

(150004) Published in The Wichita Eagle on December 12, 2011
RESOLUTION NO. 229-2011

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984 AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. ZON2011-00031

Zone change request from SF-20 Single-family Residential ("SF-20") and LI Limited Industrial ("LI") to LI Limited Industrial ("LI") on property described as:

Lot 1, John T. Ramsey Addition, generally located west of South Webb Road, approximately ¼ mile north of East 39th Street South.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #259:

A. Although the site is zoned LI Limited Industrial ("LI") the only LI uses permitted are: "nurseries and garden center" and the outside parking, display and storage of vehicles, materials and equipment associated with a nursery and garden center or landscape maintenance business; greenhouse(s); employee and customer parking; 30 yard dumpsters; "vehicle repair, limited" and a community garden. Other uses permitted are those uses allowed by right in the SF-20 Single-family Residential district unless they are prohibited in the LI district.

B. Signage is limited to signage allowed in the County Sign Code's Medium-Density Residential Districts.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body and publication in the official county newspaper.

Commissioners present and voting were:

DAVID M. UNRUH	<u>Aye</u>
TIM R. NORTON	<u>Absent</u>
RICHARD RANZAU	<u>Aye</u>
JAMES B. SKELTON	<u>Aye</u>
KARL PETERJOHN	<u>Aye</u>

DATED this 7 day of December, 2011.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

David M. Unruh
DAVID M. UNRUH, CHAIRMAN

ATTEST:

Kelly B. Arnold
KELLY B. ARNOLD, County Clerk



APPROVED AS TO FORM:

Robert W. Parnacott
ROBERT W. PARNACOTT,
Assistant County Counselor

AGENDA ITEM REQUEST

1-214

Proposed Agenda Item: ZON2011-00031 ZONE CHANGE FROM SF-20 SINGLE-FAMILY RESIDENTIAL ("SF-20") TO LI LIMITED INDUSTRIAL ("LI") SUBJECT TO PROTECTIVE OVERLAY (P-O) #259 ON PROPERTY GENERALLY LOCATED WEST OF WEBB ROAD, 1/4 MILE NORTH OF EAST 39th STREET SOUTH (DISTRICT 5)

Presented By: John L. Schlegel, Director of Planning *JLS*

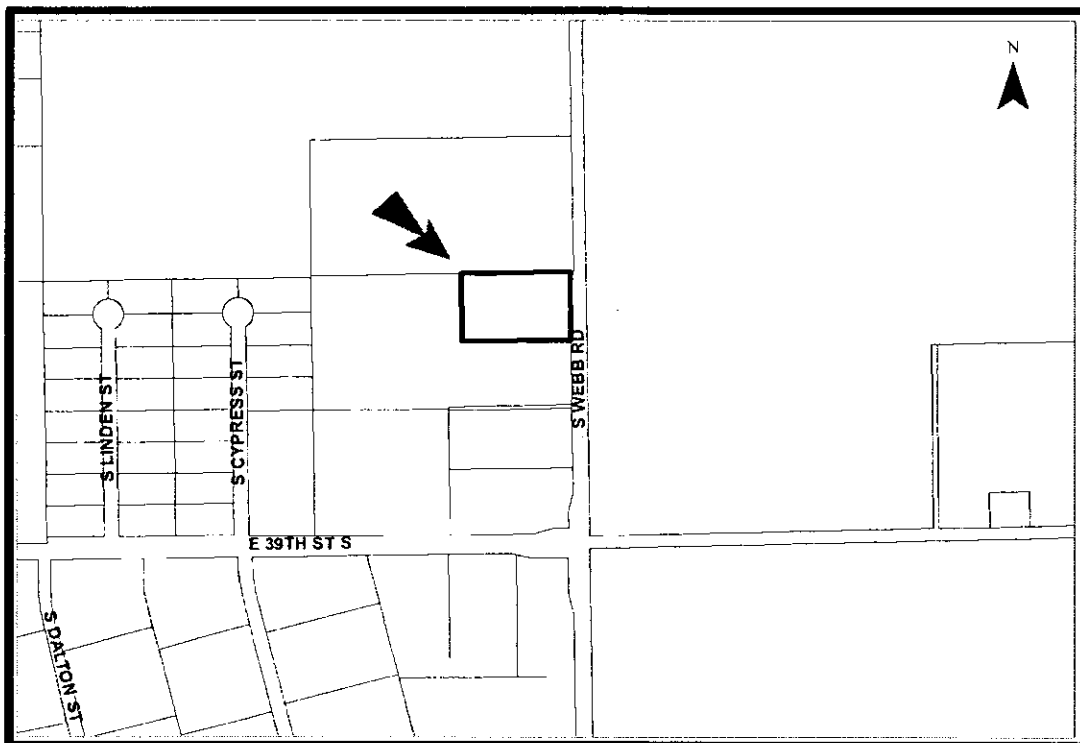
Recommended Action: Adopt the findings of the Metropolitan Area Planning Commission ("MAPC"), approve the zone change to LI Limited Industrial, subject to Protective Overlay ("P-O") #259 and authorize the Chairman to sign the resolution.

Proposed Agenda Date: December 7, 2011

Outside Attendees: Robert W. Kaplan, agent

Multimedia Presentation: Powerpoint

Donations: Not applicable



Background: The applicant is seeking LI Limited Industrial ("LI") zoning on approximately 2.985 acres located on the west side of South Webb Road, approximately 1,100 feet north of East 39th Street South that are currently zoned SF-20 Single-family Residential ("SF-20"). At this location the property owner owns a total of 4.1 acres, platted as the John T. Ramsey Addition; however, the northeastern 1.115 acres (180 feet by 270 feet) are already zoned LI (SCZ-0428), and are developed with a vacant warehouse/distribution facility (3807 South Webb Road). The applicant would like to rezone the SF-20 zoned portion of the ownership (2.985 acres) to LI to permit a nursery and garden center. Approval of the request would provide uniform zoning on the entire ownership. The total ownership is surrounded by a six-foot chain-link fence that originally sported a thick growth of Hall's Honeysuckle (*Lonicera japonica*), and probably provided code required screening. The honeysuckle now has significant segments that appear to be dead.

The applicant's business is not a typical retail nursery and garden center; instead the applicant's business deals more with the equipment, employees and non-living landscaping materials such as topsoil, mulch and rock used in landscaping and yard maintenance. The applicant indicates the site would be used to: park and store equipment when not in use; employee and customer parking; placement of a 30-yard dumpster; storage and display of materials to be sold or used on jobs; a place to work on company equipment and an office. At some point in the future the applicant may also: build a greenhouse; have a full time mechanic and repair shop open to the public; have a community garden for employees, customers and their families and sell or give the produce away.

All nearby property surrounding the application area is zoned SF-20, and is primarily used for agricultural activities. There are some single-family residences located approximately: 104 feet to the southwest; 500 feet to the south and 650 feet northwest of application area (measured from the subject site property line to the residence). Another property located approximately 330 feet (measured property line to property line) to the southwest has a residence and has Conditional Use approval to operate a horse stable. In 1958, further to the south of the subject site, all four corners of the intersection of East 39th Street South and South Webb Road were zoned LC Limited Commercial ("LC").

The *Wichita-Sedgwick County Unified Zoning Code* ("UZC") defines a "nurseries and garden center as a place of business where retail and wholesale products and produce are sold to consumers. These centers, which may include a nursery and / or greenhouses, import most of the items sold, and may include plants, nursery products and stock and other garden and farm variety tools and utensils; this use may be subject to the special provisions of Sec. III-D.6.z when located in the LC district." Nurseries and garden centers are permitted in the following districts: LC, subject to Supplementary Use Regulation "z", OW Office Warehouse ("OW"), GC General Commercial ("GC"), CBD Central Business District ("CBD"), LI, GI General Industrial ("GI") and AFB Air Force Base ("AFB").

The LI district permits a very broad range of nonresidential uses when compared to the SF-20 district. The SF-20 district allows large lot single-family residential development

and complementary land uses; whereas the LI district allows for moderate intensity manufacturing, industrial, commercial and complementary land uses. The property development standards for the LI district are also minimal when compared to the SF-20 district; for example, the LI district permits a zero rear, interior and street side building setback. The "SF-20 district has 25-foot front and rear setbacks; the interior side setback is 10 feet while the street side setback is 20 feet.

The Sedgwick County Sign Code permits a wide range of sign types in the LI district, including billboard, bulletin board, building, ground or pole signs that might be considered to be out of character when compared to signage allowed in the SF-20 zoning district.

Per the UZC's screening and lighting standards (Sec. IV-B.d) screening of all nonresidential uses shall be provided along all side and rear lot lines abutting a residential zoning district. The screening can be a fence, wall, evergreen vegetation, earth berm or some combination. Section IV-B.e requires loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, freestanding coolers or refrigeration units, outdoor storage, portable storage containers, outdoor work areas or similar uses to be screened from residential zoning districts. The UZC requires lighting to be mounted in a way that the light does not trespass onto abutting property and any lighting sources located within 200 feet of residential zoning are limited to 15 feet in height. Compatibility setback standards (Sec. IV-C.4) will require minimum interior and rear building setbacks of 25 feet as long as the abutting property is zoned TF-3 Two-family Residential (TF-3") or more restrictive. Compatibility height standards (Sec. IV-C.5) limit building height to 35 feet when located within 50 feet of a property that is zoned TF-3 or more restrictive. Sec IV-C.7.b requires dumpsters to be located a minimum of 20 feet from property zoned TF-3 or more restrictive.

Analysis: At its regular meeting on November 3, 2011, the Wichita - Sedgwick County MAPC considered the above captioned request. The property owner living south and west of the application area was present, and indicated he was not concerned with the applicants intended nursery and greenhouse and related uses but was concerned over other uses to which the application area might be used should the property change hands. It was suggested that the protective overlay recommended in the staff report could be modified to address his concerns. The applicant agreed to the modifications. The action of the MAPC was to approve (10-0) LI Limited Industrial ("LI") zoning for the 2.985 acres currently zoned SF-20 Single-family Residential ("SF-20"), and to apply the following Protective Overlay (P-O #259) to the entire application area (4.1 acres):

A. Although the site is zoned LI Limited Industrial ("LI") the only LI uses permitted are: "nurseries and garden center" and the outside parking, display and storage of vehicles, materials and equipment associated with a nursery and garden center or landscape maintenance business; greenhouse(s); employee and customer parking; 30 yard dumpsters; "vehicle repair, limited" and a community garden. Other uses permitted are those uses allowed by right in the SF-20 Single-family Residential district unless they are prohibited in the LI district.

B. Signage is limited to signage allowed in the County Sign Code's Medium-Density Residential Districts.

There have not been any protests filed.

Alternatives:

1. Adopt the findings of the Metropolitan Area Planning Commission, approve the zone change to LI subject to P-O #259, approve the resolution and authorize the Chairman to sign the resolution and authorize the resolution to be published (requires a simple majority vote).

2. Return such recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove (requires a simple majority vote).

3. Deny the zone change and override the MAPC's recommendation (requires a two-third majority vote).

Financial Considerations: There are not any additional financial considerations to the County associated with this application.

Policy Considerations: The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

Legal Considerations  ☒ ^{llhp} ***Approved as to form and signed by County Counselor's Office:*** The City and County are authorized by K.S.A. 12-741, et seq. to adopt a joint zoning code. The City and County have done so, and in that code have provided for the zoning of properties by approval of a zone change (Sec. V-C of the Unified Zoning Code).