

**EXCERPT MINUTES OF THE APRIL 16, 2015 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2015-00011 – Gary L. Sigg / Garber Surveying Service, P.A. (Dan Garber) request County zone change from RR Rural Residential to LI Limited Industrial to increase lot size and bring property use into zoning compliance on property described as:

Commencing at the Southwest corner of the Southeast Quarter of Section 9, Township 26 South, Range 3 West of the 6th P.M., thence on a Kansas State Plane Bearing North 00°57'26" West along the West line of said Southeast Quarter 40.00 feet (per Record) to the North Right-of-way line of 61st Street North for the point of beginning; thence continuing North 00°57'26" West along the West line of said Southeast Quarter 327.72 feet (per Record) to the Northwest Corner of a tract previously recorded in Book 1787, Page 1635, Sedgwick County Court House; thence continuing North 00°57'26" West along the West line of said Southeast Quarter 200.00 feet; thence North 89°13'40" East parallel with the South line of said Southeast Quarter 125.00 feet; thence South 00°57'26" East parallel with the West line of said Southeast Quarter 200.00 feet to the Northeast corner of said previously recorded tract; thence continuing South 00°57'26" East parallel with the West line of said Southeast Quarter 327.72 feet (per Record) to said North Right-of-way line; thence South 89°13'40" West along said Right-of-way line parallel with the South line of said Southwest Quarter 125.00 feet (per Record) to the point of beginning, subject to any easements or restrictions of record.

BACKGROUND: The application area is located on the north side of West 61st Street North, approximately ½ mile west of North 263rd Street West (27132 West 61st Street North). The property (.93894 acre) is unplatted, is zoned Rural Residential (RR) and is developed with two metal buildings containing a nonconforming use, a “welding or machine” shop. Established in 1976, the welding or machine shop contains an estimated 8,230 square feet of gross floor area. The business employs four full-time, and up to five part-time, employees.

The welding or machine shop is a nonconforming use based upon the circumstance that the site’s RR zoning, established in 1985, does not permit a machine shop except as a “rural home occupation.” The site does not contain a residence; therefore, the use is not eligible to operate a “rural home occupation.” (See *Wichita-Sedgwick County Unified Zoning Code (UZC)* Article IV, Section IV-E.1-8.) The applicant wishes to enlarge the size of the existing buildings housing the welding or machine shop, and has transferred an additional .575 acre from the applicant’s 21 acres located north of the existing developed site. Including the newly acquired land, the application area encompasses 1.514 acres, which is also nonconforming with respect to RR district’s minimum lot area requirements. The RR district requires a minimum lot area of two acres. (See UZC Article III, Section III-B.2.d(1).) Finally, at some point in the past the floor area of the initial building (or buildings) housing the nonconforming use was expanded to the maximum amount (30 percent) allowed. (See UZC Article VII-B.2.) Therefore, in order to expand the floor area of the existing nonconforming welding or machine shop the applicant needs the site to be properly zoned; hence, the request for Limited Industrial (LI) zoning. (See Article III, Section III-B.20.b(4).)

The property utilizes onsite water well and septic system.

The UZC defines a welding or machine shop as a “workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops and sheet metal shops.” (See Article II, Section II-B.14.n.)

The off-street parking ratio for a welding or machine shop is one space per 500 square feet of floor area. (See Article IV, Section IV-A.4.) If the applicant feels that the code specified parking is excessive, the applicant may submit a parking study that demonstrates that fewer spaces are needed because of circumstances specific to the use’s characteristics. The drive aisles, parking spaces and circulation areas are to be an all-weather surface, such as rock, asphalt or concrete. It appears the drive aisles, parking spaces and circulation areas are rocked.

The UZC (Article IV, Section IV-B.3.d) also requires that screening be provided along the rear and side yards of all nonresidential uses abutting residential zoning. The required screening may be fencing/walls, evergreen vegetation, a landscaped berm or some combination of the three methods of screening. The site appears to have significant existing hedgerows along the east side, and along portions of the west property line. The portion of the west property line that does not have extensive screening appears to be located where the west side of the existing structures provide screening that accomplishes the intent of the code. The applicant owns the RR zoned farm/ranch land located north of the site. There is a significant wooded area providing screening from the residential properties located farther the north and west; therefore, as long as the existing trees provide screening, additional screening is not required.

The acreage (21 acres) located north of the application area are owned by the applicant, are zoned RR and are used for farm or ranch land purposes. The property located immediately east of the subject site is 1.38 acres, zoned RR and, according to the county’s tax records, is used for “general contractor” purposes. The planning department’s official list of nonconforming uses for 1985 indicates the property was used for propane sales. The 237 acres located south of the site, across West 61st Street North, are zoned RR, and are used for farming or ranching. The 4.2 platted (Bluestem Acres 2nd Addition, recorded in 2002) acres located west of the application area are zoned RR and are developed with a single-family residence. The existing welding or machine shop is located approximately 31 feet from the east property line of the lot containing the single-family residence. (Measured structure to structure the home and the welding or machine shop are approximately 65 feet apart.) Farther west/northwest are additional platted large-lot single-family homes located on platted lots. The closest of the homes located farther north is located approximately 697 feet from the existing welding or machine shop, and is screened by an extensive woodland located in a drainage way.

The RR district was established to accommodate very large-lot, single-family residential uses in an area where the full range of municipal facilities and services are not available and not likely to be available in the near future. Selected uses permitted by right include: single-family residences, residential designed manufactured homes, day care (limited), parks and recreation, hobby kennel and agriculture. The LI district was established to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. Selected uses permitted by right include: The LI district does not permit residential uses of any kind. The subject property is located approximately one mile west of the City of Andale. The Andale Planning Commission will review the application on April 8, 2015.

ZONING DISTRICT	RR	LI
Minimum Lot Area	Two acres or whatever lot area is required to serve an onsite sewer solution	None, except whatever is needed for the onsite sanitary sewer solution
Minimum Lot Width	200 feet	None, except whatever is needed for the onsite sanitary sewer solution
Front Building Setback	30 feet or 85 feet from the centerline of the section line road, whichever is greater	20 feet or 85 feet from the centerline of the section line road, whichever is greater
Rear Building Setback	25 feet	No minimum
Interior Side Building Setback	20 feet	For nonresidential uses located within 500 feet of RR or SF-20 zoning: 25 feet (compatibility setback); Zero, but if a setback is provided the minimum is five feet (base zoning requirement)
Maximum Height	No structure shall exceed 35 feet 35 feet; 45 feet if located at least 25 feet from all lot lines; no minimum for barns, silos, and other similar farm buildings	For nonresidential uses located within 500 feet of RR or SF-20 zoning: No structure shall exceed 35 feet in height within 50 feet of the lot line of a property zoned SF-20 or RR; building height may increase by one foot for every three feet of setback beyond 50 feet (compatibility height); 80 feet, plus two additional feet or each foot of setback beyond the minimum required (base zoning requirement)
Special performance standards	Lot area for a site served by a lagoon in 4.5 acres	Activities that are obnoxious, offensive or create a nuisance due to dust, odor, smoke, noise or vibration is prohibited

CASE HISTORY: The RR district was applied to this property in 1985 with the adoption of countywide zoning.

ADJACENT ZONING AND LAND USE:

North: RR; farm or ranch land
South: RR; farm or ranch land
East: RR; general contractor
West: RR; single-family residence

PUBLIC SERVICES: West 61st Street North is a paved two-lane section line road. Municipal water or sewer services are not available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The application area is located within an area of the county that is designated by the Wichita and Small Cities 2030 Urban Growth Areas map as “rural.” Rural areas encompass land located outside of the 2030 urban growth areas for any of the county’s cities. Rural areas are intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions with provision for individual, or community water and sewer services.

RECOMMENDATION: As noted above, the LI district permits a wide range of public, commercial and industrial uses (such as: community assembly, nursing facility, convenience store, or freight terminal) that may not be appropriate on a rural location that is not served by public services, and that do not have land use impacts similar to typical farming or ranching uses commonly found in this part of Sedgwick County. Based upon the information available at the time the staff report was prepared it is recommended that the request be approved subject to the following Protective Overlay #297:

1. Although the site is zoned LI Limited Industrial, uses permitted are: uses permitted by right in the RR Rural Residential zoning district, “welding or machine shop” including the repetitive manufacture of custom made metal parts, and all uses permitted as a “rural home occupation.” The site is not required to comply with home occupation development standards, such as separation from residential uses located off-site, minimum lot areas, outside storage restrictions, etc.
2. Unless modified as part of this zone change, the site shall comply with all applicable building, sanitation, fire, zoning and subdivision regulations or codes.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR district was established to accommodate very large-lot, single-family residential uses in an area where the full range of municipal facilities and services are not available and not likely to be available in the near future. Selected uses permitted by right include: single-family residences, residential designed manufactured homes, day care (limited), parks and recreation, hobby kennel and agriculture. The LI district was established to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The LI district does not permit residential uses of any kind. The subject property is located approximately one mile west of the City of Andale.

2. The suitability of the subject property for the uses to which it has been restricted: The 1.514 acre nonconforming tract is zoned RR but, is developed with approximately 8,230 square feet of metal building floor area devoted to a nonconforming machine shop use. The tract's total area is less than the RR zoning district's two acre minimum lot area. A machine shop is not a permitted use in the RR district. The site's current zoning is not suitable for the current nonconforming machine shop and does not allow for the proposed floor area expansion of the existing machine shop. The site is not suitably zoned for the existing use or the proposed expansion of the existing use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The machine shop has existed at this location since 1976. Approval of the request should not significantly change the characteristics of the existing operation, and should not substantially increase any existing detrimental impacts created by the use. The plat containing the single-family residence closest to the site was recorded in 2002, 26 years after the machine shop was established.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will bring into compliance a nonconforming use and permit the expansion of an existing business that provides rural jobs and contributes to the larger area's overall economy. Denial would presumably represent a loss in economic opportunity for the machine shop owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located within an area of the county that is designated by the Wichita and Small Cities 2030 Urban Growth Areas map as "rural." Rural areas encompass land located outside of the 2030 urban growth areas for any of the county's cities. Rural areas are intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions with provision for individual, or community water and sewer services. The use has operated on the site since 1976 without any complaints (to staff's knowledge). The use is consistent with the adopted comprehensive plan in that it appears to be rural based use that is no more offensive than those agricultural uses commonly found in Sedgwick County.
6. Impact of the proposed development on community facilities: None identified.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **KLAUSMEYER** seconded the motion, and it carried (11-0).