

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
10/21/13

ITEM NO. 2B: RS10 TO IL; 1.785 ACRES; 1146 HASKELL AVE (MKM)

Z-13-00351: Consider a request to rezone approximately 1.785 acres from RS10 (Single-Dwelling Residential) District to IL (Limited Industrial) District, located at 1146 Haskell Ave. Submitted by Struct/Restruct LLC for BK Rental LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 1.785 acres from RS10 (Single-Dwelling Residential) District to IL (Limited Industrial) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report

APPLICANT'S REASON FOR REQUEST

"To divide property at 1146 Haskell into one IL property and one RS-7 property. The IL property will be Struct/Restruct shop/office and RS7 property will be future development."

KEY POINTS

- The property is unplatted. The property is being platted through the Major Subdivision process in conjunction with this rezoning.
- The property is nearly encumbered with the Regulatory Floodplain and is located within the Floodplain Management Regulations Overlay District. This rezoning request affects only the base zoning, the overlay district will remain.

ATTACHMENTS

Attachment A: Rezoning exhibit

Attachment B: IL District permitted use table

ASSOCIATED CASES/OTHER ACTION REQUIRED

Z-13-00350: Rezoning request for approximately 2.186 acres from RS10 to RS7 (Single Dwelling) District. This item is being considered by the Planning Commission at their October meeting. (Figure 1)

Z-13-00408: Rezoning request for approximately 2.384 acres from RS10 to OS (Open Space) District. This item is being considered by the Planning Commission at their October meeting. (Figure 1)

PP-13-00352: Preliminary Plat for Burrough's Creek Addition. This item is being considered by the Planning Commission at their October meeting.

Other Action Required:

- City Commission approval of rezoning requests and adoption/publication of ordinances.
- Submittal and administrative approval of Final Plat for Burrough's Creek Addition.
- Submittal and approval of Public Improvement Plans prior to recording of the Final Plat.
- Recording of Final Plat with the Register of Deeds Office.
- Administrative approval of site plan for change of use and site improvements on the Industrial lot. A Floodplain Development Permit will be required at this time.

- Application and release of building permits prior to development.

PUBLIC COMMENT

- Michael Almon, nearby property owner, visited the Planning Office for information on the project and the Floodplain Management Regulations.
- Byron Wiley, nearby property owner, visited the Planning Office to discuss the project and the uses which would be permitted under the IL Zoning.

Project Summary

This project includes the rezoning and platting of approximately 6.35 acres located in the northeast corner of the intersection of Haskell Avenue and E 12th Street from the RS10 to the IL District. This rezoning request is for approximately 1.78 acres that lies nearest Haskell Avenue. (Figure 1)

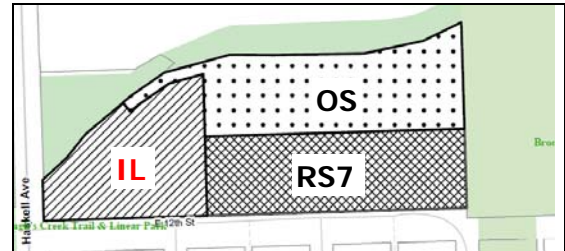


Figure 1. Subject property in Red.

An industrial building on this portion of the property previously housed a recycling processing facility. That facility moved to a different location leaving the property vacant. The applicant is the owner/operator of Struct/Restruct, a construction/design firm which has built and remodeled several homes in East Lawrence. The applicant plans to relocate the firm from its current location at 920½ Delaware Street to the industrial building on the subject property. The construction/design firm fits within the definition of the use *Construction Sales and Services*. This use is defined in Section 20-1718 of the Development Code as:

"Construction activities and incidental storage on lots other than construction sites. Also includes landscape contractors and landscape maintenance businesses and the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures including the retail sale of paint, fixtures, and hardware, but excludes those uses classified as 'Automotive' and/or 'Heavy Equipment' use types. Typical uses include home improvement or building materials stores, tool and equipment rental or sales, building contracting/construction offices with shops and/or outside storage yards and landscape maintenance/contractor offices with shops and/or outside storage yards."

The rezoning is intended to provide a suitable zoning for the proposed use. *Construction Sales and Service* uses are permitted in several zoning districts: CD (Downtown Commercial), CR (Regional Commercial), CS (Commercial Strip), IL (Limited Industrial), and IG (General Industrial). The location does not fit the locational criteria for the commercial districts. Given the industrial nature of other uses in the area, industrial zoning would be appropriate. The IG District allows higher intensity industrial uses which may not be compatible with nearby residential uses. The Limited Industrial District is an appropriate zoning district for the proposed use in this location as the district is intended to accommodate low impact industrial uses.

Changes to the physical components of the site, including access to the adjacent streets, will be evaluated at the site planning stage. Floodplain Development Permits are required for any development activity on properties that are encumbered with Regulatory Floodplain.

The overall project includes a residential component, with 9 residential lots planned along E 12th Street and a rezoning request to the RS7 District. A rezoning has also been requested for the area to the north of the residential lots to the OS (Open Space) District. This property is being platted as a tract and the property owner indicated it would be donated to the City for parkland.

The property will be developed in phases, with the industrial development occurring first and the residential later. The Open Space area will not be developed as part of this project.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"Fits in with other surrounding zoning and densities."

The property is currently developed and has historically been used for auto related or recycling uses. The property is not identified in the future land use map for industrial development and does not meet the criteria necessary for location of a new industrial zoning district. The Comprehensive Plan identifies 6 existing industrial areas and provides specific recommendations for those. The property is in adjacent to one of these areas, the Burroughs Creek Corridor. The plan notes *"Parts of the corridor area offer smaller land parcels and provides opportunities for small business owners to coexist with neighboring residential uses."* The subject area contains a mix of industrial uses with the City Central Maintenance Garage to the west across Haskell Avenue and the City's Public Works Facility to the north. Figure 2 illustrates the various non-residential uses that are located in the area.

Many of the recommendations in Chapter 7, 'Industrial and Employment' focus on the siting and development of new industrial uses. This site was developed and used for industrial uses since 1955; therefore, this review will focus on the recommendations that pertain to existing industrial uses.

Staff's discussion of the Comprehensive Plan recommendation follows with staff's comments in red.

- The Industrial and Employment chapter's strategies include:
"Protect, enhance, and retain existing industrial-related land use areas serving the community." (Page 7-2)
- Some of the goals and policies listed in this chapter include:
"Encourage the retention, redevelopment, and expansion of established industrial and employment-related areas." (Goal 1, page 7-11)

"Provide incentives for expansion of existing facilities and redevelopment of vacant facilities and/or land." (Policy 1.1, page 7-11)

The rezoning and reuse of this industrial property would enhance and retain existing industrial-related land use through the redevelopment of a vacant facility.

"Encourage best management practices for site planning and design that include, but are not limited to, building placement and orientation, vehicular and pedestrian circulation patterns, open space, landscaping, lighting, stormwater management, and interfacing with adjacent neighborhoods and development, and appropriate accommodation of the design to the site's natural features." (Policy 1.2(b), page 7-11)

The Development Code and the Industrial Design Standards provide standards and guidelines for industrial development. While the building location was previously determined other features such as landscaping, lighting, stormwater management and compatibility with surrounding properties will be considered and provided through the site planning process.

- Goals related to compatible transition from industrial to less intensive uses include:
"Encourage industrial, office research and warehouse distribution facilities to have a positive impact on neighboring land uses through the use of natural area separations, broad landscaped yards or other means of buffering." (Policy 3.1(a), page 7-15)

"Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses."

"Fences shall not be used as a sole method of providing screening and buffering. Where fencing is proposed, additional landscaping may be required to soften the monotonous effect of a fence-line. Unsightly views and light trespass should be screened from neighboring properties and the public right-of-way." (Policy 3.1(d)(4)(a and b), page 7-16)

These measures have been incorporated into the Land Development Code and the Industrial Design Standards and will be addressed through the site planning process.

Staff Finding – The Future Land Use Map recommends this area be developed with Community Facilities (Public/Semi Public). Chapter 10, 'Community Facilities' identifies 3 categories of community facilities: Educational Facilities, Municipal Buildings and Facilities, and Utilities. Community Facilities (Utilities) in the area include the City Maintenance Garage, the Solid Waste and Sanitation Facilities yards and offices, and the City Wastewater Plant. These uses are all industrial in nature as they include large areas of exterior storage

The subject property has historically been used for vehicle related services and recycling which are permitted in both commercial and industrial zoning districts. The property is adjacent to a recommended industrial corridor, Burroughs Creek Corridor, and represents an expansion of this area as recommended in Goal 1 of the Industrial and Employment-Related Land Use Goals and Policies.

The proposed development is not compliant with the land uses shown on the Future Land Use Map but; however nonresidential uses have been located here since 1955. The proposed development is in compliance with the land use recommendations for Industrial and Employment-related Land Use Goals and Policies.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING

Current Zoning and Land Use: RS10 (Single-Dwelling Residential) District; vacant building which recently housed a recycling processing

facility.

Surrounding Zoning and Land Use:

To the north:

GPI (General Public and Institutional Use) District and FP (Floodplain Management) Overlay District; City Fuel Station and Solid Waste and Street Division's offices and yards. *Office, Fuel Sales, Heavy Wholesale Storage and Distribution.*

To the west:

GPI (General Public and Institutional Use) District and FP (Floodplain Management) Overlay District; City Parkland containing the Burroughs Creek Trail, *Nature Preserve/Undeveloped.*

To the east:

Additional land within this project which is currently zoned RS10 and FP (Floodplain Management) Overlay District but has rezoning requests to the RS7 (Single-Dwelling Residential) and the OS (Open Space) Districts. Property is currently undeveloped but is being platted to accommodate City parkland and detached dwellings.

To the south:

RS7 (Single-Dwelling Residential) District and FP (Floodplain Management) Overlay District. *Detached Dwellings.*

(Figure 3)

Staff Finding – The surrounding properties are zoned GPI and RS7, with Floodplain Management Overlay District. The predominate uses are *Nature Preserve/Undeveloped, Heavy Wholesale Storage and Distribution, and Single-Dwelling Residences.*

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"Mixed use of industrial and residential."

The neighborhood is developed with a mix of industrial and residential uses. The property included in this overall project is the only undeveloped parcel in the area. Industrial uses are located primarily to the north and northwest of the subject property. Large areas of open space in the area follow Burroughs Creek and the associated floodplain. Single-dwelling residences make up the remainder of the land use. The property has good access to the major transportation network having frontage on Haskell Avenue which is classified as a 'Minor Arterial' in the Major Thoroughfares Map.

Staff Finding – The neighborhood contains a mix of residential and industrial uses with large areas of wooded open space along Burroughs Creek and the associated floodplain. Haskell Avenue, a Minor Arterial, runs north/south through the neighborhood.



Figure 2. Nonresidential uses in area.

- Burroughs Creek Corridor outlined in black.
- East Lawrence Industrial District outlined in yellow.
- Subject property marked with dot.

Nonresidential uses in the area:

1. Glass Company: *Construction Sales and Services*
2. Utility yard: *Heavy Wholesale Storage and Distribution.*
3. Sand and Concrete Plant: *Intensive Industrial*
4. Various uses including warehouse, industrial, and office: *Wholesale Storage and Distribution, General Industrial, Limited Manufacturing, Office*
5. City Wastewater Treatment Plant: *Major Utility*
6. **Recycling facility, relocated from the subject property:** *Recycling Facilities*
7. Beverage distribution: *Light Wholesale Storage and Distribution*
8. Various uses including office, industrial: *General Industrial, Manufacturing and Production Limited, Office*
9. Publishing facility, *General Industrial*
10. **Current Location of Struct/Restruct:** *Construction Sales and Services*
11. Various uses including warehouse, industrial, and office: *General Industrial, Manufacturing and Production Limited, Construction Sales and Services*
12. Auto Service: *Light Equipment Repair*
13. City Maintenance Garage: *Light and Heavy Equipment Repair*
14. City Fuel Station, City Solid Waste and Street Division Offices and yards: *Gas and Fuel Sales, Offices, Heavy Wholesale Storage and Distribution*



Figure 3a. Zoning of area. Subject property is outlined. (approximate)



Figure 3b. Land use in the area. Subject property is outlined. (approximate)

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

Staff Finding – The subject property is located within the Brook Creek Neighborhood. This area was included in the planning area for the East Lawrence Neighborhood Plan, adopted in 1979. There have been no recent plans adopted for this area.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response:

"The property is suitable for light industrial development because of the nature of the existing structure and its proximity to the other industrial properties in the neighborhood, such as the city properties. The property also lends itself to industrial zoning because of its relationship and frontage to Haskell Street."

The RS10 District permits the following uses by right:

Detached Dwelling	Limited or Passive Recreation
Manufactured Home, Residential-Design	Nature Preserve/Undeveloped
Zero Lot Line Dwelling	Private Recreation
Group Home, Limited	Neighborhood Institution-Religious Assembly
Cemeteries	Crop Agriculture
Extended Care Facility	

The property is developed with an industrial building and parking area so it is not suitable for residential, passive recreation, nature preserve, or crop agriculture uses. The building may be able to be converted to a neighborhood religious institution or extended care facility but this would require a major renovation to meet applicable Building and Fire Codes. The property is not suited to the uses to which it is restricted under the existing zoning regulations based on current development. Development under the RS10 regulations would require the razing or major renovation of the site.

The property was developed with a nonresidential building years before it was annexed into the city. At the time of annexation, property was automatically rezoned to the RS-1 (now RS10) designation. The nonresidential building and site improvements makes this portion of the property more suitable for the proposed limited industrial uses than to the residential uses it is currently restricted to in the RS District.

Staff Finding – As the property currently contains a nonresidential building with associated parking and storage area it is not suitable for the uses to which it is restricted under the existing RS10 zoning regulations. The property is suitable for uses permitted within the IL (Limited Industrial) District.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's response:

"Less than 1 year."

Staff Finding – The existing building has been vacant since the relocation of the recycling facility to another location earlier this year. The Douglas County Appraiser's records indicate that the building was constructed in 1955.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's response:

"Will not detrimentally affect nearby properties. If anything, the future residential development will enhance the nearby properties."

The removal of restrictions will allow the building to be used for a use permitted within the IL District. The proposed use, Struct/Restruct Design Studio, a *Construction Sales and Services* use, is currently located in the area at 920½ Delaware Street. The IL District is intended for low impact industrial, wholesale, and warehouse uses. The proposed use is a low impact use which should not detrimentally affect nearby properties.

The IL District permits a range of uses. These uses are noted in Attachment B. Uses which require a Special Use Permit go through a process with a site plan and a public hearing very similar to a rezoning. It will be necessary to site plan the property with the change in use. The compatibility of any use/development proposed for this site with the surrounding properties would be evaluated through the review of the site plan.

Removal of the restrictions by rezoning to the IL District should not detrimentally affect nearby properties as it will permit a use similar in intensity to the previous uses on the site. Lighting, landscaping, buffering, screening and access will be considered with the site plan review to insure compatible development with the surrounding properties.

Staff Finding – Removal of the restrictions by rezoning to the IL District should not detrimentally affect nearby properties as it will permit a use similar in intensity to the previous uses on the site. Lighting, landscaping, buffering, screening and access will be considered with the site plan review to insure compatible development with the surrounding properties.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP

IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response:

"Not much difference. Property has been a recycling center which has negatively impacted local neighbors over the years. Our shop/office won't impose such a hardship."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits or hardship to the owner of the subject property. Public benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

Denial of the rezoning would require the site to be developed with uses permitted within the RS10 District. These uses would be similar to those in the adjacent residential district.

Approval of the rezoning request would allow the proposed use, *Construction Sales and Service*, to be installed in the existing building. This use is similar in intensity to the historic use of the site and should not have any off-site negative impacts, and would be similar to the other industrial uses north on Haskell Avenue. With the approval of this rezoning, 12th Street would be the south boundary of the industrial uses in the immediate area.

Approval of the rezoning would allow the continued use of the site in similar fashion to past uses and would establish a clear boundary for the industrial uses along this portion of Haskell Avenue at E 12th Street. It would expand the existing industrial district along the Burroughs Creek Corridor as recommended by the Comprehensive Plan and would provide a suitable site for the expansion of an existing East Lawrence business. The rezoning will limit the industrial use to the west side of the property and reduce the area along E 12th Street that would be in non-residential use. This would reduce the impact from the previous use of the land for storage area.

The Development Code contains buffering, screening, landscaping, lighting, and other provisions to insure compatibility of adjacent uses of differing intensities through the site planning process. The property has been used for commercial/industrial uses since 1955 and approval of the rezoning would allow the building to continue to be used but only for uses permitted in the IL District and with Development Code standards to insure compatibility. Denial of the rezoning request would require the property to be redeveloped with a use that is permitted in the RS10 District. Denial would neither detrimentally affect nearby properties nor provide a gain to the public health and safety.

Staff Finding – Denial of the request would require that the site be developed with uses that are permitted in the RS10 District while approval would allow the building to be re-used as a *Construction Sales and Services* use. Both uses should be compatible with the neighborhood, given the Industrial Design Standards and the Development Code. There would be no public benefit from the denial of the rezoning request. The previous use had some off-site impacts that were not compatible with the nearby residential uses; however, as the IL District is intended to accommodate low-impact industrial, wholesale, and warehouse operations the uses permitted in this district should not create negative off-site impacts and would be more similar in impact to the historic uses of the site. Approval of the rezoning could benefit East Lawrence by maintaining and enhancing an existing business site and providing a larger site for the expansion of an existing East Lawrence Business.



PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the rezoning request for compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with recommendations in *Horizon 2020* for existing industrial sites. Staff recommends approval of the rezoning request for approximately 1.78 acres from RS10 (Single-Dwelling Residential) District to IL (Limited Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.



Z-13-00350: Rezone 2.186 acres from RS10 District to RS7 District
Z-13-00351: Rezone 1.785 acres from RS10 District to IL District
Z-13-00408: Rezone 2.384 acres from RS10 District to OS District
Located at 1146 Haskell Avenue

Lawrence-Douglas County Planning Office
October 2013

 Z-13-00350
 Z-13-00351
 Z-13-00408



Uses Permitted in the IL (Limited Industrial) District			
Residential		Retail Sales and Service (cont.)	
Mobile Home		Construction Sales and Service	
Work/Live Unit		Food and Beverage	
Community Facilities		Mixed Media Store	
Cemetery		Personal Convenience	
College/University		Personal Improvement	
Day Care Center		Repair Service, Consumer	
Detention Facility	SUP	Retail Sales, General	
Lodge, Fraternal & Civic Assembly		Transient Accommodation	
Postal and Parcel Service		Hotel, Motel, Extended Stay	
Public Safety		Vehicle Sales & Service	
Funeral and Interment		Cleaning (Car Wash)	
Temporary Shelter	SUP	Fleet Storage	
Social Service Agency		Gas and Fuel Sales	
Community Meal Program	SUP	Light/Heavy Equipment Repair	
Utilities, Minor		Light/Heavy Equipment Sales/Rental	
Utilities Major	SUP	Inoperable Vehicle Storage	
Medical Facilities		RV and Boats Storage	
Health Care Clinic/Office		Industrial Facilities	
Recreational Facilities		Industrial, General	
Active Recreation		Laundry Service	
Participant Sports & Recreation, Indoor or Outdoor		Manufacturing & Production, Ltd.	
Passive Recreation		Manufacturing & Production, Tech.	
Nature Preserve/Undeveloped		Research Service	
Religious Assembly		Scrap and Salvage Operation	SUP
Campus or Neighborhood Institution		Wholesale Storage & Distribution	
Animal Services		Exterior Storage (accessory)	
Kennel		Heavy	SUP
Livestock Sale		Light	
Sales and Grooming		Mini-Warehouse	
Veterinary		Adaptive Reuse	
Eating & Drinking Establishments		Designated Historic Property	SUP
Accessory Bar		Agriculture	
Fast Order Food		Agricultural Sales	
Fast Order Food-Drive In		Agriculture, Crop	
Restaurant, Quality		Communications Facilities	
Office		Amateur & Receive Only Antennas (accessory)	
Administrative and Professional		Broadcasting Tower	
Financial, Insurance, & Real Estate		Communications Service Establishment	
Other		Telecommunications Antenna	
Parking Facilities		Telecommunications Tower	SUP
Accessory and Commercial		Satellite Dish (accessory)	
Retail Sales and Service		Recycling Facilities	
Building Maintenance		Large Collection	
Business Equipment		Small Collection	
Business Support		Processing Center	SUP
Construction Sales and Service			
Food and Beverage			