

(OCA150004 BID 37529-009 CID #76383)

Published in The Wichita Eagle on April 10, 2015

ORDINANCE NO. 49-972

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. ZON2014-00003

Zone change request from Single-Family Residential (SF-5) and Limited Commercial (LC) to Limited Industrial (LI) on property described as:

J.R. Sandlian Addition, Wichita, Sedgwick County, Kansas.

Generally located north of 29th Street North, on the west side of Hoover 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 this 7 day of April, 2015.

ATTEST:

[Handwritten signature of Amber Sublett]



Amber Sublett, City Clerk

[Handwritten signature of Carl Brewer]

Carl Brewer, Mayor

APPROVED AS TO FORM:

[Handwritten signature of Sharon L. Dickgrafe]
Sharon L. Dickgrafe, Interim City Attorney & Director of Law

**City of Wichita
City Council Meeting
May 13, 2014**

TO: Mayor and City Council

SUBJECT: ZON2014-00003 and CON2014-00011 – Zone change request from LC Limited Commercial and SF-5 Single-family Residential to LI Limited Industrial, and a Conditional Use to permit a “wrecking and salvage yard” on property generally located 500 feet north of West 29th Street North, on the west side of North Hoover Road (3059 North Hoover Road) (District V)

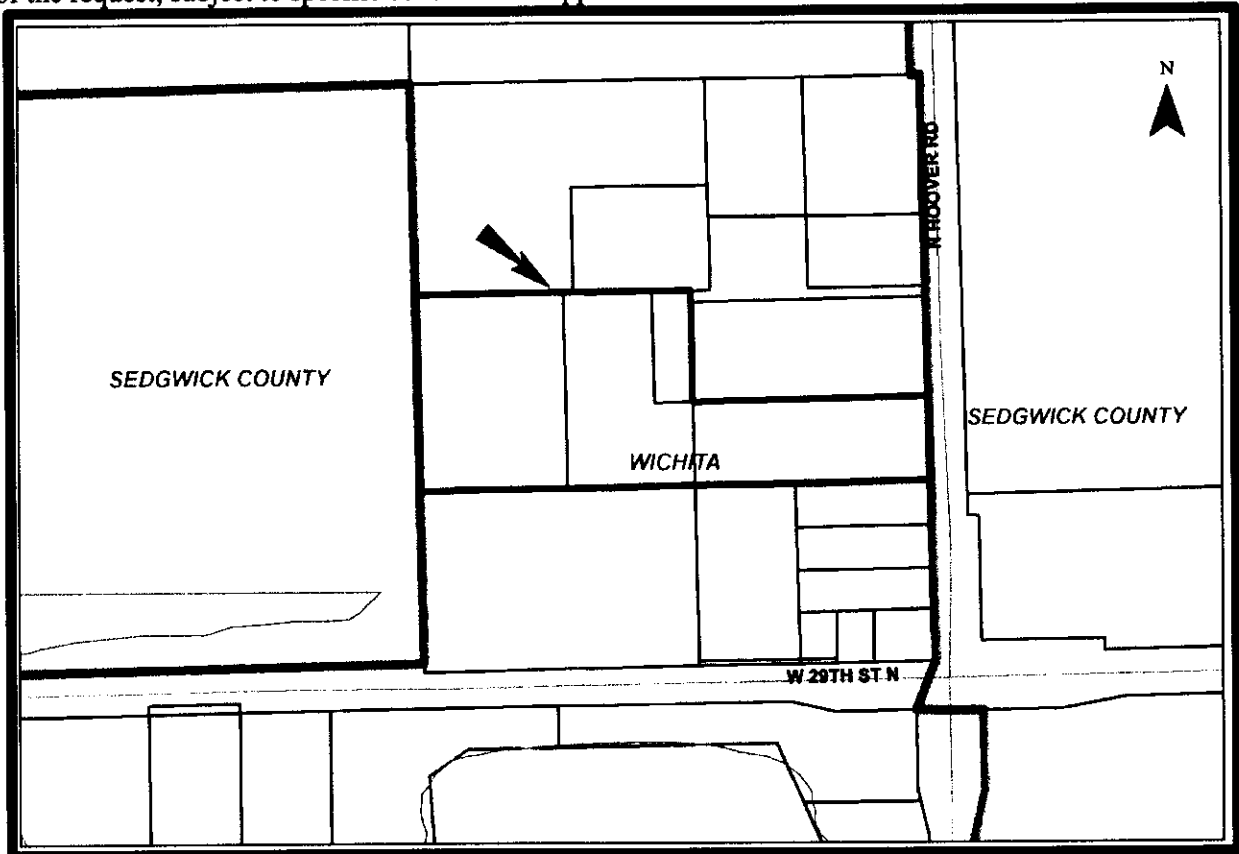
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-consent)

MAPC Recommendation: The MAPC recommended approval of the request subject to staff recommendations (8-1).

DAB Recommendation: District Advisory Board V recommended approval of the request subject to staff recommendations (3-0).

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request, subject to specific conditions of approval.



Background: The applicant is requesting LI Limited Industrial (LI) zoning and a Conditional Use to permit “wrecking and salvage” on 8.1 unplatted acres located approximately 500 feet north of West 29th Street North, east of North Ridge Road. A portion of the application area (2.25 acres) is currently zoned LC Limited Commercial (LC); the remainder of the site (5.85 acres) is zoned SF-5 Single-family Residential (SF-5). A portion of the application area currently is developed with a non-conforming wrecking and salvage yard. February 9, 1968, and March 30, 1974, aerial photographs show that a wrecking and salvage operation was in operation at those times. The salvage yard existed prior to the adoption of county-wide zoning. Once county-wide zoning was adopted, the wrecking and salvage operation became non-conforming but was allowed by code to continue to operate as a nonconforming use within the area that it occupied at the time county-wide zoning was adopted. Per the Unified Zoning Code, outdoor nonconforming uses such as vehicle wrecking and salvage yards do not have any expansion rights. The business is prohibited by code from expanding to a larger area unless it is properly zoned.

As shown on the applicant’s site plan, the business has existing buildings located within approximately 60 feet of Hoover Road, a designated two-lane arterial street. (The Supplementary Use Regulations prohibit wrecking and salvage operations abutting an arterial street. The Zoning Administrator has issued an opinion that wrecking and salvage operations located beyond 150 feet of an arterial street are not “abutting.”) Wrecked vehicles are located just west of the existing office building shown on the site plan. The site is partially enclosed by a solid metal fence. Solid fencing is located along: the southern property line; the western 600 feet of the northern property line (not on the site); the northern 220-foot long portion of the east property line and along the southern 72-foot portion of the east property line. A chain-link fence with plastic slats is located along the easternmost 515 feet of the site’s northern property line. (Chain-link fencing with plastic slats is a non-conforming fence type not permitted for screening. The slats do not provide effective solid screening.) The applicant’s site plan depicts a new eight-foot solid fence will be installed along the western boundary. Parking is located in front of the existing office.

Properties surrounding the application area are zoned SF-5, SF-20 Single-family Residential (SF-20) and LC. The SF-20 zoned land located to the east of Hoover Road is in Sedgwick County, and has been approved for PUD-35, which once perfected, would allow a wide range of uses: airstrip, residential, office and commercial. Mining is permitted on the land to the east of Hoover with the submission of a preliminary plat. A preliminary plat has been submitted. Land to the north of the application area appears to be developed with a non-conforming wrecking and salvage yard. There is a single-family residence, with frontage along Hoover that is located immediately north of the application areas existing office, and east of the northern half of the eastern end of the application area. The property located to the west is located in Sedgwick County, and is a completed sandpit that is now a private lake. Property located south of the application is developed with some single-family residences. One of the lots does not have a site built residence, but has a single recreational vehicle.

As noted above, outdoor nonconforming uses such as vehicle wrecking and salvage yards do not have any expansion rights. The existing business could continue to operate on the portion of its ownership that it has been using for wrecking and salvage, but it is prohibited from expanding to a larger area due to its nonconforming land use status. The UZC permits a “wrecking and salvage yard” in the 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.

Wrecking and salvage requires one parking space per 333 square feet of office or retail sales area, plus one space per 2,000 square feet of building floor area used for warehousing of salvaged parts; plus one per 43,500 square feet of outdoor storage area. The site should provide approximately 11 paved (concrete, asphaltic concrete, asphalt or other comparable surface) parking spaces (two for the

approximately 800-plus square-foot office, one space for the warehouse and eight for the outside storage area).

The applicant will have to remove existing wrecked vehicles located within 150 feet of Hoover or request a waiver from the City Council. The chain-link fence will need to be replaced with code compliant screening.

Based upon the information available at the time this report was prepared, it is recommended that the request be approved subject to platting within one year and the following conditions:

1. The Conditional Use permits a vehicle wrecking/salvage yard.
2. The site shall be developed, operated and maintained in compliance with UZC, Art III, Sec. III-D.6.e; the conditions of approval contained in the Conditional Use and all other applicable codes, regulations or licenses, including, but not limited to the Unified Zoning Code, fire, health and environmental regulations.
3. Within six months of final approval, code required screening shall be installed (Sec. IV-B.3.h) and shall be maintained. At the time of approval, screening along the west property line and the easternmost 515 feet of the site's northern property line was either missing or not in compliance.
4. If not present at the time of final approval, the applicant shall provide at least 11 paved parking spaces within six months of final approval.
5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
6. If necessary, a revised site plan addressing the conditions of approval shall be submitted for Planning Director's consideration within 60 days of final approval.
7. Storage of all of vehicles shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding. Inoperable vehicles or any other materials associated with the wrecking and salvage activities shall not be stacked, stored or piled higher than the screening required to hide the vehicles or material from ground level view.
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. 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.

On April 10, 2014, the Metropolitan Area Planning Commission (MAPC) approved (8-1) the request, subject to staff recommended conditions of approval cited above. Two citizens spoke in opposition. One citizen that owns land that abuts the application area south of the subject site presented a handout containing photo-copies of photographs of alleged code violations, and indicated he was opposed to the application. A second citizen that lives approximately 270 feet south of the application area also spoke in opposition, and commented that there was not any advantage or benefit to approval of the request.

On April 21, 2014, District Advisory Board (DAB) V voted 3-0 to approve the request, subject to staff recommendations. No one other than the applicant's agent spoke.

Six property owners have submitted protest petitions. Two of the owners that filed protests represent 30.40 percent of the land area located within 200 feet of the application area, which triggers a supermajority vote by the City Council to approve the request.

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 and the resolution as to form.

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC and approve the requested zone change and conditional use to permit a "wrecking and salvage yard," subject to the recommended conditions of approval (three-fourths majority vote required); authorize the Mayor to sign the ordinance and resolution and place the ordinance on first reading.

Attachments: Site plan, protest map, MAPC minutes, ordinance, resolution, Ferris Consulting memo and citizen handout.