

ORDINANCE NO. 49-189

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. ZON2011-00035**

Zone change request from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC"), and a PO Protective Overlay on properties described as:

The North half of the Southeast Quarter of the Southeast Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT highway and EXCEPT a tract beginning at the West line of highway 81 and intersection of North line of Southeast Quarter of the Southeast Quarter, thence West to canal, thence Southwest to a point 401.9 feet South of the North half of the Southeast Quarter of the Southeast Quarter; thence East to highway; thence North to beginning; generally located south of I-235 and west of Broadway Street.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #261:**

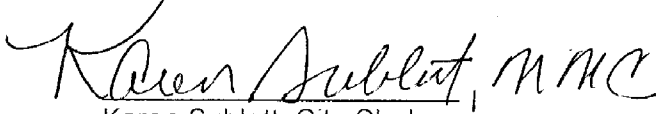
1. Permitted uses are those permitted by right in the SF-5 Single-family Residential ("SF-5") zone district plus "nurseries and garden centers," as allowed in the GC General Commercial ("GC").
2. The applicant will need to designate access to the subject site without crossing SF-5 zoned property before any building permits are to be issued (excluding sign permits).

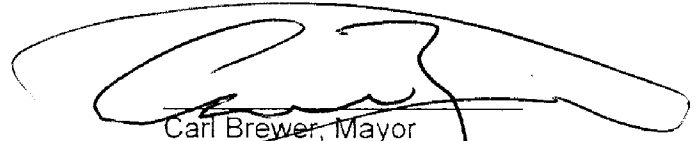
**SECTION 2.** That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**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 24 day of January, 2012.

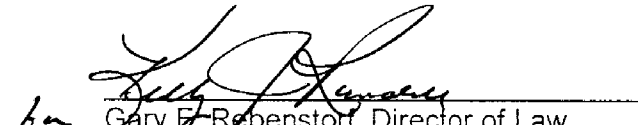
ATTEST:

  
Karen Sublett, City Clerk

  
Carl Brewer, Mayor



Approved as to form:

  
for Gary E. Rebenstorf, Director of Law

City of Wichita  
City Council Meeting  
January 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** ZON2011-00035 – City zone change from SF-5 Single-family Residential (“SF-5”) to GC General Commercial (“GC”) generally located south of I-235 and west of north Broadway (District VI)

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

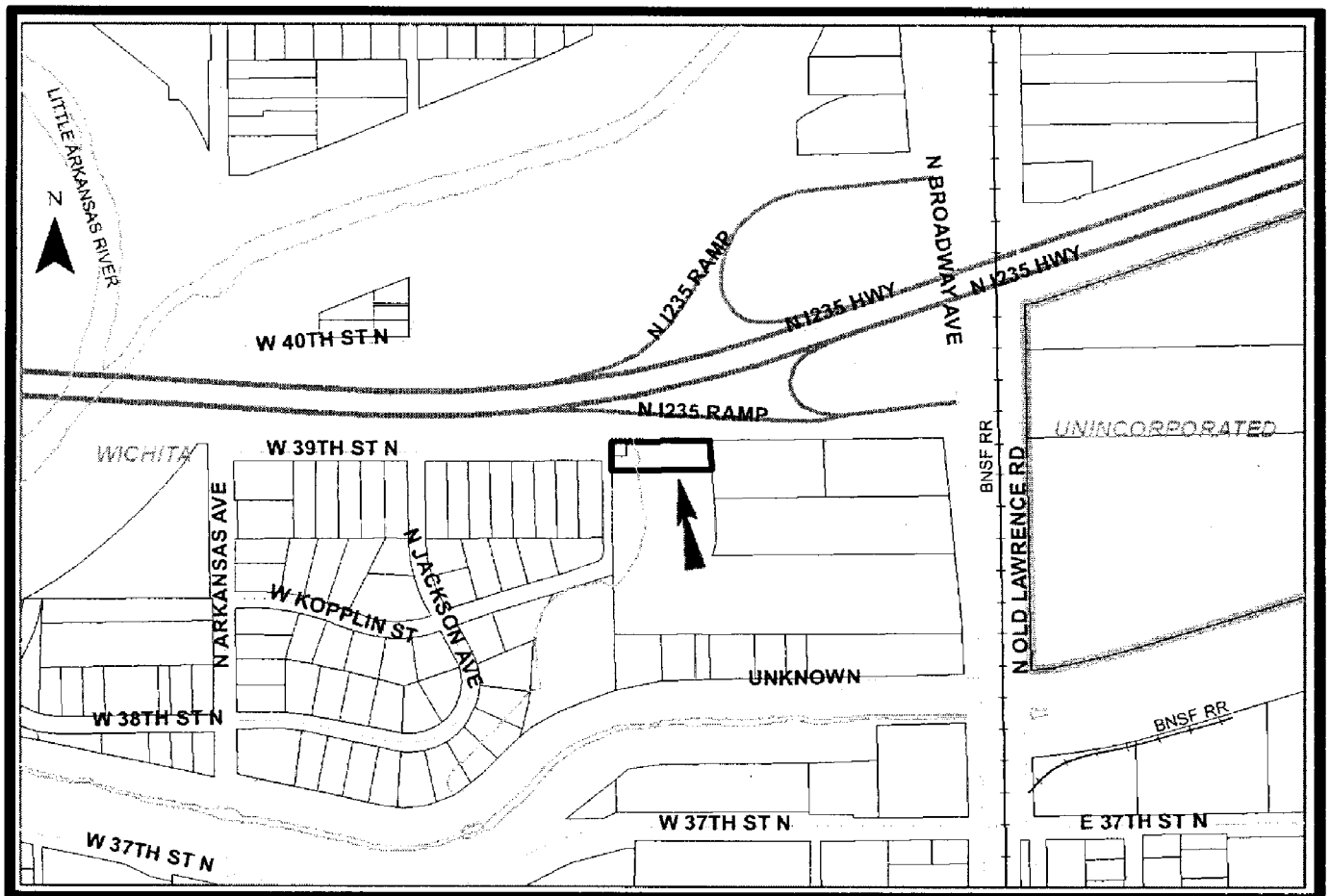
**AGENDA:** Planning (Consent)

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**MAPC Recommendation:** Approve, vote (10-0).

**DAB IV Recommendation:** Approve, vote (8-0).

**MAPD Staff Recommendation:** Approve.



**Background:** The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to GC General Commercial (“GC”) on a 0.80-acre unplatted tract of land located 800 feet west of Broadway, just south of I-235. The subject property is the west approximately 360 feet and north 100 feet of a larger parcel zoned GI General Industrial and SF-5 with frontage on Broadway. The applicant proposes to develop the site with an outdoor nursery, and to bring an existing non-conforming off-site sign up to conformance.

The applicant proposes to operate a landscaping and nursery business in this area, and be able to refurbish a currently non-conforming off-site sign. The subject site and property directly south and west of the subject is currently zoned SF-5, however; the likely hood of this area being developed with residential uses is low since the entire area is located within the Chisholm Creek 100 year floodplain. The property west of the subject site has been platted for residential development since the 1950’s, yet out of the 30 or so lots that are within the floodplain, only three have been developed. With the location being in the floodplain, the property would likely not be suitable for residential development and buildings will not be allowed without a large amount of infill. With those deficiencies on this property, the applicant believes the area would be suitable for an outdoor nursery area which would not involve any structures. The area is currently overrun by wild vegetation and the development of an outdoor nursery would do little to change the current condition of the property, but make it more orderly. Access to the site would be from north Broadway, with the access being through properties currently owned by the applicant.

The applicant also proposes to bring a non-conforming off-site sign that currently exists on the property up to conformance through the rezone and special review process. Currently, the sign cannot be reconstructed or modified due to its non-conforming state, a regulation of the Kansas Department of Transportation. GC zoning would bring the sign into conformance and allow for the sign to be rebuilt or replaced in the future. The applicant’s future plan is to move the sign east of its current location and reconstruct it with a single pole sign. As a part of this application, the sign code requires a Special Review Approval due to the sign being located within 300 feet of a residentially zone property on which a residential structure can be legally erected or to a residential structure, even though the nearest developed residential property is over 500 feet from the sign location. The Special Review Approval is needed in order for the sign to become a conforming off-site sign.

The surrounding area is characterized by a mixture of commercial, industrial and residential development. The commercial/industrial development is located to the east and south of the subject site and is zoned SF-5, GI General Industrial (“GI”) and LI Limited Industrial (“LI”). To the west of the subject property, a couple single-family residences are scattered between undeveloped lots zoned SF-5. Further south is the Chisholm Creek Diversion drainage right-of-way.

**Analysis:** At the District VI Advisory Board meeting on Monday, December 5, 2011, the DAB voted 8-0 to approve the request. One person from the public spoke to express concerns over noise and pollution.

At the MAPC meeting held December 8, 2011, the MAPC voted on consent (10-0) to recommend approval of the request for GC zoning and the following protective overlay:

1. Permitted uses are those permitted by right in the SF-5 Single-family Residential (“SF-5”) zone district plus “nurseries and garden centers,” as allowed in the GC General Commercial (“GC”).
2. The applicant will need to designate access to the subject site without crossing SF-5 zoned property before any building permits are to be issued (excluding sign permits).

No protests have been received during the subsequent two-week protest period.

**Financial Considerations:** There are no financial considerations in regards to the zoning request.

**Goal Impact:** The application will 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 protective overlay and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

**Attachments:**

- Ordinance
- DAB Memo
- MAPC Minutes