

City of Wichita  
City Council Meeting  
January 7, 2014

A7-0

**TO:** Mayor and City Council

**SUBJECT:** ZON2013-00034 and CON2013-00030 – Zone change request from SF-5 Single-family Residential and GC General Commercial to LI Limited Industrial and Conditional Use to permit “wrecking and salvage” on property generally located on the north side of East MacArthur Road, midway between South Hydraulic Avenue and I-135 (1200 East MacArthur Road). (District III)

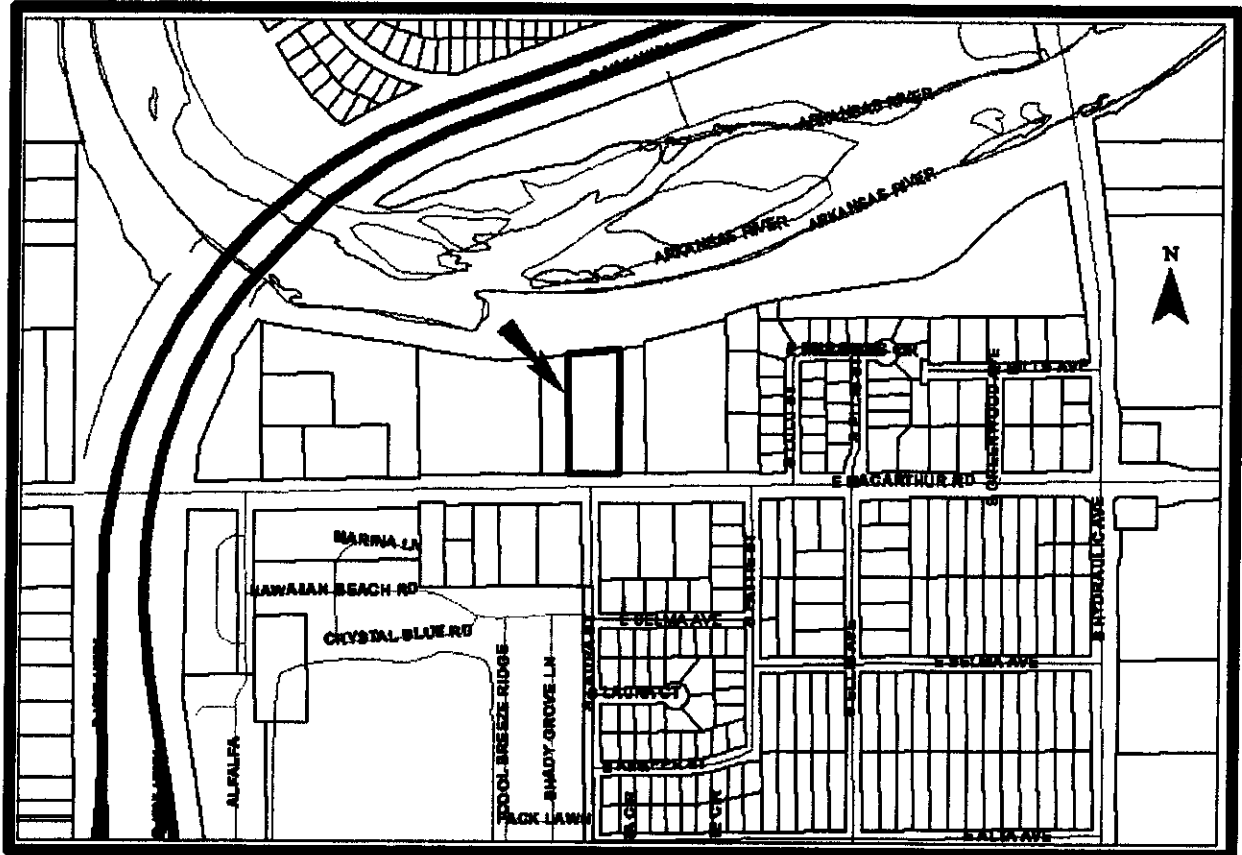
**INITIATED BY:** Metropolitan Area Planning Department *JLS*

**AGENDA:** Planning (Consent)

**MAPC Recommendation:** The Metropolitan Area Planning Commission recommended approval of the request (8-0).

**DAB Recommendation:** District Advisory Board III recommended approval of the request (8-0).

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



**Background:** The application area is 2.13 acres located on the north side of East MacArthur Road, 1,680 feet east of I-135 (1200 East MacArthur Road). The property is platted as the Wilson & Brown 2nd Addition, and is currently occupied by Auto Recyclers of Kansas, which appears to be engaged in “wrecking and salvage” activity. The first approximately 55 feet of the application area is zoned SF-5 Single-family Residential (SF-5); the remaining approximately 389 feet of the property is zoned GC General Commercial (GC). The applicant is requesting LI Limited Industrial (LI) zoning and “conditional use” approval to permit “wrecking and salvage.” The reason given by the applicant for the current application is an intention to build a canopy next to the existing building that fronts East MacArthur. See the attached site plan which depicts the existing building and the proposed canopy. The existing building and proposed canopy will be used to support the site’s existing “wrecking and salvage” operation. The site plan also indicates the applicant leases property for his business activities from the property owner located to the east. Existing fencing is shown on the site plan as are 17 parking spaces.

In 2010, the applicant was granted LI zoning and a “conditional use” for “wrecking and salvage” on an abutting three acres located immediately west of the northernmost 219 feet of the current application (labeled on the site plan as “area already approved for wrecking/salvage.” If approved, the current application would bring the site’s use into conformance with existing Unified Zoning Code (UZC) standards. The applicant’s agent indicates the current business had been in operation at this location for some 10 to 12 years. The applicant also owns the land located immediately west of the application area, south of the three acres noted above that were zoned LI with a “conditional use” to permit “wrecking and salvage” (labeled on the site plan “area not approved for wrecking/salvage, but owned by applicant).”

The UZC permits a “wrecking and salvage yard” in the LI Limited Industrial (LI) and GI General Industrial (GI) districts, subject to Supplementary Use Regulations Section III-D.6.e and dd. “Wrecking and salvage yard” in the LI and GI districts may be approved as a “conditional use” provided that such operation: 1) is not 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 not in excess of five percent of the area of such fence. The outdoor storage and/or bailing of junk, scrap, paper, bottles, rags or similar materials are prohibited.

The submitted site plan and legal description for the zone change and the “conditional use” do not appear to comply with Supplementary Use Regulation Section III-D.6.e.1 that does not permit “wrecking and salvage” operations on property abutting an arterial street, expressway or freeway. The segment of East MacArthur Road abutting the application is designated by the 2030 Transportation Plan as an arterial street. There is a longstanding interpretation by the “zoning administrator” that if a “wrecking and salvage” operation is located 150 feet away from street right-of-way then the “wrecking and salvage” use is judged to comply with Supplementary Use Regulation III-D.6.e.1. The 150-foot distance falls approximately at the rear of the existing building shown on the site plan. The UZC permits the City Council to modify or waive Supplementary Use Regulations. The site plan also depicts the removal of existing fencing along the front of the proposed canopy, which would not be consistent with Supplementary Use Regulation III-D.6.e.3.

A presumed nonconforming salvage yard is located on GC zoned property that abuts the application area’s east property line (labeled on the site plan as “leased property.” To the east there is a restaurant on abutting GC zoned land. Further east, there is also a MH Manufactured Housing (MH) zoned manufactured home park. To the west is a LI zoned wrecking and salvage yard and a GC zoned vehicle storage yard. Located south of the site, across MacArthur Road is a LC zoned apartment complex and GC zoned vacant land. The Arkansas River is located directly north of the site, including the Wichita-Valley Center Riverside Levee.

**Analysis:** At its meeting of November 21, 2013, the Metropolitan Area Planning Commission (MAPC) approved (8-0) the request on its consent agenda, subject to conferring with the Stormwater Engineer regarding any restrictions on the applicant’s use of the area labeled on the site plan as “10’ utility easement” and 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 where required by the code or as a condition of approval. If necessary, a revised site plan that depicts all conditions of approval shall be submitted within 30 days of final approval for review and approval by the Director of Planning.
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 the Metropolitan Area Building and Construction Department.
5. 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.
6. 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 be organized and be installed in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.
7. The applicant shall maintain at all times an active program for the eradication and control of rodents.
8. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.

14. 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.

There were not any members of the public present to speak regarding the application.

As a result of discussions with the Stormwater Engineer, the applicant will remove the area labeled on the site plan as "10' utility easement" from the area approved for use as "wrecking and salvage."

District Advisory Board III reviewed the application on December 4, 2013, and recommended approval unanimously (8-0). There were not any members of the public present to speak regarding the application.

There have not been any protests filed. Approval of the request as recommended by the MAPC requires a simple majority.

**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 zone change to LI Limited Industrial and the conditional use to permit "wrecking and salvage" subject to the recommended conditions; authorize the Mayor to sign the zone change ordinance and place the ordinance on first reading (simple majority vote required).

**Attachments:** MAPC minutes, DAB memo, ordinance, resolution and site plan.

OCA 150004

ORDINANCE NO. 49-648

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. ZON2013-00034 (associated with CON2013-00030)


Zone change from SF-5 Single-family Residential (SF-5) and GC General Commercial (GC) to LI Limited Industrial (LI) on property containing approximately 2.13 acres located north of East MacArthur Road, 1,680 feet east of I-135 (1200 East MacArthur Road) and described as:

Lot 1, Wilson & Brown Addition to Wichita, Sedgwick County, Kansas.

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 this 14 day of Jan, 2014.

  
Carl Brewer - Mayor

ATTEST:

  
Karen Schubert, MMC  
City Clerk



Approved as to form:   
Gary E. Rebenstorf, City Attorney