 19, 2016, MAPC meeting the adjacent single-family residences again restated their opposition to the proposed LI zoning. Planning Staff noted that the posting of no construction truck traffic signs on Trig and Gilbert Streets requires an amendment to the provisions of City Code Section 11.40.010. This section has a list of streets in the city where no commercial truck traffic is permitted. Public Works is hesitant in putting staggered construction barriers on the north portion of Trig Street, expressing doubts in their effectiveness and not wanting to funnel traffic from the neighborhood onto the sand and gravel Gilbert Street's intersection with Greenwich Road because of public safety concerns due to its close proximity to the I-35 overpass in regards to a sight restrictions. Public Works has contacted the manager (Wildcat Construction Company) of the Kellogg Street improvements to tell them not to use Trig or Gilbert Streets to get to the subject site during the life of the project. The Wildcat Construction Company has responded that they don't plan on utilizing Trig Street for routine ingress or egress to the storage (subject) site during construction, but occasional use may be needed for erosion control, maintenance, dust control and/or seeding of the storage pile. They have also expressed a desire to be a good neighbor during the construction – improvements to this portion of Kellogg Street and that as long as they continue to have access across the City property to and from the northwest and west side of the storage (subject)

site to the south frontage road, they do not see a need to utilize Trig Street. The MAPC recommended approval, 8-1-1, of the zoning change subject to the provisions of PO-307 (Exhibit A).

Valid protests totaling 20.23 per cent of the land area located within the 200-foot protest radius have been received. Because the valid protest exceeds 20 per cent of the land area located within the 200-foot protest radius a three-quarter majority, six votes, of the City Council is required to overturn the protests.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC and approve the zoning, subject to the provisions of the protective overlay, and place the ordinance on the first reading (requires a three-quarter majority of six votes to overturn the valid protests).

Attachments:

- MAPC minutes
- DAB memo
- Ordinance
- Exhibit A
- Protest Map

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. ZON2015-00052

Zone change from SF-5 Single-Family Residential ("SF-5") and GC General Commercial ("GC") to LI Limited Industrial ("LI"), on an approximately 11.21-acre property described as:

The West half of the Northeast Quarter of the Northeast Quarter EXCEPT the North 600 feet, all in Section 28, Township 27, Range 2 East of the 6th P.M., AND The South 49.34 feet of the North 600 feet of the West half of the Northeast Quarter of the Northeast Quarter, all in Section 28, Township 27, Range 2 East of the 6th P.M., all in Wichita, Sedgwick County, Kansas.

Subject to the following provisions of Protective Overlay-307:

1. Prohibited Land Uses –

- a. Pawn Shop, Private and Public Recycling Collection Stations, Recycling Processing Center, Reverse Vending Machine, Rodeo in the City, Sexually Oriented Business, Tattooing and Body Piercing Facility, Asphalt and/or Concrete Plant, Landfill, Mining or Quarrying, Oil and Gas Drilling, Rock Crushing, Solid Waste Incinerator, Transfer Station, Wrecking/Salvage Yard.
- b. In addition to the prohibited uses listed in 1.a.) the following uses are prohibited as long as the SF-5 Single Family Residential Zoning remains on the Properties located on the east side of Trig Street (being legally described as: Lots 5, 6, 7, 8, 9, 10, and 11, East Kellogg Acres, Sedgwick County, Kansas): Correctional Facility, Correctional Placement Residence, Nightclub in the City, and Tavern or Drinking Establishment.
- c. As long as the SF-5 Single-Family Residences remain on Trig Street, any stock piling of dirt, sand or gravel shall require the property owner to employ dust control methods such as having a water trucks or an irrigation system on site to spray the dirt sand or gravel piles frequently enough to keep the dust on the site.

2. Transportation –

- a. The applicant or any entity using the subject site will not use Trig Street until the improvements on East Kellogg are completed (2019-2020) and the property has been platted, after which the applicant/owner will pave Trig Street, per city standards, at their expense from its intersection with the Kellogg frontage road to the entrances of their property.
- b. Access to the site for the life of this portion of the East Kellogg Street construction -

- improvements (2019-2020) will be confined to the northwest and west portions of the site. No access to the site via Trig and Gilbert Streets for the life of this portion of the East Kellogg Street construction - improvements (2019-2020)
- c. The applicant will request the City to post signs, at the applicant's expense, prohibiting commercial/industrial truck traffic from using Gilbert Street to get to and from the site. These signs shall be placed for the life of this portion of the East Kellogg Street construction - improvements (2019-2020) and after said project.
 - d. The applicant shall monitor Sherwood Construction (or whoever is using the site during the life of the Kellogg Street improvements – 2019-20120) to instruct them to keep all construction traffic off of Trig and Gilbert Streets and only use the current northwest or west entrance to the site
3. Screening – If the said properties located on the east side of Trig Street remain zoned SF-5 at the time of development, then the following screening and landscaping provisions are required. (Lots 5, 6, 7, 8, 9, 10, and 11, East Kellogg Acres, Sedgwick County, Kansas)
- a. An eight-foot tall berm seeded with a grass to hold it together will be constructed along the length of the east property line within 60 days of the May 9, 2016, DAB II meeting. The berm will remain and be maintain on the site for the life of this section of the East Kellogg Street construction - improvements (2019-2020), after which in may be applied towards permanent screening or substituted with the next listed b. or c. Using it as permeant screening would still require this side of the site to comply with the Landscape Ordinance.
 - b. A minimum 8 foot tall masonry wall shall be built along the site's east side of the subject property, along Trig Street, except however for access drives or street locations into the subject property. Landscaping will be per the Landscape Ordinance. Screening and landscaping shall be constructed within 120 days of a building permit being issued.
 - c. A landscaped berm may substitute 3.b., if; landscape screening is planted with evergreen trees planted in a double row staggered/offset atop a three to four foot tall berm. The trees shall be irrigated to sustain them and shall be planted a minimum rate of 16 feet on center and shall be a minimum of 6 feet in height at the time of planting.
 - d. Existing landscaping within the south 20 feet of the south property, if maintained, satisfies the landscape street yard requirement, if it meets the standards of the Landscape Ordinance. If there is outdoor storage within 150 feet of the south property line solid screening will be required if removed.
 - e. A landscape plan shall be reviewed and approved by the Planning Director.
 - f. All landscape material that dies shall be replaced within 30 days.
 - g. All screening and landscaping will be per code, unless otherwise noted.
4. All rooftop mechanical equipment shall be screened from ground view per the U.Z.C. All loading, docking areas and trash receptacles shall be screened from ground view and along I-35 as approved by the Planning Director.
5. Signage – shall be as permitted in the Limited Industrial LI Zoning District provided the following standards:
- a. All ground signs will be pylon or monuments.
 - b. Only one building sign per building shall be allowed along I-35 frontage.

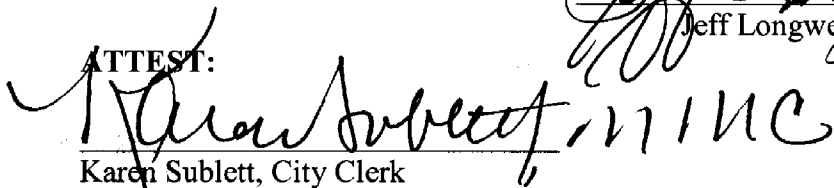
- c. If the said properties located on the east side of Trig Street remain zoned SF-5 at the time of development of the subject property, then:
- i. Building signs shall only be permitted on the south, north and west sides of the building unless they can be seen from said SF-5 properties.
 - ii. Portable signs, flashing or animated signs, pennants, banners, and balloon signs are not permitted.
 - iii. Backlit canopies and neon or florescent tube lighting on buildings are not permitted.
 - iv. The maximum height of ground signs shall be 10 foot along Trig Street, all other signs shall not exceed 20 feet tall. The maximum sign area of street signs shall be 250 square feet, EXCEPT along Trig Street which shall be limited to a maximum of 150 square feet.
 - v. No grounds signs along Trig Street shall lit, provided ground lighting is allowed for monument signs. The lighting shall be turned off between the hours of 8:00 PM to 6:00 AM.
6. A minimum of a 35 foot building setback shall be required along the Trig Street and I-35. No pole lights, or outdoor storage is allowed in the 35 foot building setback.
 7. All exterior lighting shall be shielded to direct light downward. Pole lights, including the base shall be no taller than 15 feet if the said properties located on the east side of Trig Street remain zoned SF-5 at the time of development.
 8. Compatibility height, setback and light standards shall apply, unless otherwise noted.
 9. All utilities shall be underground.
 10. Parking shall be paved per City Standards and a drainage plan must be provided for review and approval.
 11. No building permits will be issued until the site is platted.

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.

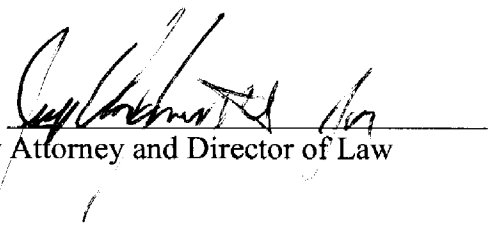
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.


Jeff Longwell, Mayor

ATTEST:


Karen Sublett, City Clerk

(SEAL)

Approved as to form: 
Jennifer Magana, City Attorney and Director of Law